05.2

EIOPA-OPSG/18-03

20 February 2018

Questionnaire on gathering input for the

EIOPA 7th Consumer Trends Report

1. Background

EIOPA is required under its Regulation to collect, analyse and report on consumer trends[1]. To date, EIOPA has produced six Consumer Trends Reports. The term "consumer trend" is not defined in the EIOPA Regulation. EIOPA therefore devised the following working definition:

"*Evolutions in consumer behaviour in the insurance and pensions markets related to the relationship between consumers and undertakings (including intermediaries) that are significant in their impact or novelty*"

The term "Trends" is understood in a broad sense: it covers, for example, evolutions in volumes of business or in the relationship between customers and undertakings/intermediaries, as well as the emergence of new products or services, or other linked financial innovations. The trend may already be consolidated for a number of years, but it may also be only emergent, with the possibility of becoming significant in the future.

The report aims to inform EIOPA in the identification, prioritisation and development of targeted policy proposals; EIOPA seeks to identify possible consumer protection issues arising from identified trends. Nevertheless, positive developments are also identified and highlighted.

2. Questions to the OPSG

Similar to last year's exercise, EIOPA would like to collect from OPSG informal input to the work on the Consumer Trends Report. In addition to your experience as

[1] Article 9(1)(a) of the Regulation 1094/2010 establishing EIOPA

stakeholders, it would be very useful if you could attach or provide the links to any relevant sources of information to complement your feedback. OPSG Members are also encouraged to refer to specific examples they may have observed at national or European level.

The OPSG is invited to explain how the **demand and/or offer** for occupational and personal pension plans and products has increased / decreased / remained unchanged, during 2017. Please, where relevant, refer to any possible financial innovations or market developments, as well as any possible consumer protection issues arising from such developments.

	Developments in demand / offer / financial innovations / market environment / consumer protection
Occupational pensions	A. **<u>SPAIN - ADICAE</u>**[2] **<u>Main figures for 2017:</u>** According to INVERCO[3], 2017 closed with an asset volume of 111,077 million euros, 4% more than in 2016, and exceeds its highest historical figure for the sixth consecutive year. Shareholder accounts: the figure has fallen by 206,444 accounts to a total of 9.72 million accounts. Contributions and benefits: gross contributions were 4,970 million euros in 2017 and gross benefits were 4,543 million euros, and net inflows amounted to 427 million euros. Portfolio structure: pension funds have increased the weight of equity in their portfolios, which has now accounted for 33.6% of the total portfolio compared to 27.3% in 2016. Profitability: for the set of plans of the individual system, the profitability was 2.6%, and, in the long term (25 years), the average annual return was 4.5% (nominal return) for the total of the plans. **<u>Main problems in the Spanish system</u>:** - Pension plans have low profitability, commissions are very high and information is not very transparent. This low profitability (**almost zero, if inflation is taken into account)** is accompanied by high

2 Asociación de Usuarios de Bancos, Cajas y Seguros, Spanish Member of BETTER FINANCE

3 Asociación de Instituciones de Inversión Colectiva y Fondos de Pensiones

	management commissions, most of them are opaque. A substantial part of the funds does not adequately inform their participants of the active management (purchases and sales) and of the amount of the commissions paid, nor the profitability of keeping the portfolio inactive. Therefore, it is difficult to maintain a reasonable confidence in the savers' expectations, given the scarce information and the high volatility of portfolio management. - The European Commission already denounced the regressive nature of the taxation of pension plans: the higher the level of income, the greater the tax savings. The system of fiscal protection not only discriminates against the contributors of lower incomes, but also generates a serious situation of inverted solidarity. As a consequence, citizens stop having significant amounts of public resources (from taxes) in favour of improvements in the income position of those who have more. The European Commission has therefore recommended the total suppression of the exemption in the IRPF of the contributions. - The Spanish government's attempts to "impoverish" the Public Pension System in favour of private pension plans. Among others NGOs and organisation, ADICAE denounced the clear and intentional movement of the Spanish government towards favouring the private pension plans of the bank to ensure the sustainability of public pensions. - Legislation on pension plans does not guarantee any returns on contributions. - The absence of an efficient and specific regulatory body to guarantee the transparency of the private pension market and the protection of financial consumers in case of insolvencies. **<u>Financial innovations</u>** The Spanish pension system won't be sustainable in the future due to an ageing population, a high rate of unemployment and lower salaries. This is why some initiatives are emerging strongly, to try to lighten the load/burden or solve the current problem of the pension system with a complementary and free personal savings system. The Spanish Association of Fintech and Insurtech (AEFI) for instance has asked the Commission of the Toledo Pact of the Congress of Deputies to present a system of free savings compatible with the Spanish pension system, with the aim of easing the burden of the pension system. The savings would be carried out through the own purchases that each person makes daily and through certain activities that generate other benefits, such as recycling or energy savings.

	For this, it would be necessary to count on the collaboration of companies that are willing to participate on this new system. These companies would benefit from this collaboration since more clients would purchase their products knowing that they are contributing to improve their pensions. The money generated would be part of a free account (although with 'online' management expenses) that would follow the model of traditional pension or savings plans. In fact, according to AEFI's proposal, this plan would be like a traditional deposit, managed through a digital platform. There would be a cap on micro-contributions, linked to the declaration of income. The promoters of the initiative are aware that it could lead to perverse aspect: who consumes more can save more. It refers to people who can afford to buy high-end products, such as cars or other vehicles. Therefore, they propose that "a percentage of the income statement is the limit of free contributions that can be made to these savings products." Meanwhile, Pensumo already promotes saving for retirement. The user opens a piggy bank and begins to fill it with his purchase in affiliated stores or through challenges such as recycling and saving energy. At the moment, it is available in establishments in very few Spanish locations, such as Zaragoza, Vitoria, La Vall D'Uixó (Castellón) or Ejea de los Caballeros (Zaragoza). With the amounts that are added, a saving plan is created.
Personal pensions	**A. EU LEVEL- BETTER FINANCE:** We refer to our research report on the real returns of long term and pension savings in the EU published last October[4], covering 86% of the EU population over a 17 years period. The 2017 edition once more draws attention to the fact that too many pension products are massively underperforming capital markets, and still deliver low or even negative long-term real returns, despite very good returns for both equity and bond markets since 2011. **B. GERMANY- BdV[5]**

[4] BETTER FINANCE Pension report : The Real Return, http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/Pension_Report_2017_-_Full_Report_-_Online_Version.pdf

[5] Bund der Versicherten, German member of BETTER FINANCE

	Our German member indicated that several independent studies on unit-linked products have recently shown that German life-insurers often don't make the best choice for their customers with regard to the following criteria: • Underperformance of the mutual funds offered via unit-linked IBIPs; • Lack of cost-efficient or innovative ETFs offered via unit-linked IBIPs; • Bad rankings of the mutual funds offered via unit-linked IBIPs; • Offers of mutual funds in non-Euro currency without hedging mechanisms against currency volatility; • Bad conversion rates for life-long annuities with a calculated life-expectancy of 94 to 97 years at minimum. Relevant press releases: FondsProfessionell, 27 February 2018, on F-FEX (Bad Homburg): • http://www.fondsprofessionell.de/drucken/news/produkte/headline/studie-deckt-maengel-bei-fondsgebundenen-lebensversicherungen-auf-141579/ • http://www.f-fex.de/cache/media/pdf/2018-02-27-studie_flv.pdf Map-Reports (Hamburg), Nr. 898 / 899, January 2018: • Fondspolicen-Bruttotarife: https://www.versicherungsjournal.de/daten/download/map-report_898_vorschau.pdf • Fondspolicen-Nettotarife: https://www.versicherungsjournal.de/daten/download/map-report_899_vorschau.pdf **C. FRANCE – CONSUMER PROTECTION ISSUES** We confirm the findings of BDV in Germany on unit-linked IBIPs for France. With interest rates very low, pension schemes are under pressure, and several are not increasing their annuities in pace with inflation, which continues however to be very low. The participants of the two biggest personal pension products (about 800 000 participants) have lost between 17 and 21% of the purchasing power (real value) of their annuities and rights to future annuities since 2002. In addition, this

	information is not disclosed by the sponsors, especially in their information and advertisements to would-be subscribers. One of the two is also not disclosing to participants and to would-be participants that it is not sufficiently funded by at least € 1.3 billion (using a derogatory 1.5% discount rate for liabilities). This information is only to be computed (not disclosed) by using other numbers to be found in a footnote in very small print and in technical verbiage at the very bottom of the home page of the website of the provider. It is very likely that the vast majority of readers will never see it, and among those who do very few will understand the issue (see https://umr-retraite.fr/nos-offres-solutions-nos-offres/corem.html). This issue has already been reported several times to the NCA. The other one, which advertises that the nominal value of annuities cannot go down once the contribution is made, has nevertheless reduced them for all participants who will retire after the age of 60 (for example a participant who plans to retire at 65 by 2026 has seen its nominal annuities rights reduced by 17% since 2014. This raises the issue of the transparency and fairness of the annuities schemes in several pension products.

In addition, the OPSG is invited to provide input on the following topics:

1) Sustainable finance

Sustainable finance, broadly comprising environmental, social and governance (ESG) issues, is becoming increasingly prominent. It can be therefore of relevance to pension funds, as institutions with long time horizons. In particular, under IORP II Directive, IORPs are encouraged to take into account the potential long-term impact of investment decisions on environmental, social, and governance factors. At the same time, there can be different ways in which pension funds can implement these factors into their activity. Please indicate if you have observed in your jurisdiction development of pension schemes emphasising the above sustainability factors and how they have done so (e.g. by requesting the preferences of members or beneficiaries or by taking into account sustainability criteria when selecting investment assets). Where relevant please differentiate between personal and occupational pensions.

A. EU LEVEL- BETTER FINANCE

On the 8th of March, the European Commission released its Action plan on Sustainable Finance. One of the actions suggested by the European Commission is to create labels for green financial products and an EU Ecolabel framework for certain financial products.

As part of its research on "Closet Indexing" (falsely active funds), BETTER FINANCE found out that a fund not only advertised as SRI fund (using ESG criteria to select stocks), but also boasting an official Government "SRI" Label, was actually highly suspected of being a closet index fund, and a very poorly performing one.

The results of the study revealed that the fund's historic performance before fees over the last five years mimicked very closely the corresponding "mainstream" benchmark (i.e. that include all stocks, including those supposedly excluded by its ESG selection approach). There was no significant difference in performance at any given time between the SRI fund and the mainstream equity market segment. The impact of the ESG criteria stock selection was not visible at all over that period.

For that reasons and based on its study, BETTER FINANCE believes that:

- To be relevant, an Eco Label must first ensure exemplary compliance with EU investor protection and information rules
- The fund claiming to be ESG funds must benchmark themselves against objective mainstream benchmarks to allow investors to check if their ESG approach made any difference over the long term and if they created any long-term value for EU savers.

B. <u>FRANCE</u>

In France, several individual pension schemes have not asked their participants about their preferences but have taken into account sustainability criteria when selecting investment assets. Unfortunately, those schemes are also the least transparent to pension savers. One of them has been condemned to indemnify the participants who complained, and there are still complaints pending.

C. <u>SPAIN- ADICAE</u>

The Spanish Group for the Green Growth is an association of companies whose objective is to foment the public-private collaboration and to advance jointly in the environmental challenges. The solutions in the matter of mitigation and adaptation to climate change, the decarbonization of the economy or the promotion of a circular economy are key in a prosperous society and will come hand in hand with the business fabric. Through the GECV platform, the participation of companies in the most relevant debates on the subject at a national and international level is promoted, information is shared and opportunities are identified for Spanish companies.

The Spanish Banking Association applauds the recommendations to move towards a system that standardizes the identification of sustainable assets made by the group of experts appointed by the European Commission to analyse how to advance at European level in this area. The banking employers' association indicates that this initiative was already among the proposals of the European Banking Federation that, in addition, sees it necessary to improve the framework to disseminate non-financial information and develop common standards of sustainability.

EIOPA
EUROPEAN INSURANCE
AND OCCUPATIONAL PENSIONS AUTHORITY

BBVA (Banco Bilbao Vizcaya Argentaria) is the most active bank in Spain participating in the emission of sustainable bonds. Last year they participated in the issuance of bonds worth € 10,600 million and played a bookrunner role in the issuance of € 1,500 million in bonds. At the level of loans, they are innovating with unpublished products. They are the first bank lending in a project finance with a certified green loan format and also the first one making a syndicated green loan. They are also the agent bank in the largest green loan in the world, which has been signed with Iberdrola for € 5,300 million. In this loan, the interest rate is indexed to what is the emission of CO2 from Iberdrola, in such a way that the lower the emissions, the better the interest rate will be. The truth is that the market is becoming quite sophisticated in this type of products.

Please indicate with an "X" whether pension funds in your jurisdiction increasingly take into account the impact of their investment decisions on ESG factors:

- [X] Yes in France and Spain.
- [ ] No
- [ ] No information available / Not applicable

2) PEPP

The work on **Pan-European Personal Pension Products (PEPP)** aims to introduce a product with the same standard features wherever they are sold in the EU and to be offered by a broad range of providers, such as insurance undertakings, banks, occupational pension funds, investment firms and asset managers. Providers would be able to develop PEPPs across several Member States, to pool assets more effectively and to achieve economies of scale. Please set out your views on how these products will impact the pensions market and what are their benefits and risks for consumers.

A. <u>EU LEVEL- BETTER FINANCE</u>

The Global pension's gap (estimated at $70 trillion) represents today the biggest financial issue faced by EU citizens. There is a high risk for future pensioners to see their replacement rates decreased.

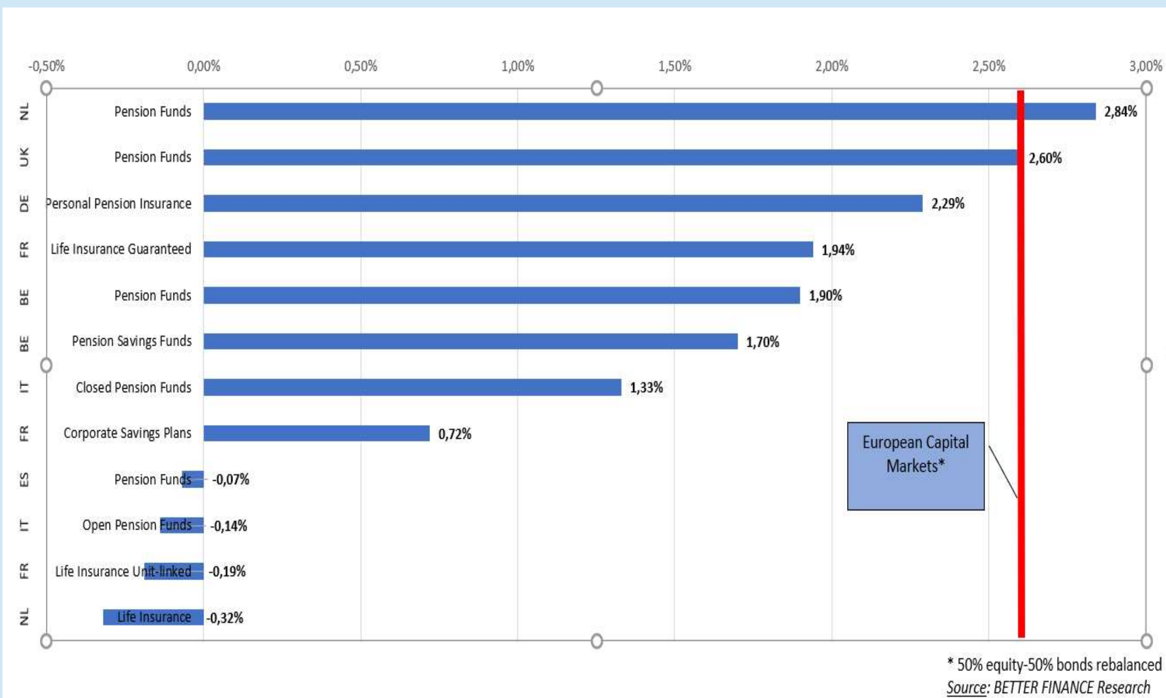
BETTER FINANCE therefore strongly supports the introduction of the Pan- European Pension Products (PEPP). However, this PEPP must provide pension adequacy through decent long term returns to pension savers.

Based on its research report on the Real return of Pension products , BETTER FINANCE pointed out that the “default investment option” proposed by the (renamed Basic PEPP by the ECON Committee rapporteur) must be safe and simple:

- Safe: “capital protection” should apply to pension savings before accumulated fees charged by financial institutions to pension savers, and in real terms, i.e. after inflation
- Simple: the product can be subscribed without advice and sold online by Fintech as well as by traditional financial intermediaries.

A “safe” option should protect as much as possible the real value of pension savings at the time of retirement and beyond.

In fact, as shown in the graph below, after fees and inflation, most pension products underperformed the European Capital market.



The inclusion of a default option that is safe (capital protection and life cycle) and that can be subscribed without advice would represent a benefit for consumers. The default option must be safe and should at least preserve the capital invested.

The success of the PEPP will depend on the fiscal treatment applied by the Member States and on whether they will discriminate PEPPs against national pension products, thus making PEPPs suffer from the Not Invented Here syndrome. Therefore, BETTER FINANCE supports the recommendations of the ECON Rapporteur who called on Member States:

- to grant the same relief to PEPP as the one granted to national personal pension products (even if the product does not match all the national criteria),
- to grant a specific tax relief to PEPP, harmonized at Union level, to be laid down in a multilateral tax agreement between MS
- to grant specific subsidy or premium to PEPP savers, in the form of a fixed amount or fixed percentage

B. GERMANY: Bund der Versicherten (BdV)

In Germany the association of the insurance industry (GDV) and the association of the insurance brokers (BVK) are completely hostile to the introduction of PEPP. From their point of view, PEPPs have primarily to be considered as saving or investment products, because the proposed regulation does not include any obligatory biometric risk coverage. Additionally, there are already enough product offers for private retirement provision on the home market.

- GDV press release of 29 June 2017:

  https://www.gdv.de/de/themen/news/eu-vorschlag-zu-pepp-bringt-altersvorsorge-nicht-voran-10972
- BVK press release of 05 July 2017:

  https://www.bvk.de/themen/publikation/pressemitteilung/eu-weite-altersvorsorgeprodukte-sind-uberflussig.459/

BVK even asserts that due to the low interest phase there have to be introduced additional state allowances in order to build up sufficiently large capital reserves for the new PEPP at least in the beginning. BdV did not find any hint for this assertation in the proposal of the Commission of 29 June 2017. The Commission (and EIOPA) should clearly reject this kind of mis-leading assertations.

On the contrary the second chamber of the German federal parliament, the Bundesrat, adopted a favourable position related to PEPP in November 2017: https://www.bundesrat.de/SharedDocs/drucksachen/2017/0501-0600/588-17(B).pdf?__blob=publicationFile&v=5

The Bundesrat underlines that there are detrimental developments on the home market for pension products (overly high costs, non-transparent terms and conditions which are difficult to understand for the consumers). Therefore, in order to be successful, PEPP must include provisions stipulating a cap of costs for administration and distribution and regulating a minimum level of transparency of the terms and conditions of the contracts (with regard to early withdrawal, exemption of premiums, cancellation of contract, nullification of contract in case of breach of information duties by the product manufacturer or distributor). A model for these minimum standards can be found in the

German legislation for Riester and Rürup pensions (Altersvorsorge-Zertifizierungsgesetz).
But we do not agree at all with the proposal of the Bundesrat that there should only be one obligatory pay-out option (annuity) for PEPP. This is not compatible with the fundamental consumer's right of freedom of choice.

C. FRANCE

Pension savings are currently going through a governmental reform project aiming at simplifying and improving performance through increased investments in equities. Unfortunately, this project does not take into account the earlier EU PEPP project so far. And PEPP is very little if at all debated in political circles and in the specialised media.
All stakeholders point to the inadequate calibration of Solvency II capital requirement for long term and retirement liabilities of insurers, which makes it very difficult for them to invest significantly in long term performing assets such as equities. French insurers have no more than 6% of their own-risk assets invested in equities today. As a consequence, and given the very low interest rate environment, the majority of long term life insurance (which is used primarily for retirement purposes) products will probably deliver a negative return this year in real terms (after inflation and taxes).

D. SPAIN (ADICAE)

ADICAE, in principle, welcomes the PEPP Regulation as a possible way to increase private pension coverage and the allocation of funds to long-term investments. Notwithstanding this positive overall assessment of the Proposal, we consider that PEPPs are more likely to attract a limited number of groups, in particular, professionals working in different Member States throughout their working lives and self-employed workers; while low-income workers with unstable or temporary contracts are unlikely to be able to afford an individual pension product. In any case, we emphasize the need to protect consumers and mitigate risks for savers throughout their working life and in retirement.

3) Trends in providing information to consumers

Issues with the disclosure of information to the beneficiaries of pension funds have been reported as a recurrent trend from the beginning of the consumer trends work by several Member States. Please indicate if you have observed in your jurisdiction in recent years any developments as regards the type, quality and format of the information provided to individuals. If possible please also refer to any shortcomings in the area of disclosure of information to beneficiaries of pension funds that you may have identified and if so, how the risk of consumer detriment in this area could be mitigated.

A. EU LEVEL - BETTER FINANCE

At the EU level, BETTER FINANCE has been asking for years now for more transparency and disclosure to savers and investors.
As shown in many of our research studies [6], EU citizens as savers and investors are left in the dark with respect to the past performance and costs of the financial products they invest in**.** BETTER FINANCE therefore welcomed the request from the European Commission to the European Supervisory Authorities (ESAs) to issue recurrent reports on the costs and past performance of the main categories of retail investment, insurance and pensions products.
However, BETTER FINANCE has warned the Commission[7] regarding the scope of the request. Indeed, it seems that insurance-based occupational pension products are not included, such as defined Contribution (DC) non-insurance-based Occupational Pension Schemes ("IORPs").

B. GERMANY - Bund der Versicherten (BdV)

In February 2018 the German Association of the Insured (BdV) won a court case against the Bavarian life-insurer "Nürnberger Lebensversicherung". The court of appeal confirmed that unit-linked annuities, which are state-subsidized, have to fulfil the same level of transparency and understandability requirements as those which are not state-subsidized. For non-subsidized annuities the Federal Court of Justice (BGH) had already fixed these minimum transparency requirements in 2005.
Therefore 14 clauses of these contracts are legally void with regard to acquisition costs, cancellation costs, calculation of surrender value and amount of pay-outs in the case of exemption of premiums. Explicitly the court of appeal permits only that the clause related to the calculation of acquisition and distribution costs, if the period of capital accumulation is less than five years, may again be submitted to the Federal Court of Justice for an ultimate decision.

- BdV press release of 6 March 2018:

  https://www.bundderversicherten.de/presse-und-oeffentlichkeitsarbeit/pressemitteilungen/bdv-klage-gegen-nuernberger-lebensversicherung-erfolgreich

C. SPAIN - ADICAE:

The current reform of pension plans in Spain does not address the real problems faced by the sector. The commissions applied by financial institutions to savers are high and

[6] See among others BETTER FINANCE's Pension report
[7] See BETTER FINANCE's press release : http://betterfinance.eu/fileadmin/user_upload/documents/Press_Releases/en/PR_-_ESAS_FINALLY_ASKED_TO_REPORT_ON_THE_COST_AND_PAST_PERFORMANCE_OF_LONG-TERM_SAVINGS_PRODUCTS_-_201017.pdf

measure proposed the Ministry of Economy, i.e. the cap at 1.25% is insufficient. Citizens will continue to assume maintenance costs much higher than those in other European countries, and there is a lack of objective and complete information in this regard.

Therefore, the reform being promoted by the Minister of Economy is benevolent with banks and financial institutions, since the industry will continue to achieve high profitability in the management of pension plans.

Another key issue is the lack of transparency of the public pension system, which prevents workers from properly planning their retirement, the information provided to workers must be more transparent and easily accessible With more transparent information about their future retirement incomeprivate pension plans could more attractive.

3. Next steps

The OPSG is invited to provide input to EIOPA on the above questions by **30 March 2018**. The informal input provided by the OPSG will be taken into account in the data collation and analysis of trends, together with data collected from National Competent Authorities and other relevant stakeholders.