

## Response to the European Commission's Questionnaire on Third-Pillar Retirement Products

### Reply of the European Federation of Financial Services Users (EuroFinuse)

30 November 2012

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*EuroFinuse has experts participating in the Securities & Markets, the Banking and the Pensions Stakeholder Groups of the European Supervisory Authorities, and the EC Financial Services User Group. Its national members also participate in the national financial regulators and supervisors bodies when allowed. For further details please see our website: [www.eurofinuse.org](http://www.eurofinuse.org).*

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### Executive Summary

EuroFinuse welcomes this Questionnaire from European Commission's DG SANCO on third-pillar retirement products dated from October 3<sup>rd</sup>, 2012. We would like to thank DG SANCO for offering the possibility to all stakeholders to submit feedback related to this important question. In fact, we are extremely concerned by the urgently needed development of second and third pillar pension products in the European Union, in view of the current restraints for welfare policies due to Member States' budgetary constraints. In general; we believe that private pension products-related areas in the EU do not only lack of a necessary regulatory framework; but even lack clear definition, scope and classification. More specifically, we are very aware of the discrepancies between the different systems of classification (operational versus pillar-based) and we believe this is the first issue that should be tackled: one cannot regulate what is ill-defined.

We would like to add that it is necessary to pay increased attention to the quality of information of second and third pillar pension products available to consumers. It is unfortunate that – five years after the EC Green Paper on Retail Financial Services (that rightly identified retirement savings as a priority area for investor protection) – occupational pension products are still excluded from the scope of “PRIPs”; and conduct of business rules are not aligned with those of other retail investment products. EuroFinuse is currently carrying out a study on Private Pensions' Returns in the EU, with the support of the European Commission, and we aim at filling the gap of precise information on the returns delivered by private pension products. Such information would enable consumers to make more appropriate investment decisions and would allow them making cross-border comparisons. We are planning to release the conclusions of the study in the beginning of 2013 and we hope they will be taken into special consideration by EU authorities.

EuroFinuse forwarded the Questionnaire to its member associations' experts and would like to provide feedback on these issues according to our organization's and our member associations' biggest concerns:

## **1. Definition and terminology**

### **1a) Is there an official or legal definition covering any type of "third-pillar retirement products" in your country; if yes, what is it / are they?**

In general, we are not aware of any legal definition of third-pillar pension products in EU Member States. We believe that such a definition (and, more importantly, its scope and delimitation) should exist at EU level. The pillar-based definition system is not formally established in the European Union. This is why it would probably make much more sense to adopt a definition based on the differentiation between occupational (originating from the development of a labour activity) and individual (e.g., subscribed on a voluntary and spontaneous basis) pension products.

### **1b) Whether an official/legal definition exist or not, what is the current commercial terminology generally used to describe third-pillar retirement products?**

Specific evidence includes the case of Denmark, where these third-pillar retirement products are commonly referred as "pensions", as opposed to "occupational pensions" (second pillar); and the United Kingdom, where they are commonly referred to as private or personal pension plans. In France, this terminology of "third pillar" is very little known and/or understood. Non mandatory occupational pension products and individual pension products are commonly usually referred to as "épargne retraite" (retirement savings).

## **2. Market situation**

### **2a) Is subscription to third-pillar pension schemes voluntary or mandatory in your country?**

In Denmark, the United Kingdom and Spain the subscription to these schemes is voluntary. In certain other EU Member States the subscription to third-pillar pension schemes is mandatory.

**2b) What types of third-pillar retirement products are available in your country?**

In the United Kingdom, the majority of third-pillar retirement products fall into DC (defined contribution) schemes, where the accumulated pot must be converted into an annuity early in the onset of retirement. There are more complex schemes of a structured nature using insurance contracts and sometimes second hand endowment policies. These kinds of products however, usually entail high fee levels which as a direct consequence offer much smaller return rates to the investor.

**2c) Who are the providers of such retirement products (asset management industry; insurance companies; banks; other financial institutions) and what is their market size in this sector?**

In the United Kingdom providers of third pillar retirement products are usually life insurance companies, banks and asset managers. Generally, advisors mix and match various products from the three principal providers to meet retail investors' needs (e.g. acting as intermediaries). As for Spain (and many other continental Europe Member States) providers are mainly insurance companies and banks, with a very small presence of independent financial advisors.

**2d) If available, what is the market penetration of third-pillar retirement products in relation to GDP?****3. National regulation of third pillar retirement products which are insurance contracts****3a) For third-pillar retirement products taking the legal form of insurance contracts, is there specific legislation or other provisions at national level, in addition to those stemming from the implementation of EU legislation?**

In general, it does exist; although it varies a lot between EU Member States, depending on whether life insurance products are generally used for capital accumulation purposes (e.g. like in France) or are not so commonly used. In the case of Spain, for instance, there are a widespread variety of life insurance-based products -e.g., PIAS "*Planes Individuales de Ahorro Sistemático*"; PPA "*Plan de Previsión Asegurado*" and PPSE "*Plan de Prevision Social Empresarial*" (however collective and occupational-based) - in addition to ordinary life insurance products. They count with a specific national-based legislative framework.

**3b) If yes to question 3a), does this legislation and/or other provisions cover consumer information / transparency? Could you provide a short summary of these provisions?**

**3c) If yes to question 3a) does this legislation and/or other provisions cover protection standards? Could you provide a short summary of these provisions?**

In Denmark there are certain protection standards for these products. We understand that UK's FSA is covering this issue as well. However, EU-wide protection rules are necessary to complement and harmonize those existing national frameworks.

**4. National regulation of third-pillar retirement products which are not insurance contracts**

**4a) Is there legislation or other provisions on third-pillar retirement products which are not insurance contracts in your country?**

Yes, in general all Member States that have well developed third-pillar retirement products count with such legislation.

**4b) If yes to question 4a), does this legislation and/or other provisions cover consumer information/ transparency? Could you provide a short summary of these provisions?**

In general, such legislation covers consumer pre-contractual and contractual information as it falls behind MiFID; though insurance sector operates under its own rules.

**4c) If yes to question 4a), does this legislation and/or other provisions cover protection standards? Could you provide a short summary of these provisions?**

**5. Self-regulated or non-legislative measures**

**5a) Are there self-regulatory or other non-legislative measures, addressed to providers and distributors of third-pillar retirement products, covering consumer information / transparency and/or protection standards in your country?**

As for Denmark, there are such self-regulatory and non-legislative measures covering pre-contractual and contractual information disclosure to consumers. As for United Kingdom, certain organizations such as IMA and ABI have codes of good practice that partially cover these issues.

**5b) If yes to question 5a), could you provide a short summary of these measures?**

**5c) If yes to question 5a), is the application of these measures monitored by independent bodies in order to verify that they are effectively applied?**

The aforementioned measures are not, however, monitored by any non-industry parties. This is why its enforcement is somehow limited.

## **6. Tools**

**6a) To attain consistent EU rules on transparency and consumer protection for third-pillar retirement products, what are your preliminary views on the effectiveness of - an EU-certification scheme?**

First of all; we have to clarify that as regards with transparency and consumer protection for third-pillar retirement products, the approach to take should be to harmonise pre-contractual and contractual disclosure requirements with the standards to be adopted for the rest of retail investment products (according to the PRIIPS, IMD and MiFID frameworks). As a matter of fact, transparency and consumer protection rules for third pillar products should take into account the long-term investment character of pension saving products. This is in many cases a once in a lifetime decision for a consumer to make; in consequence, transparency should be mandatory.

Once said that, we believe that in order to tackle additional issues that may not be covered by transparency and conduct of business rules, an EU-wide certification scheme is the most appropriate policy to consider.

An important factor to consider, however, is the enormous differences between EU Member States' pension systems. While for some MS it is extremely important to improve

selling practices and information disclosure of third pillar products; for other MS –especially in Eastern Europe- third pillar pension system is much more underdeveloped. This poses a challenge to the establishment of such a single EU-wide certification scheme.

**- a common EU self-regulatory code, agreed among stakeholders? Were this tool established in practice, what elements do you think should be included?**

**Answer:**

Despite the fact that in certain scenarios self-regulation has proved to be effective; we do not believe that self-regulation is appropriate with regards to transparency requirements for third pillar pension products. We should bear in mind that for all investment products in general there has been a very consistent move towards guaranteeing a much more consistent and solid information disclosure regime (e.g. PRIIPs Regulation). This is why we do not believe that voluntary pension savings should receive a discriminatory treatment as regards to any other retail investment product.

Ideally, a common EU self-regulatory code should involve maximum harmonisation with prescriptive standard of conduct and disclosure. A less harmonised certificate would not be an effective solution (indeed it could be counterproductive) because it would imply harmonising behaviour and conduct to the level of the lowest common provider. A self-regulatory code would also have to count for the possibility of supervisory sanction by dissolving the self-regulatory code for failing to achieve the prescribed standards. This would come closer to the previous considered option of an EU-wide certification scheme. Finally, we are also very much concerned by the possibility of regulatory capture if the establishment of such a self-regulatory code did not count for the participation (and on-going assessment and supervision) of the representatives of financial services' users and pensioners' associations.