Position Paper

BETTER FINANCE's Key Positions on the Commission's Proposals on Supplementary Pensions

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Executive Summary

BETTER FINANCE warmly welcomes the European Commission's legislative proposals amending the EU's framework on supplementary pensions—the IORP II Directive and the PEPP Regulation—as well as the set of recommendations it addressed the Member States regarding Pension Tracking Systems, pension dashboards and automatic enrolment schemes. This "Supplementary Pensions Package" includes a set of much welcome enhancements to the framework applicable to occupational pensions and the Pan-European Personal Pension (PEPP) product.

BETTER FINANCE supports, in particular, the concomitant introduction of a *Prudent Person Principle* and of an explicit *Duty of care* provision in the IORP framework. We see the former as granting greater flexibility to pension scheme managers to define the investment strategy most likely to offer sustainable long term returns for their members. The latter, together with stronger supervision powers for competent authorities and better information to scheme participants, balances this greater flexibility with greater accountability. Nevertheless, we believe the proposal falls short of recognizing the principle that *participants* in occupational pensions should play a major role in the governance of their own pension schemes.

As regards the PEPP, BETTER FINANCE supports the proposed simplification of the Basic PEPP and, there too, the greater flexibility offered to PEPP providers. Nevertheless, we express doubts that the proposed value-for-money rules might not be sufficiently effective to ensure that PEPP—especially the Basic PEPP—remain a cost-efficient alternative to existing PPPs.
We express our disappointment with the Recommendation on Pension Tracking Systems, which we doubt will lead to the development of

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comprehensive, reliable and empowering retirement planning tools for EU citizens.

We also express our concerns with the Recommendation on automatic enrolment. While we see automatic enrolment as a powerful tool to increase retirement savings, we note that a whole set of pre-requisite are needed to ensure that these increased *savings* become additional retirement *income*.

Keywords : supplementary pensions, occupational pensions, IORPs, personal pensions, PEPP, Pension Benefit Statement, Pension Tracking Systems, pension dashboards, auto-enrolment, cost and performance, KID, tax incentives

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About BETTER FINANCE

BETTER FINANCE — the European Federation of Investors and Financial Services Users — is the voice of European citizens as savers, investors, and financial users at the EU level. Working independently from the industry, BETTER FINANCE serves as an independent hub of financial expertise for the direct benefit of individual shareholders, investors, savers, life insurance policyholders, pension fund participants, and mortgage borrowers across Europe. Their work aims to promote research, information, and training on investments, savings, and personal finances to lawmakers and the public. BETTER FINANCE counts 40 independent, national, and international member organisations, sharing similar objectives from the EU Member States as well as Iceland, Norway, Turkey, Lebanon, and Cameroon.

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1. General remarks

BETTER FINANCE generally welcomes the "Supplementary Pensions Package" of policy initiatives adopted by the European Commission on November 20th, 2025 on supplementary pensions.[1] The proposal for a directive amending the IORP II Directive (henceforth "the IORP proposal") and the proposal for a Regulation amending the PEPP Regulation (henceforth "the PEPP proposal") generally reflect the much welcome 'investor-centric' approach to savings and investments that characterised the Commission's Communication on the Savings and Investments Union (SIU).[2]

BETTER FINANCE has consistently alerted European and national policy-makers of the underperformance of many supplementary pension schemes across the European Union (EU).[3] Having been one of the first organisations to show that this chronic underperformance is sure to trigger a "pensions time-bomb" and the explosion of old-age poverty, it is with great relief that we see the Commission taking up the challenge of "enhancing the capacity of the EU supplementary pension sector to improve retirement income".[4]

The Commission notes in its Communication that the existing pension system arrangements in place across EU Member States are, to varying degrees, under strain due to "unfavourable demographic developments, subdued productivity growth, and broader transformative challenges linked to climate change, digitalisation, and geopolitical uncertainty", which might be the smoothest kind of euphemism to say that the world as we have known it for the past 80 years is already gone and with it the promise of a decent retirement income.

Indeed, the challenged the Commission points to imply a need for current working-age Europeans to not only finance the pensions of current retirees—through the common public pay-as-you-go pension schemes—but also to save money for their own future retirement income—since there will be too few workers when they will reach retirement age themselves:

> *Individuals are therefore increasingly expected to complement statutory pensions with occupational and personal savings. This places a "double*

[1] European Commission, *Proposal Amending the IORP II Directive*; European Commission, *Proposal Amending the PEPP Regulation*; European Commission, *Commission Recommendation on Pension Tracking Systems, Pension Dashboards and Auto-Enrolment*; European Commission, *Enhancing the Capacity of the EU Supplementary Pension Sector.*

[2] European Commission, *Savings and Investments Union.*

[3] See, in particular BETTER FINANCE, *Will You Afford To Retire? Edition 2025* and previous editions.

[4] At least, such seems the objective, according to the title of the Commission's Communication: European Commission, *Enhancing the Capacity of the EU Supplementary Pension Sector.*

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> *burden" for the working-age population, who must finance current retirees, while also saving for their own retirement income*[5]

On top of this, EU citizens are expected to provide funding for public and private investments needed for the green transition of the European economy and the concomitant enhancement of the EU's defence capacities through their savings and investments.[6] Overall, the current situation present EU citizens with a particular kind of personal finance-related three-body problem, one that, together with the Commission, we hope can be solved by acting on the capacity of supplementary pensions to generate higher long-term wealth accumulation for pension savers by channelling more funds to productive investments. We then echo the Commission's assessment that:

> *"efforts should be made to increase coverage and transparency of supplementary pensions to the benefit of future pensioners and to increase net real returns on pension assets"*[7]

Much needs to be done, and the proposals put forward by the Commission are only the beginning of a solution: the proposals regarding IORPs and PEPP are much welcome, as well as most of the recommendations on Pension Tracking Systems (PTSs), pension dashboards and auto-enrolment; but further reforms are needed, at the national as well as at the European level, not only to raise awareness about pensions, but also to empower EU citizens in relation to their long-term and pension investments. For that, comprehensive, reliable, intelligible information is crucial but only a start: we also need the EU and its Member States to set ambitious requirements on the governance of occupational and personal pension schemes. If supplementary pensions are to become the backbone of the EU's economy, then *participants* should be granted the right to steer them in the direction that they collectively choose. In IORPs, we need to take the involvement of participants beyond the passive concept of contributors vaguely expressing preferences that loosely translate into investment strategies; we need rules that place pension scheme *participants*' individual preferences at the centre of pension schemes and ensure that pension scheme managers consider them as a mandate to manage pension assets. Individual participants will of course never be experts in asset allocation strategies, yet they may have a clear idea of what they expect from their pension savings in terms of financial performance, social and environmental impact, support to the EU economy, etc. Social partners and other representatives of individual participants in occupational pension schemes should play a major role in ensuring that participants are aware of and adequately informed about the implications of the asset allocation decisions taken on their behalf to express clear preferences that social partners can translate into a mandate for IORP managers. In personal pension schemes, financial advisors should be sufficiently

[5] European Commission, *Proposal Amending the IORP II Directive*, 1.
[6] European Commission, *Savings and Investments Union*.
[7] European Commission, *Enhancing the Capacity of the EU Supplementary Pension Sector*, 1 emphasis added.

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knowledgeable, competent and independent to support investors to select products that meet their needs and demands, and to ensure that they remain in control of their pension plans.

Steps in the right direction

Prudent Person Principle: More flexibility for better returns

BETTER FINANCE has long advocated for the removal of rules mandating fixed investment strategies on pension scheme managers. In particular, we have been constant critiques of rules requiring a given level of investments in government debt securities, which make for **overly conservative investment strategies that do not take into account the long-term investment horizon of funded pension schemes**. BETTER FINANCE thus strongly welcomes the Commission's clear reminder that

> *"[e]quity investments, including listed and private equity, are not inherently imprudent. [...] What matters is whether managers can identify, measure and control the associated risks and ensure the investments fit with the overall risk tolerance and liquidity needs of the scheme."*[8]

Indeed, only the professionalism and competence of pension scheme managers is able to guarantee that the investment strategy of the scheme serves the long-term interests of its participants, balances returns and risks, provides for sufficient diversification into asset classes the risks of which professional managers are able to manage effectively. We, therefore, **welcome the Commission's proposal to limit the possibility for Member States to impose blanket prohibitions from investing in certain asset classes**: The legislator—at the EU and national levels—should, instead, focus their efforts on setting a framework that provides more flexibility to scheme managers to determine the asset allocation that is most appropriate for their participants, taking into account the specific features of the pension scheme. Nevertheless, the supervisor should always have the possibility to forbid a particular IORP under its supervision to invest in certain classes of assets where such investments would put the interests of the participants at risk.

Nevertheless, that increased flexibility **should come also with more stringent requirements on occupational pension scheme managers to collect participants' preferences**—including but not limited to risk tolerances—and to ensure that staff members or service providers (in case of outsourcing) have the **necessary expertise and competence to effectively manage the risks arising from the investments** they make on participants' behalf, in particular where pension providers invest in alternative asset classes, outside regulated markets.

[8] Ibid., 12.

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For personal pension products, the counterpart to the increased flexibility should be greater efforts to ensure that (prospective) customers receive all the information necessary to select a product that effectively meet their needs. Clear, intelligible product information documents and high-quality financial advice are crucial in this endeavour.

Overall, we agree with the Commission that "*it is important that all pension providers benefit from diversification and consider including equity in their portfolios*"[9]. And while the Commission seems to believe that the duty to diversify and include more equity is incumbent upon larger pension funds, we find that all pension provider who "*failed to consider suitable equity or alternative assets capable of increasing returns within acceptable risk limits [...] would be neglecting their duty to ensure the profitability of investments and the need to broadly diversify assets.*"[10]

Duty of care, supervision and dispute resolution mechanisms: The necessary accountability

With great power comes great responsibility, as the saying goes. EU legislation must make sure this is true of supplementary pension scheme managers: **greater accountability must accompany the renewed trust in the professionalism of pension scheme managers** that the proposed Prudent Person *Principle* represents.

Therefore, BETTER FINANCE strongly **supports the introduction of an explicit duty of care provision in the IORP Directive** requiring IORP managers to "*seek adequate, risk-adjusted and cost-efficient returns over the long-term and to provide guidance and safeguards to support informed and suitable decision-making*".[11] We believe such an explicit requirement confers a strong legal basis for both public and private enforcement of investor protection regulations (see below in our comments on the IORP proposal).

Beyond the principle, **we welcome the proposals strengthening supervision**—i.e., public enforcement of rules—that empower supervisors to enquire, investigate and, where necessary, force change in IORP policies. Besides supervision, we strongly support the **new provisions requiring Member States and IORPs to ensure IORP participants are able to address complaints to IORP managers and have access to out-of-court dispute resolution mechanisms**—i.e., easier access to private enforcement of investor protection rules.

As regards the **PEPP**, the **proposals strengthening authorisation procedures and the supervisory powers of competent authorities are much welcome**. That is especially so considering the introduction of a value-for-money framework in the PEPP Regulation, that can only be effective to the extent that national competent authorities are equipped with all the powers necessary to implement it.

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[9] Ibid., 13.
[10] Ibid.
[11] European Commission, *Proposal Amending the IORP II Directive*, 21, recital 36.

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We have **reservations regarding the proposed value-for-money assessment proposed for the PEPP**. While subjecting the PEPP to value-for-money supervision and requiring from PEPP providers that they show evidence that their costs are appropriate and justified is, of course, welcome, we doubt the effectiveness of the value-for-money supervision rules that are likely to result from the negotiation on the Retail Investment Strategy and that the PEPP proposal would insert in the PEPP framework. We believe a dedicated impact assessment is necessary to compare the respective advantages and shortcomings of the various existing and potential solutions aimed at ensuring that long-term and pension saving products to identify the most appropriate solution for the PEPP(see our comments below).

For these accountability mechanisms to be effective, public disclosure of comprehensive, reliable and intelligible information is crucial, particularly on the costs, performance and risks of each pension scheme. We then strongly support the Commission's proposals regarding both the IORP and PEPP Pension Benefit Statements (PBS), especially the proposed standardisation of PBSs. This standardisation, if it uses a sufficiently clear language and format (which should consumer-tested), will greatly facilitate participants' understanding of their pension plans, which is the first step in taking control of their pension investments.

Mobilising private savings for investment: A note of caution

Amongst the stated goals of the Supplementary Pensions Package features the objective of directing more of EU citizens' savings towards the EU's real economy. We strongly believe that trying to use the legal framework governing pension schemes to steer funds towards the European economy is misguided. Even though investors might consider additional criteria, investment choices are primarily guided by the risk-return profile of investment opportunities, i.e. the expected financial return on the investment and the risk that this investment does not deliver the expected return. Non-financial factors may crucially affect the assessment of this risk-return profile, including environmental, social and governance (ESG) performance of the investee companies as well as the political stability of the jurisdiction where the investment is made and the legal certainty that it may offer regarding the protection of investors' rights (areas in which the EU has, for now at least, convincing arguments). For pension savers (or those managing pension savings on their behalf) to reorient their savings towards the EU's economy *en masse*, they need to be convinced that they will get a better long-term return investing in the EU than elsewhere. Tax incentives may help (to the extent that they do not put an unsustainable strain on public finances) but, fundamentally, what is needed is an legal and financial environment conducive to sustainably competitive economic activity.

Comparable products, same tax treatment

BETTER FINANCE **welcomes the Commission's reiterated recommendation that all comparable pension savings plans marketed within a Member State receive the same treatment from the tax authorities of that Member State**.

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If the policy objective pursued with a tax incentive for retirement savings in indeed to nudge citizens to start saving and make it a habit, then **the tax treatment should be the same for all contributions made by employers and individuals**, as well as for all capital gains and pay-outs individuals derive from their retirement savings, **regardless of the specific category of product they choose**.

Differentiating the tax treatment on the basis of the legal nature of the product or its provider (pension funds, pension insurance, etc.) does not contribute to the policy objective of increasing retirement savings overall. What it does is replace a healthy competition based on product price and quality (what pension saver can expect for the amount they pay in) with a competition between segments of the financial industry to get the most favourable tax treatment from policy-makers, the one that is most likely to lure prospective clients in their schemes, regardless of (under)performance.

We, therefore, **strongly support the Commission's proposal for the new Article 3 of the PEPP Regulation**, which requires Member States to grant the PEPP the same tax treatment as the most favoured of the existing national personal pension products. More broadly, we join the Commission's recommendation that *"when granting tax incentives and/or subsidies to employers and workers [or any individual investor], Member States should grant the same tax incentives and subsidies for any comparable product."*[12] We understand this requirement as implying the requirement for Member States to take inventory of the PPPs currently on offer in their jurisdiction, assess to what extent they differ from the PEPP and assess whether these differences warrant a different tax treatment.

Room for improvement?

Information

Even though we identify much welcome improvements on the PBS and other information requirements, we are sorry to see only limited ambition regarding the aggregation of information in Pension Tracking Systems (PTSs). **We strongly believe that each Member State should enable their citizens to access *comprehensive* information about *all* the pension schemes they participate to** (public, occupational and personal pensions).

For supplementary pension schemes, the **information should include, at least, past performance, costs, risks and main features of the plan, including pay-out options** and their respective costs and tax implications. Standardisation of reported information across PPPs and occupational pensions should ensure that these information items could be aggregated into PTSs at national level first, then into a European PTS. Standardisation constitutes, in our view, the prerequisite for this integration to be successful; it needs to be carefully planned, conducted on a pan-EU basis and involve all parties involved in the value chain of pension savings,

[12] European Commission, *Commission Recommendation on Pension Tracking Systems, Pension Dashboards and Auto-Enrolment*, 8.

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from asset managers and pension scheme providers to public authorities and participants (through their representative organisations).

We are then **disappointed, first, to see that the establishment of PTSs across the EU is only the object a Commission's Recommendation** and not enshrined into a binding legal instrument—a Directive. Second, we believe **the Recommendation should go beyond "overview of [one's] individual accrued pension entitlements" and "projections of potential future retirement income"** to include the information mentioned above. We note that the latter can, furthermore, be highly misleading, considering the number of assumptions that need to be made to compute a potential pension benefits within a timeframe that can span four decades and more.[13]

The provision of "different projection scenarios based on career assumptions" can be useful for an individual to assess the long-term impact of career decisions on their potential retirement income. We would suggest that enabling comparisons of these career-path scenarios compared to a standardised "average saver" profile would make these scenarios even more useful: besides the possibility to make different career-assumption scenarios, the PTS should display, as a reference, a standardised benchmark based on the average saver with a typical lifetime earnings profile for the relevant Member State and gender. This would provide context to the user's own projected retirement savings path, enabling them to know whether, compared to the average pension saver, they are "on track", "lagging", or "ahead".

The usefulness of career projections notwithstanding, we argue that enabling individuals to make projection scenarios based on different cost and performance assumptions would be as useful: they would enable them to see the impact that saving into a pension scheme with a different cost-performance profile would have on their accrued benefits and potential retirement income. For now, the development of PTSs is in the hands of national authorities, and we hope they will heed our recommendation to go the extra mile and make these PTSs true empowering tools for their citizens. In the meantime, the limited ambition on the PTS front leads us to stress the **importance of maintaining and extending the requirement to provide a Pension Benefit Statement (PBS) to all participants** of a supplementary pension scheme, be that scheme an occupational or personal scheme.

Pension scheme governance

Even though the Commission proposals constitute a welcome improvement of the current framework on many issues, as we outlined above, we note that it does not break with the **prevalent paternalistic mindset of European industry and policy-makers on pensions**. A symptom of that mindset is the repetition of the terms "members and beneficiaries" to refer to individuals invested in supplementary

[13] Even projections of benefits from public pension schemes are uncertain, being based on the current state of a country's legal framework on pensions, which, as the swath of reforms in the past decade has shown, can be relatively unstable.

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pension schemes, two terms that convey the expected passivity of pension investors in relation to the management of their pensions. **We argue for the replacement of these terms with the term "participants"**, widely used in non-EU jurisdictions, which, by contrast, stress the fact that individuals investing their savings in a pension scheme should *take and active part* in its governance. Moreover, as evidenced in the BETTER FINANCE annual report on the real return of long-term and pension savings, individuals investing in pension schemes too often fail to achieve positive real returns, which calls into question the appropriateness of referring to them as "beneficiaries".

In this regard, the Commission's IORP proposal falls disappointingly short of giving *participants* the core role that they deserve in steering the investment strategies of IORPs. Better information on the investment strategy of one's IORP, on its performance and the charges it levies for the management of one's pension is essential, and as already mentioned, we welcome the strengthening of these requirements. Likewise, the requirement to collect preferences regarding risk tolerance and the sustainability of investments is essential.

Essential, yes, but also the bare minimum if the goal is empowering pension savers. The logical next step in the reasoning that underlies these information and preference collection requirements is to put participants in a decision-maker position in occupational pension schemes: informing them about the financial and non-financial performance of the scheme they are invested in *so that they can express clear preferences that social partners can translate into a mandate* to be carried out by the pension scheme manager.

For this, we **need the legal framework on supplementary pensions to strengthen the link between participants' preferences and investment decisions taken** by scheme managers. Whether in occupational or personal pension schemes, scheme managers and, where appropriate, sponsors and social partners (in occupational pensions) or product distributors (of personal pensions) should be responsible for ensuring that participants (a) are enabled to absorb the information provided, (b) have the means to express their consent or dissent with the investment strategy proposed by the scheme manager and (c) have the possibility to exit the scheme altogether if they cannot be satisfied.[14]

Accountability

We praised the Commission's proposals on the front of greater accountability of pension scheme managers, both in the IORP and PEPP proposals. Nevertheless, we note that most of that greater accountability still relies heavily on *public* enforcement, i.e., on having tough supervisors holding supervisees to account for their (dis)respect of legal requirements. On the *private* side of law enforcement, i.e., court and out-of-court proceedings launched by private individuals seeking redress, the introduction of an explicit *duty of care* principle provide a sounder legal basis, and tougher information requirements do indeed empower individuals, but

[14] In other words, permit the expression of "exit, voice or loyalty", to use the words of economist Albert O. Hirschman; see Hirschman, *Exit, Voice, and Loyalty.*

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these **only marginally increase the ability of aggrieved pension scheme participants to effectively obtain compensation for the mismanagement of their pensions**.

While strengthening public enforcement—empowering supervisors—is crucial, we strongly believe that **making the private enforcement threat credible is key to foster a true investor-centric approach in the European supplementary pension sector**. For that threat to be credible, we need to make it easier for a group of pension scheme participants or a representative organisation to seek redress *on behalf of* the whole body of participants to a scheme. In other words, we **need to make sure that participants to supplementary pension schemes throughout the EU have an easy access to collective redress mechanisms**.

Auto-enrolment

Last but certainly not least, we urge **caution on setting up schemes for the automatic enrolment of individuals in supplementary pension schemes**. Auto-enrolment should be seen as the proverbial cherry-on-the-cake in reforming a country's pension system: every element of the system must be properly working, and the protection of individuals' interests ensured, before individuals are committed to a pension scheme without their explicit prior consent. What is at stake is no less than the legitimacy of these pension reforms that tout supplementary pensions as a solution to the challenges of public pensions. In short: put you (supplementary pension) house in order before you shove people through the door.

We will not exhaust here the many issues that addressed before automatic enrolment becomes acceptable (evolution of contribution rates, involvement of social partners, transparent communication, etc). Let us just list here a few caveats related to our organisation's focus on investor rights.

As a first point, we argue that **automatic enrolment can only be conceived in the context of the workplace**. There should be no talk of an automatic enrolment mechanism that would force individuals to acquire and contribute to a personal pension product (PPP): signing up for a PPP must remain a voluntary decision, resulting from an assessment of the personal needs and objectives of an individual, preferably relying on financial advice provided on an independent basis.

Second, before setting up an auto-enrolment scheme, a government must ensure that **there indeed *are* occupational pension scheme managers active in their jurisdiction that have a proven track record of generating "benefits for savers in the long-term"**,[15] i.e., that can offer a substantially positive return retirement savings, even once costs are deducted and inflation accounted for. Considering the paltry long-term *real net return* figures that our research on European supplementary pensions shows,[16] this pre-requisite might make auto-enrolment a

[15] European Commission, *Commission Recommendation on Pension Tracking Systems, Pension Dashboards and Auto-Enrolment*, 12.
[16] BETTER FINANCE, *Will You Afford To Retire? Edition 2025.*

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somewhat distant prospect for many Member States. Furthermore, the range of eligible schemes should **offer a sufficiently diverse range of investment strategies for the enrolment scheme to offer options to the enrolled workers** besides the default scheme.

Third, if there are occupational pension providers with a sufficiently good track record for them to be deemed eligible candidates for auto-enrolment, we must ensure that they *continue* to generate substantial real net returns. Since automatically enrolled workers are unlikely to be the most active in monitoring performance and voicing their concerns in case of decline of the scheme, the public enforcement side of accountability must be even stronger than that applying to other pension schemes: **enhanced supervision, with particularly stringent value-for-money assessments and conduct of business scrutiny, must apply to the eligible schemes** before auto-enrolment is rolled out.

Fourth, because no scheme, however diversified the options and positive their track record, can be expected to satisfy the specific needs and demands of each and every individual in scope, the automatic enrolment scheme should always **ensure individuals have the possibility to opt out**. **Conditions for doing so should be very clearly laid out and communicated sufficient time *before* the enrolment is effective**, giving time to an individual to review the conditions, examine the options and, if they wish so, communicate their decision *not to* be enrolled.

Opt-outs *after enrolment* are inherently tricky for scheme managers: since occupational pension schemes are long-term oriented, early exit from the scheme implies either that the scheme manager guarantees the value of the accumulated retirement capital at all times—which effectively prevents the implementation of any life cycle investment strategy—or that exiting participant takes the risk of suffering a financial loss—which is unlikely to contribute to broad acceptance of the auto-enrolment scheme in the first place. Therefore, we believe that opt-outs after enrolment should be strictly conditional upon the occurrence of exceptional circumstances or the demonstration that the scheme is not serving the long-term interests of the participant who is requesting the opt-out. Provided that eligible schemes are subject to enhanced supervision and schemes offer sufficient options to cater to the needs of most employees, such occurrences should be rare.

By contrast, *opting out before any contribution has been made* and even before the employee has been registered as a participant does not significantly impact the management of the scheme itself. It is therefore advisable that a sufficiently long period of time is granted between the start of the employment contract and the enrolment in the pension scheme for the employer to provide all the necessary information for the new employee to review this information, seek advice with representatives of the social partners involved in the management of the scheme and finally decide whether they wish to oppose their automatic enrolment in the scheme offered by their employer.

To be clear: we believe automatic enrolment in occupational pensions is a very promising way to increase the coverage of occupational pensions, get people to save for their pension and increase future retirement income across the EU; but for

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this promise to become reality, the automatic enrolment scheme itself *and* the supplementary pensions ecosystem on which it relies must *both* be set to ensure the highest degree of performance and protection of the interests of the enrolled participants.

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2.The IORP Proposal

Occupational pension schemes hold great potential to improve European citizens' retirement income as well as to deepen the EU's capital markets. To realise this potential, however, amending the IORP II Directive is necessary and BETTER FINANCE strongly supports the European Commission's efforts in this area. In this section, we shall review several aspects of the proposal which we consider key to the interests of occupational pension schemes' participants—those which EU legislation term "members and beneficiaries".

We will start with a discussion of the proposals regarding the scope of the Directive and the option for Member States to extent some of its provisions to non-IORP occupational pension schemes. We will then discuss proposals regarding rules on business conduct and investment strategies, including the "duty of care" and "prudent person principle", which will then lead us to a discussion of the proposed solutions to enhance supervision of IORPs. We will then review the proposals regarding rules on information to participants and finish with a discussion of potential ways forward to enhance the involvement of participants in the governance of *their* pensions.

The scope issue: occupational pensions beyond IORPs and IORPs distributing personal pension products

"Same business, same rules" should apply in the field of supplementary pensions. The Commission's proposals regarding the scope of the IORP II Directive appear to us as a step in that direction. The Commission's proposals effectively contribute to reduce the fragmentation of the EU legal framework on supplementary pensions in two important ways:

- Reduce the divergence between the rules applicable to occupational pension schemes under the IORP II Directive;
- Align the requirements for IORP-distributed personal pensions on that applicable to PPPs distributed by other types of providers.

As regards bringing occupational pension funds that are currently not regulated at the EU level under the scope of the IORP II Directive, we reiterate the opinion we already expressed in our response to the Commission's 2025 Targeted Consultation on supplementary pensions[17]: Diversity in the forms of occupational pensions across Europe is no accident, it is driven by the variegated needs of workers and employers across different economic sectors and across Member States, it should be respected.

[17] BETTER FINANCE, *Supplementary Pensions Consultation*.

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That note of caution notwithstanding, we believe that **many important elements of the IORP II framework should be considered as principles of good governance by all occupational pension fund manager, not just IORP managers**: the level of investor protection one enjoys for their occupational pension should not be a function of the legal nature of the provider their employer selected.

Rules on information to be provided to prospective members, members and beneficiaries constitute a typical case: the information listed in Title IV of the IORP II Directive[18] is relevant for participants to any occupational pension scheme, not just IORPs. There is no reason why, for instance, a Belgian worker affiliated to an *assurance groupe* ("group insurance", the most common form of occupational pensions in Belgium[19]) should not receive a Pension Benefit Statement with the same information as they would receive had their employer taken a contract with an IORP.

Similarly, most of the **rules on good governance** listed under Chapter I ("System of governance") of Title III of the IORP II Directive should apply to any institution who intends to manage occupational pension schemes. The rules regarding general governance requirements (Art. 21), requirements for fit and proper management (Art. 22), the remuneration policy (Art. 23), the key functions that must be provided for (Art. 24), risk management (Art. 25) as well as internal audit and actuarial functions (Art. 26 and 27) in particular, should be generalised to all entities managing occupational pension schemes.

While the specifics of each national type of occupational pension scheme may warrant adaptations, we believe that, for the above-mentioned rules on information and governance at least, the IORP II Directive should go further than give an option to Member States to extent the requirements to non-IORP providers. Instead the Directive should **require Member States to apply these generally valid requirements also to non-IORP occupational pension providers, with an option to exempt them** (a decision which should then be notified and justified with reference to the specific nature of the exempted schemes).

A similar reasoning can apply to the **offer of PPPs by IORPs**: **rules governing the distribution and management of such plans should apply uniformly to all PPPs** sold, at least within the confines of a Member State, but ideally across the whole Union. The proposed introduction in the IORP II Directive of a series of provisions requiring managers of IORPs that also distribute PPPs to comply with the various requirements applicable to the distribution and management of PPPs in their countries is then welcome.

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[18] "Title IV – Information to be given to prospective members, members and beneficiaries ad business conduct rules", the requirements regarding information are listed in Arts. 36 to 44.

[19] BETTER FINANCE, *Will You Afford To Retire? Edition 2025.*

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Business conduct rules and prudent investment

Duty of care

BETTER FINANCE strongly supports the introduction of an explicit duty of care for IORPs in the proposed Art. 44a. We believe the proposed article provides for a much clearer understanding of what the main task of an IORP is: "**providing adequate, risk-adjusted and cost-efficient returns over the long term, consistent with the long term nature of pension obligations**". That is the essence of their job, the concrete meaning of "**act[ing] honestly, fairly and professionally and in accordance with the best interests of their members and beneficiaries**".

The proposed new Arts. 44b to 44d on, respectively, "appropriate structure and implementation of the pension schemes", "complaints" and "out-of-court redress" are essential complements to Art. 44a, as they set requirements that aim to make this duty of care the effective compass of IORP management and provide for effective ways for potentially aggrieved members and beneficiaries to seek redress.

In this regard, we particularly **welcome the requirement for competent authorities to "set up procedures which allow members, beneficiaries and other interested parties, including consumer associations, to submit complaints to the competent authorities**. Indeed, while isolated individuals may find it impossible to gather the information and resources necessary to raise their complaints effectively, consumer and investor associations can effectively support collectives of IORP members and act as catalysts to bring about a more efficient occupational pension sector in the EU.

Prudent person principle

IORPs are, by construction, institutional investors with a long-term investment horizon. Because pension savers' assets are locked in until retirement and that withdrawals are, normally, planned, IORP managers are, in principle, able to take on more short-term risk to ensure higher long-term returns for their members. Yet according to EIOPA statistics, only a third of European IORPs portfolios were invested in equity in 2024[20] versus 43% in debt securities and funds, most of it in government debt. The "prudent person rule", and additional prescriptive national rules on investment strategies, may have made IORPs *too* prudent, at the expense of their members.

BETTER FINANCE has long been calling on policy-makers to end the bias of long-term and pension savings vehicles towards fixed income, which too often results in low long-term net real returns.[21] Therefore, we strongly support the proposed review of Art. 19 of the IORP II Directive on investment rules. Beyond what may seem a cosmetic change of word—*principle* instead of *rule*—we see a paradigmatic

[20] 33.3% (894 billion euros) of the total assets under management in IORPs (2688 billion euros), including 3.7% in private equity funds. European Insurance and Occupational Pensions Authority, "Occupational Pensions Statistics".
[21] BETTER FINANCE, *Will You Afford To Retire? Edition 2025* and previous editions.

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change from a regulatory framework that enabled national policy-makers to impose fixed asset allocation strategy, to a truly principles-based approach that empowers IORPs' managers and supervisors: flexibility *and* accountability.

As regards the added flexibility, the proposed new paragraphs 1a to 1d, as well as the new wording of paragraph 6 for Art. 19 provide sound principles for managers of IORPs to identify the boundaries of the investment universe they can explore on behalf of their members in a way that enable them to adapt their investment strategy to needs and specificities of each (group of) participant(s).

We consider fundamental the requirement that IORPs "only invest in assets and instruments whose risks the IORP concerned is able to properly identify, measure, monitor, manage, control and report"[22] and that investment policies reflect the risk tolerance and sustainability preferences of the membership. However, provided that these fundamental conditions are met, IORPs should be able to make their own investment decisions. Therefore, we support the replacement of the current paragraph 6 of Art. 19—which enables Member States to impose further quantitative limits—with an option to empower competent authorities, to a limited extent, to impose further requirements on specific IORPs' investment decisions; the change of wording is far from anecdotic, since it effectively prevents national legislators from imposing blanket prohibitions or investment quotas on all IORPs while granting NCAs the necessary power to address potential imbalances in IORPs' investment strategies.

BETTER FINANCE would still like to highlight some caveats regarding these principles:

- The proposal for paragraph 1c requires that "investment decisions of IORPs reflect the sustainability preferences of members and beneficiaries, *where IORPs are able to gauge those preferences*". It is our view that IORPs should make ensure, by implementing the appropriate preference collection processes, that they are *always* able to gauge those preferences.
- Point (c) of the new wording for paragraph 6 of Art. 19 enables IORPs to invest on "instruments that have a long-term investment horizon and are not traded on regulated markets", which is welcome, considering the potential role of pension schemes in funding, in particular, investments in the green transition. Nevertheless, we believe that this permission should come with a cap, in terms of the proportion of total assets that can be invested in such instruments: even though such investments should be permitted, they should not constitute more than a small fraction of total assets, if the investment strategy is to remain prudent.
- Similarly, it should be possible to include instruments issued or guaranteed by the European public financial institutions listed in point (d) or paragraph 6 in the investment strategy of an IORP, but there should be an upper limit to these investments: even if (partially) derisked, these investments are usually concentrated in particular sectors that these institutions and political

[22] European Commission, *Proposal Amending the IORP II Directive*, 34 proposal for Art. 19.1a.

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authorities deem strategic, while the investment strategy of an IORP should seek diversification.

- These caps should be set high, so that they only constitute a failsafe measure and the default approach remains the risk-based system of the prudent person principle, supervised on a case by case basis by NCAs. The caps on these investments would then only become constraining where the default approach failed to spot an excessively risky asset allocation strategy.

We welcome the new wording proposed for point (b) of Art. 19.1, which further specify how IORPs are to "take into account the potential **long-term impact of their investment strategy on sustainability factors**". Similarly, we welcome the requirement in Art. 21 that the "system of governance shall ensure that environmental, social and governance factors related to investment assets are considered in investment decisions".[23] Long-term investment strategies, such as those implemented by pension scheme managers, cannot afford not to take into account sustainability risks. Failing to do so would jeopardise their ability to offer their members "adequate, risk-adjusted and cost-efficient returns over the long term", putting them in breach of their duty of care.

Temporary underfunding

A rigorous requirement for IORPs to have "at all times sufficient and appropriate assets to cover the technical provisions", as set out in Art. 14 of the IORP II Directive, can never be met if defined-benefit IORPs are to increase their exposure to equity markets, characterised by a much higher volatility than bond markets. The current text of the IORP II Directive recognises this, since paragraph 2 of Art. 14 already foresees that the home Member State of the IORP may allow underfunding "for a limited period of time".

The proposal formulated by the Commission is welcome in the sense that it specifies further this option to allow underfunding:

- the decision is to be taken by the national competent authority, which, as supervisor of the IORP, is best placed to assess its situation;
- it makes it explicit that the IORP may be granted up to 10 years to correct its underfunding, which acknowledges the long-term nature and illiquidity of occupational pension technical provisions (unlike bank savings, pension entitles are usually locked for decades), thereby correcting the tendency of supervisors to require an overly speedy return to equilibrium.

Allowing temporary underfunding means allowing IORPs to take more short-term risk. It is, therefore, a necessary complement to the more flexible, risk-based approach to IORPs' investment strategies embodied by the prudent person principle; the conditions attached to this possibility of underfunding—that a credible plan be drawn to re-establish total funding—in turn constitutes the measure of accountability that needs to come with this increased flexibility.

[23] Ibid., 35 amendments to Art. 21.1 IORP II, second subparagraph.

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System of governance

The corollary of the greater flexibility granted to IORPs by the new investment rules must be greater accountability. As mentioned above, the introduction of an explicit duty of care as Art. 44a will provide a stronger legal basis for members and beneficiaries to seek redress in case their interests have been neglected, as well as for supervisors to hold IORP managers to account.

Amendments to the requirements on IORPs' systems of governance are also necessary to strengthen the internal processes that aims at preventing and proactively addressing issues.

In this sense, the addition in Art. 21.3 of the requirement on IORPs to ensure that policies on risk management, internal control, internal audit, remuneration, actuarial and outsourced activities "are implemented" is much welcome: too often are internal policies written for the benefit of supervisors and left to take dust in drawers; that needs to change. We also welcome the proposed expansion of point (a) of Art. 22.1 on "fit and proper management" to specify that "persons who effectively run the IORP" should have "knowledge and competencies enabling them to address the different levels of risk that members and beneficiaries are exposed to".

By contrast, we consider a missed opportunity to leave the "requirement to be proper" limited to persons managing the IORP being merely "of good repute and integrity" without adding that they should also not have any interests that conflict with those of the members and beneficiaries of the IORP. Similarly, we regret that the proposal to amend Art. 31 on outsourcing does not generally prohibit outsourcing to a given provider where that outsourcing creates potential conflicts of interest.

Conflicts of interests are a pressing concern that needs to be effectively dealt with. The current and proposed provisions for the IORP II Directive require IORPs to ensure conflicts of interests do not put the interests of members and beneficiaries at risk. We would very much prefer the Directive to require IORPs to first **eradicate, whenever possible, any potential or actual conflict of interest** and only second to adopt and implement policies to manage the conflicts of interest that could not be eradicated. Containing effectively the likely *effects* of conflicts of interest entails byzantine rules to define regulatory notions such as "*independent decisions* in the sole interest of member and beneficiaries"[24] and specific requirements for each situation. Such rule-making is probably beyond any legislator and certainly contrary to the stated objective to "simplify" EU legislation.[25] We maintain that the adoption of a general principle that situations of conflicts of interest within IORPs or in relation to the outsourcing of IORP functions should be banned, with a power for supervisors to allow limited exceptions, would be much simpler and flexible. At the very least, the proposal for Art. 22.2 should be amended so that competent authorities have the power to require the *removal* of a person

[24] proposal for Art. 21.7 IORP II ibid., 36.
[25] European Commission, *A Competitiveness Compass for the EU*.

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in a management or other key position within the IORP that is found to have conflicts of interests when they are not satisfied that these conflicts of interests are sufficiently "prevented or managed"[26]

BETTER FINANCE supports the Commission's proposed amendments to Arts. 26, 28 and 30 on, respectively, the **internal audit function**, the **own risk assessment** and the **statement of investment policy principles**. In particular, we welcome the specification in Art. 30 that the statement of investment policy principles should include the "**overall performance objectives** for the scheme and the **means of monitoring performance**"; this is crucial information for any interested party to be able to assess whether the scheme actually reach its performance target and could feed into a value-for-money assessment of IORPs (see below).

As regards the own risk assessment, by contrast, we do not consider that "an assessment of the economies of scale and efficiency options" should be considered part of a *risk* assessment; instead, Member State could require IORPs to regularly review their general strategy, including the potential risks and benefits—for members and beneficiaries—of participating in pooled investment structures, shared services or transfers.

Effective supervision of IORPs

Rules without enforcement are useless: Empowering competent authorities to examine, inquire and, where necessary, force IORPs to change their systems, policies and strategies is crucial for investor protection to be effective in occupational pensions.

Therefore, we very much welcome the amendments that the Commission proposes to Title V of the IORP II Directive, which clearly expands the scope of IORP supervision to all requirements laid out in the Directive, not merely prudential requirements.[27]

We particularly welcome the proposed new version of Art. 45, which requires Member States to **ensure that competent authorities are equipped with "all the necessary means and powers** for the performance of their duties and have the **relevant expertise, capacity and mandate**" for it. Even more welcome is the explicit mention that "the **main objective of supervision**" is "the **protection of the rights of members and beneficiaries** *and* ensuring the stability and soundness of IORPs".

We hope that this juxtaposition of member's rights and financial stability in "the main objective of supervision" will steer supervisory efforts towards a long-term perspective that better balances short-term financial stability concerns with the necessity to allow some more risk-taking for sake of better long-term returns. We see a crucial role for supervisors to ensure that IORPs adopt sound long term-

[26] European Commission, *Proposal Amending the IORP II Directive*, 37.
[27] Ibid., 49ff.

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oriented strategies that avoid the pitfalls of excessive short-term risk-taking—which could lead to the IORPs' insolvency—but also, and in our view crucially, the risk that IORPs take *too little* risk to be able to offer sustainable positive real net returns, which is the main risk of any pension savings product.[28]

We welcome the amendments proposed by the Commission on Arts. 49 and 50 requiring that Member States ensure that competent authorities have a legal **power to require "all information necessary to conduct supervision"**[29] and to "determine the nature, the scope and the format of the information" needed for supervision, as well as to require IORPs to require the information necessary for EIOPA to carry out its market oversight activities, including the production of its annual cost and past performance report. [30] While supervisors should be as parsimonious as possible in their data requests and reduce as much as possible the burden that these request on supervised entities, we believe it is essential to give them broad powers to determine what data they need and to obtain these data from IORPs: Effective supervision requires an accurate and, sometimes, detailed view of the supervised activities.

Similarly, we support the proposed amendments to Art. 48.2, to ensure that competent have **powers "to take preventive and corrective measures"**, including, "where appropriate, those of an administrative or financial nature", not only targeting IORPs as legal entities, but also "the members of their administrative, management or supervisory body". These further specifications, compared to the current text of Art. 48.2, empower supervisors, making them **better able to hold IORP managers to account for the consequences of their decisions** on the interests of members and beneficiaries. We believe this empowerment to be the necessary trade-off for the greater flexibility that IORP managers will enjoy on a day-to-day basis. Furthermore, the introduction of the new Art. 50a effectively extends competent authorities' powers to third party providers to whom an IORP may have outsourced activities, in the same or another Member State. That is, we find, necessary to ensure that the greater recourse to outsourcing—including that of key functions of IORPs—does not become an opportunity for regulatory arbitrage.

In the same vein, we can only welcome the insertion of provisions on the **withdrawal of IORPs' authorisation** as a new Art. 49b, which grants competent authorities with the power to withdraw its authorisation to an IORP that "fails seriously in its obligations under the regulations to which it is subject",[31] in particular those stemming from the IORP II Directive. We certainly hope that this supervisory "*big stick*" will convince IORP managers to take seriously the

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[28] European Insurance and Occupational Pensions Authority, *Pan-European Personal Pension Product (PEPP): EIOPA's Stochastic Model for a Holistic Assessment of the Risk Profile and Potential Performance*.
[29] New paragraph 1a of Art. 48 IORP II European Commission, *Proposal Amending the IORP II Directive*, 50.
[30] New second subparagraph in Art. 50 IORP II European Commission, *Proposal Amending the IORP II Directive*.
[31] Ibid., 52–53.

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admonitions they may receive from their supervisors *before* they might reach the point of no return.

We also sincerely hope that the "**regular supervisory dialogue**", which the proposal for a new Art. 49a would introduce, would help avoid reaching this point of no return. We welcome the proposed approach of a far-reaching review of the IORPs activities with the aim to ensure that they "**operate efficiently and deliver value for members and beneficiaries**"[32] In that sense, we strongly support the requirement for this dialogue to cover at least the level of an IORP's costs as well as the return on its assets and whether that performance deviates from "promised or targeted benefit levels". We submit that the dialogue should in particular **review at, least every three years, the statement of investment policy principles, and whether the actual performance of the IORP reaches the performance objective** inscribed in that statement.

Information to (prospective) members and beneficiaries

The proposals regarding information to be provided to members, prospective members and beneficiaries constitute much welcome improvements compared to the current text of the IORP II Directive. Information on costs, performance and risks, as well as on investment and pay-out options, provided on a regular basis in a standardised format, would greatly contribute not only to raise pension awareness, but to empower pension savers. Nevertheless, the crucial precondition for this awareness and empowerment is that the provided information is easy to understand for scheme participants, which must be ascertained through large-scale consumer testing.

Information about performance

Regular performance information provided to members and beneficiaries

As regards **information on performance**, we strongly welcome the Commission's proposal to include information on the **past performance over the past 10 years** in the information to be provided annually to members and beneficiaries of DC IORPs. It has been a long-standing position of BETTER FINANCE that past performance information, while never a guarantee of future performance, provides crucial information about the capacity of a pension or other investment scheme to generate capital growth for its members. We stress, here again, that performance information must be provided in a manner that is simple enough for individuals with little financial literacy to understand it.

The text of the amending proposal for Art. 39 of the IORP II Directive includes some other much welcome improvements, in particular:

- specifying in the new second subparagraph of paragraph 1 that **projections of the future value of retirement benefits "*shall be given in real terms* together with *a narrative explanation*"**. Providing projections in real terms,

[32] Ibid., 51.

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i.e., corrected for the expected effect of inflation on the purchasing power of one's savings, is essential for long-term savers and investors to see past the "monetary illusion" and realise the need for returns on their investments to offset the eroding effect of inflation.

- that **benefit projections be accompanied by a "*narrative explanation*" is, similarly much welcome**. Besides the headline figure, scheme participants must receive additional information to understand which of the three projections is the most likely and, crucially, that these projections are always highly uncertain: Projections are necessarily based on information and data financial markets, the general economy and the legal framework governing occupational pensions available to the pension scheme provider at the time of providing the PBS; these can vary greatly over the decades that may elapse between the date of issue of the PBS and the date on which the member retires. **The narrative explanation should highlight this fundamental uncertainty of benefit projections in a clear manner**.
  In this regard, we also strongly support the proposed rewrite of point (c) of Art. 40.1, which requires IORP managers to include in the PBS how to obtain supplementary information about "the **assumptions used for the pension benefit projections**" in general and not merely "information about the assumptions used for amounts expressed in annuities". This requirement could be further improved by specifying that, where the PBS is provided in an electronic format, a direct link to this information should be provided.
- including, where participants can select amongst different investment options, a **summary of the selected options**. Where the possibility to choose amongst different investment strategies exists, a member's choice is certain to impact the performance of their pension investments. It is then good to provide a yearly reminder of what options they have selected alongside the data on costs and performance. Nevertheless, that **summary of selected options should be as concise as possible and delivered in a clear language, standardised to the extent possible**, and using visual aids such as icons and infographics. The summary should also, crucially, come with an **reminder that this choice of option can be amended and an indication of where to find information to do so**.

We note that the proposal maintains the probability-weighting of benefit projections already in the current text of Art. 39.1 by specifying that the PBS should include a "best estimate scenario", i.e., a scenario that can be considered the most likely, at least based on the data known to the provider at the time of producing the PBS. In that sense, the IORP II PBS is superior to the current version of the PRIIPs KID, which features performance scenarios without any indication of probability.

Performance information to prospective members

We warmly welcome the extension of the requirement to **inform prospective members** of DC schemes about the **past performance of investments over a period of 10 years** instead of 5 years, and the additional requirement to inform

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them about "the investment options available and their risks".[33] Nevertheless, we argue that **this information is also of interest to members of DB IORPs**: even though performance is not supposed to affect levels of payouts in these schemes, a lacklustre track record should constitute a warning sign that the scheme might be unsustainable, a piece of information prospective members should have so that they can decide whether and how to act upon it.

We also argue that the **information listed in Art. 41 on performance, risks and costs should *always* be provided to prospective members before enrolment, even where enrolment is automatic**. It is our view that information about a financial product, whatever form it takes, should be provided to the investor early enough for them to review the information, ask questions if necessary, and make an informed decision. Where an automatic enrolment mechanism is in place, it should foresee the possibility for the employee to opt out of the scheme. Deciding whether to actively opt out or to let themselves be enrolled should be an informed decision, which requires the employee to receive the appropriate information about the schemes' performance, costs and risks, before the end of the opt-out window and before any payment is made to the scheme on their behalf.

In short, Art. 41 of the IORP II Directive should be re-written as a blanket **requirement for all IORPs to provide prospective members *before enrolment*** with information on the past performance, risks and costs of the IORP, with the **format taking into account the specific nature of the scheme and of the enrolment process**.

As regards, specifically, the **information to be provided to "beneficiaries"**—i.e., participants who have started receiving pension benefits—BETTER FINANCE very much **supports the proposed amendments to Art. 43**, paragraphs 1 and 3. Those amendments acknowledge that so-called "beneficiaries" remain invested in the scheme, with as much interest in its cost-efficiency as "members". They should, as a consequence, **receive similar information about costs, past performance and risks**, taking into account the change of time horizon that being in the decumulation phase entails.

Information in the case of underperformance

We read the proposal for a new Art. 41a as a first attempt by the Commission to **introduce Value-for-Money supervision in the IORP II framework**. Indeed, with paragraph 1 requiring IORPs to "regularly **monitor their performance against benchmarks**" and to justify to competent authorities that the "**costs and charges of the scheme are justified and proportionate**", this new article for the first time requires IORP managers to demonstrate that their schemes are cost efficient. Needless to say, we see this proposal as a much welcome improvement and urge the co-legislators to adopt it. We welcome the mention in the proposed paragraph 4 that the **benchmarks should include both costs and returns**, the two

[33] Ibid., 44 proposal for Art. 41 IORP II.

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constitutive elements of cost-efficiency that should always be considered together in any assessment of value for money.

This praise notwithstanding, we believe the proposed framework could be made more transparent, for the benefit of sponsors and members:

- The most obvious indicator of potential underperformance should be a consistent **failure of the IORP to reach the performance objective it should announce in its statement of investment policy principles** as per the new wording of Art. 30.
- If the emergence of a single market for the provision of occupational pension services is indeed one of the goals of the IORP II Directive,[34] then we believe that the **comparison of performance should not be made against country-specific benchmarks but against benchmarks that are valid across national borders**, i.e., capital market indices and inflation, taking into account the specificities but also similarities of each occupational pension scheme.
- **At least, competent authorities should be required to develop their benchmarks following a common methodology, which should be developed by EIOPA**. We then call on the co-legislators to amend the proposed text to **require EIOPA to draft regulatory technical standards (RTS) on value-for-money assessment and benchmarks in IORPs** rather than merely adopting "guidelines [...] on methodologies for determining underperformance". These RTS should take into account the fact that cost levels are usually impacted by national specificities (national specific types of contracts, national requirements on occupational pensions, etc.): any common methodology must then find the right balance between elements of performance that are country-independent (and can, therefore, be harmonised) and those that are country-dependent (and on which national authorities must be able to define specific rules).
  While we acknowledge that the limited development of the cross-border market for IORP services and the insertion of occupational pensions within the broader social and labour policies of Member States imply that national specificities are unlikely to disappear, we believe that some core elements of the business of IORPs are sufficiently similar to be compared on an EU-wide basis. The proposed move from a Prudent Person Rule to Principle and related prohibitions on Member States to unduly constrain IORPs' investment strategies will further reinforce these similarities.
- The new Art. 41a should require that **all benchmarks be made publicly available** on the website of the authorities producing them as well as through EIOPA's website. If these benchmarks are to reflect the average performance of (a segment of) the market of occupational retirement provisions within a country, this information is not merely useful for IORP managers and supervisors, it is also crucial for sponsors, large or small, when comparing offers of IORPs.

[34] European Commission, *Proposal Amending the IORP II Directive*.

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- **Results of comparisons to the benchmark and assessment of the justification and appropriateness of costs should be made available to members and beneficiaries on a regular basis, not only when signs of underperformance are detected**. Including a short but clear mention of the general assessment (e.g., in the form of an icon) in the PBS, with a link to access more information on the provider's website would enhance would limit the risk of overloading the reader. We further argue that any **information regarding underperformance remains available not only "until the IORP demonstrates sustained improvement", but permanently**, so that they form part of the information available to all interested parties to assess the performance track record of an IORP.

Information about costs

As regards **information on costs**, the proposed rewrite of Art. 39.1, point (g) is very much welcome. Seeing the **total figure of all costs on a compound basis since they joined the scheme** as well as an **estimate of the impact on costs on the final capital accumulated** is indeed crucial for DC scheme members to **grasp the true long-term effect of those seemingly innocuous yearly fees** on their capital accumulation. It shows the pension saver how much of *their* savings is eaten away by fees, and the breakdown enables them to identify which of the main elements of pension management—administration, asset safekeeping or asset management—is costing them most. That information is, of course, to be read alongside the equally crucial information on financial performance and other features of the pension plan: altogether, **this information enables the participant to assess the value for money profile of their pension scheme**. To go further, the new wording of Art. 39.1 should specify that layering of this information should be used to the extent possible so that recipients of PBSs are *guided* through the information and not overwhelmed by it.

Some argue that individual participants do not need to be bothered with cost and performance figures because they are not the ones making decisions about their occupational pensions. That argument is wrong on two accounts. First, IORP managers are required to collect the preferences of their members, which, in turn, requires said members to have the information necessary to form an opinion on the management of their pension plan, including costs and performance. Second, that individual members do not have a contract with the IORP manager does not necessarily mean that cannot expect to influence decisions: social partners are *representatives* of employees and employers and the legitimacy of the decisions they take regarding pensions *on behalf of* individual employees and employers rests on these individuals being able to form and express an opinion.

Nevertheless, **the proposal *de facto* exempts DB IORPs to provide any information about their costs in the PBS**, which we consider a step backwards compared to the current requirement for all IORPs to provide a breakdown of costs they deducted over the past 12 months. Even if we consider that cost levels do not directly affect the pay-out amounts for DB scheme members, costs increase the amounts that employees and/or employers have to contribute to the scheme to maintain the agreed level of payouts. Since, in occupational pensions, contributions

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should be considered deferred salaries, the charges levied by the scheme, regardless of who—of the employee or the employer—concretely pays them, add to the cost of labour. Considering the pressure on firms and whole industries to increase their competitiveness, employers will be tempted to recover this cost in any way they can, including limiting wage increases.

Individual pension savers are then as likely to bear the weight of a cost-inefficient occupational pension scheme when that scheme is a DB one as when it is a DC one; only the sharing of that burden differs. This is a crucial piece of information in the context of collective bargaining within firms and economic sectors. As a consequence, we argue that **DB scheme participants should also receive information on the overall cost of managing their pension plan, and that the requirement should be maintained for DB IORPs to include cost information in the PBS**. That information requirement should, of course, take into account the specific model of DB schemes.

As regards **information about costs provided to *prospective* members**, we welcome the proposed new wording for Art. 41.2, point (b), which replaces the vague mention of the "structure of costs borne by members and beneficiaries" with a **requirement to provide "information on all direct and indirect costs" levied over the previous 12 months, for all investment options** if applicable, and to provide an **estimate of the impact of these costs on the final capital accumulated**. Nevertheless, in line with the above, we argue that this information should be provided to prospective members or all IORPs, not merely DC ones. Again, this information should be layered to avoid overload. Also, we repeat that information about costs, performance and risks should be provided to prospective members *before* they join the scheme in all cases, even where automatic enrolment is in place.

Pre-retirement information about pay-out options

BETTER FINANCE strongly welcomes the proposed expansion of Art. 42 of the IORP II Directive regarding **information to be provided to members in their pre-retirement phase**. Transitioning from employee to retiree implies, as far as pension schemes are concerned, transitioning from accumulation to decumulation, which implies important financial decisions for occupational pension scheme members. **Relevant, intelligible, accurate information about the options available to them to dispose of their accumulated pension capital is crucial** to ensure a smooth transition. The proposal from the Commission rightly highlights the need to provide information on the **costs and charges, applicable tax treatment, main features, implications and potential effects** of each of the available options, but also to draw members' attention on "the **circumstances and criteria for members to take into account** when assessing the suitability of the different benefit pay-out options for their individual situation."[35] We note that the appropriate solution for any given participant depends on the specific combination of occupational and personal pension plans, as well as other assets in their portfolio, a fact that should

[35] Ibid., 46 proposal for Art. 42 of the IORP II Directive.

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be reflected in the way information about decumulation is provided by each scheme and warrants encouraging near retirement-age participants to seek high-quality financial advice to adequately plan that important step. It is then crucial that this information is delivered in a timely manner—i.e., sufficiently early so that members have time to look into the provided information and potentially ask for supplementary information—in a language and format that makes this information easy to understand. Standardisation of the format and language would further ease the process for the growing share of the labour force with membership in several IORPs.

Conveying information to members and beneficiaries: Pension Tracking Systems and Pension Benefit Statements

We **strongly welcome the introduction of a requirement for IORPs to transmit all relevant information to Pension Tracking Systems (PTSs)** in the body of the IORP II Directive, as a new Art. 37a. Nevertheless, considering the limited ambition that the Commission's Recommendation shows for the development of PTSs, in terms of what information items should be provided,[36] it would be unreasonable for the EU legislator to rely on PTSs as the main—let alone the sole—tool available to EU citizens to monitor the accumulation of their pension entitles. As long as crucial information about the costs, performance, risks and features such as pay-out options is not consistently and comprehensively collected and displayed in PTSs, these tools may "raise awareness" about pensions, but not significantly help better retirement planning.

The **Pension Benefit Statement (PBS) then remains the cornerstone of information to occupational pension participants** and we reiterate our attachment to the principle that the PBS should be made "available to each member free of charge on paper or through electronic means [...] at least annually".[37]

We **strongly welcome the Commission's proposals to better harmonise and enhance the PBS based on a "Union standardised format"** to be developed by EIOPA and particularly support the call on EIOPA to draft the relevant Regulatory Technical Standards (RTS) in a way that make the PBS comparable to the PEPP KID, facilitate the integration of PBS information into PTSs, but above all, to aim at "ensuring usability for members and beneficiaries".[38] This call for "ensuring usability" implies, in our view, a thorough review of the PRIIPs Regulation to improve and simplify the Key Information Document for all packaged retail and insurance-based investment products, then test this reform KID alongside the

[36] European Commission, *Commission Recommendation on Pension Tracking Systems, Pension Dashboards and Auto-Enrolment*, Art. 2, point (5) merely mentions "accrued pension entitlements, and projections of future benefits".
[37] European Commission, *Proposal Amending the IORP II Directive* proposed amendment to Art. 38.3 of the IORP II Directive.
[38] Ibid. proposal for a new paragraph 6 of Art. 38 or the IORP II Directive.

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PEPP KID to ascertain that these documents are effectively understood by a representative sample of individual investors and pension savers.

Information about personal pension products distributed by IORPs

BETTER FINANCE generally welcomes the insertion in the IORP II Directive of provisions related to the cases where IORPs also distribute personal pension products (PPPs). As regards specifically information to prospective plan members, we strongly support the insertion of a new subparagraph in Art. 36.1 of the Directive specifying that IORPs should provide their prospective PPP clients with "*information that is clear, fair and not misleading*" and "*ensure a level of transparency and protection equivalent to that required under national law for the distribution of personal pension products*". These requirements effectively establish a level playing field between IORPs and other providers of PPPs.

Although that is beyond the scope of the IORP II Directive, we still remark, however, that the level of transparency and protection that national law provides to prospective holders of PPPs varies greatly across Member States, depending in particular on whether these products fall under the scope of the PRIIPs Regulation and therefore come with a Key Information Document (KID)—which itself, in its current form, brings little to prospective individual investors in the way of "*clear, fair and not misleading*" information[39].

To summarise, while **we applaud the alignment of pre-contractual information requirements for IORP-distributed PPPs** on those imposed on other PPP providers, we call for **complementary action** to

- **harmonise national pre-contractual information requirements applicable to PPPs on those applicable to all packaged retail and insurance-based investment products under the PRIIPs Regulation** *and*
- **thoroughly review the PRIIPs Regulation** to ensure that the content and format of the PRIIPs **Key Information Document (KID) delivers truly clear, fair, *comparable* and not misleading information** that empowers individuals in their financial planning decisions. Any initiative in this area should aim at simplify and improving the KID and rely on scientific evidence on how individuals process information and lessons learned on how to facilitate understanding of complex information.

Governance: Beyond preference collection, towards empowerment

Despite all the welcome improvements to the IORP II Directive that the Commission is suggesting, the overall framework still relies on a paternalistic mindset inherited from the paternalistic capitalism of late 19th century continental Europe. While the Directive and all its accompanying documents talk of "members

[39] See our proposals regarding the PRIIPs Key Information Document: BETTER FINANCE, "Key Actions for Advancing the SIU".

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and beneficiaries", there is astoundingly little in those documents regarding what members (let alone "beneficiaries") are expected to *do* in relation to their occupational pensions; they are expected to remain passive recipients of information they cannot act upon and benefits resulting from investments they have very little control of.

In all the years that we, at BETTER FINANCE, have been calling for more, clearer, better information to participants in the field of occupational pensions, we have very often heard the same response: "information is not needed since participants are not the ones taking decisions, it is all taken care of for them". In other words, the general view on occupational pensions is that the millions of workers contributing a not-so-insignificant share of their income to those schemes should blindly trust the "professionals" to protect their interests. From our research on the real net return of pension savings—but also from the regular scandals involving pension funds—we know that this does not necessarily go well for pension savers.[40]

The proposed amendments to the IORP II Directive partly reverse this logic by providing for more transparency and more accountability. As mentioned earlier, the enhancement of the Pension Benefit Statement is crucial for individual participants to become and remain aware of how their contributions are invested and the effects of investment decisions on their expected retirement income. The introduction of an explicit duty of care and strengthening of supervisory powers also go a long way into laying out the foundations for a trust that is not so blind anymore.

But we maintain that, if pension funds are to become the catalyst for change that their supporters claim they can be, we need to go beyond information and supervision: we should ensure that "members and beneficiaries" are empowered to collectively decide on the direction they wish to take their pension system. Focus on financial returns? Focus on environmental factors? Or on the development of the European economy? Those are political not financial decisions: every individual participant can have a preference about them. What we need is a governance system that goes beyond a vague requirement to "collect preferences" of participants and aims at establishing an internal democracy in occupational pensions, whereby the will of the collective of participants translates into investment decisions. Social partners are an essential part of democracy in the workplace; they should play a greater role in animating workplace discussions about occupational pensions, informing individual participants of the pros and cons of each option, and aggregating individual preferences into a collective mandate for IORP managers. It is time for occupational pensions to enter the 21st century.

[40] BETTER FINANCE, *Will You Afford To Retire? Edition 2025*.

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3.The PEPP proposal

The Commission's proposal to review Regulation 2019/1238 on a Pan-European Personal Pension Product (PEPP Regulation)[41] begs a fundamental question: what is the actual purpose of the PEPP?

If we look at the first recitals of the current PEPP Regulation, we see that the legislator intends for the PEPP to (a) provide a portable personal pension solution for mobile workers, those whose professional career takes them across national borders (recitals 5 and 6); but also (b) to "*support the supply of funds for institutional investors and investment into the real economy*" (recital 7) and; (c) "*offer solutions for people who do not currently have access to adequate provisions*" and to "*broaden the consumer choice*" (recital 10).[42] To these objectives, the Commission's proposal adds "*the improvement of a level playing field for personal pension providers and the integration of the internal market for personal pensions*" and "*support[ing] the development of viable retirement savings options*" (recital 8 of proposal)[43] Then, one might wonder whether the creation of a novel category of product, set to compete with a plethora of domestic products—some of them very well-established thanks to their own merits or the fiscal support of national authorities—is the best strategy to achieve *all* of these goals.

BETTER FINANCE has been an early supporter of the PEPP, seeing in it the potential to steer competition in the market for personal pension products (PPPs) towards simpler and more cost-efficient solutions.[44] We still believe that making a simple, cost-efficient alternative available on each national market is absolutely necessary. Nevertheless, we must acknowledge the failure of the PEPP, in most Member States, to even reach the market due, in particular, to the failure of national authorities to extent to this new product a tax treatment equivalent to their national PPPs, and fear of PPP providers to see a cheaper alternative compete with their often less-than-competitive existing products for market share.[45]

To paraphrase Shakespeare, we could say that something is rotten in the market of personal pensions. Rooting out that rot may take more than creating a new product, promising as this revised PEPP might be: what we need is a transparent market where all PPPs are assessed based on their quality—the "value for money" they offer—and individual customers receive clear, reliable and comparable information and, should they need it, unbiased high-quality financial advice. We

[41] European Commission, *Proposal Amending the PEPP Regulation*; Regulation (EU) 2019/1238 (PEPP).
[42] Regulation (EU) 2019/1238 (PEPP).
[43] European Commission, *Proposal Amending the PEPP Regulation*.
[44] BETTER FINANCE, *Response to PEPP Consultation*; BETTER FINANCE, "A PEPP to Provide Pension Adequacy through Decent Long-Term Returns and Protect the Purchasing Power of the Life Savings of EU Citizens".
[45] EIOPA Occupational Pensions Stakeholder Group, *PEPP Market Development*; European Insurance and Occupational Pensions Authority, *The Future Pan-European Pension Product*; BETTER FINANCE, *The Future Pan-European Pension Product*.

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would strongly encourage Member States to take inventory of the PPPs and market practices in place in their respective jurisdictions and assess the needs for reforms of personal pensions going further than the introduction of the PEPP, and we encourage the Commission to organise a peer review of national practices to identify best practices for the design and distribution of PPPs that Member States could take up where and as necessary.

We should not expect the PEPP to take off equally in all Member States: differences in the general capacity of public and occupational pensions to offer an retirement income, as well as the presence or absence of existing competitive national solutions imply that the prospects for a strong uptake of PEPP are uneven[46].

Some say it is not the place of EU legislators to legislate a new product into existence. They may be right: The EU usually shapes markets through standards that set the conditions for a competitive markets where consumer rights are protected and innovation spurred. We believe this approach to be the best, and that is one BETTER FINANCE supported the Commission's proposals, included in its Retail Investment Strategy (RIS) to review the product oversight and governance (POG) rules governing financial advice applicable to all packaged retail and insurance-based investment products (PRIIPs) under the Directive on Markets in Financial Instruments (MiFID) and the Insurance Distribution Directive (IDD). Considering the expected result of the RIS interinstitutional negotiation, we consider the RIS a missed opportunity and that a simplification of the POG rules in a way that effectively better protect the interests of investors remain necessary.[47] This should be based on a comprehensive impact assessment, based on an inventory of market practices—and their effectiveness—across EU Member States and beyond.

Where to in the meantime? The Commission's proposal, as regards POG rules and information to (prospective) customers effectively draws the outlines of what a properly functioning market for personal pensions could be: product design that aims at offering good value for money; financial advice that the client can trust available when needed; clear, reliable product information that is sufficiently standardised to be compared, and a central register that centralises this information to facilitate comparisons for consumers. That is not to say that this is the only way to create a transparent and competitive market for PPPs, but it is *one* possible way to do it right.

As regards the proposal regarding the design of the PEPP, as a product, we strongly welcome the Commission's ambition to simplify the *Basic* PEPP while offering flexibility for alternative, *tailored* offers.

BETTER FINANCE member organisations' generally support the removal of the requirement to provide advice for sales of the Basic PEPP, albeit under the conditions that (a) the Basic PEPP is indeed simplified to the extent that it becomes

[46] Kochaniak et al., "Does the Pan-European Personal Pension Product Suit All?"
[47] BETTER FINANCE et al., "Joint Letter to MEP Yon-Courtin"; Lannoo, *The Savings and Investment Union Has Had a Bad Start – We Need an 'Emergency Brake'*.

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a standard product with very little variations across providers, (b) Member States ensure sufficient information is made available to the public about this product, including by supporting information campaigns by consumer and investor associations and (c) the possibility to obtain high-quality financial advice provided on an independent basis remains open at all times during the life of the contract and (d) transferability to another, *tailored*, PEPP is always available. Nevertheless, we must note that this support is not unanimous and some of our members believe that financial advice remains necessary for sales of investment products, like PPPs, that 'lock' clients' savings until retirement, even with the conditions listed above.Full transferability of one's accumulated savings from other PPPs to the PEPP is an essential precondition for a mass uptake of PEPP. Without the possibility to easily transfer pension savings at no or limited cost, any new PPP, attractive as it may be, will see its potential market limited to first-time pension savers, as those who have already accrued substantial amounts to another, potentially underperforming products, would be discouraged from switching.[48] **BETTER FINANCE then strongly welcomes the Commission's proposal for a new Art. 56b, which states that "Member States shall allow transfers from other personal pension products to a PEPP"** and ensure that these transfers "are not subject to penalties, fees, or any other administrative requirement by the provider".

Defining an appropriate tax treatment for the PEPP is essential. We support the principle that comparable investment products should be granted the same tax treatment and, therefore, we support the inscription of this principle in Art. 3 of the PEPP Regulation. Its implementation in each Member State will require, in our view, that each Member State take inventory of their existing PPPs and their respective tax treatment, then assess the extent to which the PEPP is comparable of these products. Member States should be allowed to maintain a differentiated tax treatment for certain PPPs, but only where that different treatment is justified by the specific features of the PPP.

Product design simplification

We welcome the proposed revisions that aims at simplifying the overall design of the PEPP, for the sake of lowering costs and for that of making it easier for (prospective) PEPP holders to understand the product they place their savings into.

We believe the *Basic* PEPP should be designed to be a product suitable for individuals with limited income and whose employment contracts do not entitle to occupational pensions.

- a low income usually means little left to save at the end of the month and even less to spend on the high fees that often characterise PPPs;

[48] The French example is telling: the rapid uptake of the *Plan Épargne Retraite* was enabled by the decision of the French legislator to allow full transferability of pension savings across all existing PPPs in France.

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- atypical work relations usually imply no or a very limited participation in occupational pension schemes, which remain out of reach to self-employed "uberized" workers, young entrepreneurs, part-time workers.

Workers in traditional work relations are covered by occupational pensions (or, at least, could easily be covered, which would be the most efficient solution to massively increase retirement savings in that population). Remain the low-income workers without access of with difficult access to occupational pensions and the high-income part of the self-employed that can afford but may not be willing to pay the high fees of existing PPPs. To cater to the needs of that population, the Basic PEPP must then be a low-cost and simple product, the two aspects being complementary:

- A variety of options and features may be necessary to cater to the needs of the whole population, but they are costly to manage;
- Furthermore, they require explaining, increasing the need for financial advice which in turn adds to the costs of the product.[49]

We need a product that has the potential to effectively bridge the coverage gap for this specific segment of the population that currently has little to no option to invest for its retirement. As already hinted at earlier, most (though not all) of BETTER FINANCE member organisations believe that the Basic PEPP, if simplified to the extent that it can be distributed without advice, could be such a product. This simplification, most of our members argue, should rely on removing options from the Basic PEPP, relying on a life-cycle approach as the risk-mitigation technique, whereby the respective weight of equity and fixed-income investments is dependent on the client's remaining years to retirement, and contributions are predominantly invested in listed securities. Life cycle investment strategies have been shown to offer greater probability to recoup inflation-adjusted contributions than most capital guarantees[50] and therefore permits the removal of capital guarantees, this majority of our members argue. That same majority of our members considers that this design would be sufficiently simple and standardised as to be explained clearly on providers websites and public communication campaigns, rendering advice unnecessary for sales of this Basic PEPP. They furthermore argue that the possibility to switch to another PEPP option or another PEPP provider free of charge after five years offers sufficient guarantee against the risk that a customer may be "trapped" into an unsuitable Basic PEPP.

A minority of BETTER FINANCE member organisations oppose this view, however, and consider that the long-term nature of PPPs in general and the restricted

[49] Especially when the advice is presented as "free" but paid for through inducements over the length of the contract; see BETTER FINANCE, *RIS Position Paper*; European Securities and Markets Authority, *Report on Total Costs of Investing in UCITS and AIFs.*
[50] Pang and Warshawsky, "Default Investment Options in Defined Contribution Plans"; Berardi, Tebaldi, and Trojani, *Consumer Protection and the Design of the Default Option of a Pan-European Pension Product*; Antolín, Payet, and Yermo, *Assessing Default Investment Strategies in Defined Contribution Pension Plans.*

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possibilities of early withdrawal render the provision of advice on those products necessary at sale and through the life of the contract.

BETTER FINANCE members however agree that diversity on the PPP market of each Member State must remain. As regards the PEPP framework, this means that beyond the Basic PEPP, *tailored* PEPPs, i.e., PEPP offers with additional features or options that may alter the risk-return profile of the product or provide additional benefits should be available, and these should be distributed with advice, given on an independent basis.

In the remainder of this section, we shall then discuss the Commission's proposal regarding the simplification of the PEPP design.

Portability

Transferability of pension savings across providers and products within national borders should be the priority objective, above portability across borders. If the aim is for the PEPP to become a mass product, then features enabling a PEPP holder to keep saving into their PEPP even when switching countries should always be *available* and the holder informed about their existence, but they need not necessarily be *provided* to all PEPP holders upon signature of the initial contract. Considering the current extent of cross-border labour mobility in the EU, any product that puts cross-border portability above cost-efficiency, affordability and understandability is necessarily a niche product, useful only for a very limited target market.

Therefore, the proposed removal of the requirement to automatically open two sub-accounts for all PEPP contracts is a clear example of welcome simplification.[51] The principle that "*PEPP savers shall have the right to use a portability service which gives them the right to continue contributing into their existing PEPP account, when changing their residence to another Member State*" stated in Art. 17 does not require such portability service to be in place from the outset, only that it be available to the PEPP holder when that holder needs it. Then the replacement of paragraph 2 and the deletion of paragraph 3 of Art. 18 is likely to make the opening of *most* PEPP contracts simpler and less burdensome, with only a fraction of potential clients requiring two sub-accounts from the outset.

Investment rules

As in the IORP II Directive, we welcome the added flexibility that the replacement of the prudent person rules with a prudent person principle in Art. 41 of the Regulation offers PEPP manager. Nevertheless, we note that the main change in that Article is the replacement of paragraph (d), which largely opens the door to investments in assets traded in multilateral trading facilities (MTFs) and open trading facilities (OTFs), now on an equal footing with assets traded on regulated markets. Considering the superior transparency of regulated markets compared to the average MTF and OTF, we argue that the PEPP Regulation should still differentiate between the two categories of venues and explicitly require PEPP

[51] Revision of Art. 18, European Commission, *Proposal Amending the PEPP Regulation*.

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managers to limit investments to assets traded on MTFs and OTFs offering sufficient guarantees of transparency and investor protection.

As regards, specifically, **the Basic PEPP**, we support the **requirement that at least 95% of the assets be invested in financial instruments listed in Art. 25, paragraph 4, point (a)(i) to (iv) of the MiFID Directive**—simply put: listed equity and debt securities as well as simple money-market instruments and shares in non-structured UCITS.[52] This requirement effectively ensures that assets are **invested in simple and transparent instruments that entail relatively lower costs** than alternative assets and, crucially**, can be explained in simple terms** to the average individual investor. This limitation, we understand, does not apply to tailored PEPPs: providers therefore remain free to offer PEPPs that include more exposure to alternative assets with higher risk. Crucially, though, they could not distribute those PEPP without advice. i

Risk mitigation techniques

We **welcome the Commission's proposal that "*PEPP providers shall design the Basic PEPP investment option on the basis of a life cycle investment strategy*"**,[53] which is itself to be defined in Art. 2 as "*an investment strategy that adjusts the level of risk attached to investments according to a predetermined glide path directed at mitigating investment risk and providing a reasonable degree of long-term appreciation*" while "*minimis[ing] the risk of large losses.*"

As the Commission summarises in its impact assessment of the Supplementary Pensions Package, a life cycling glide path "*allows the consumer to first profit from multi-decade gains in the capital market with broad diversification, before reducing capital market exposure in a controlled manner*".[54] Such an approach has been found to be amongst the most effective ways to ensure that pension savers nearly always recoup their contributions, and in most cases much more. It is successfully implemented in a growing number of funded pension schemes across all Pillars,[55] and notably constitutes the default option in the French *Plan Épargne Retraite* (PER), which is in many aspects comparable to PEPP except for its much greater popularity. Compared to other risk mitigation techniques such as capital guarantees, it also entails lower recurring cost levels for the investor, which in turn implies better long-term net returns for investors, considering the compounding effect of recurring costs.[56]

In our view, **setting a life cycle investment strategy as the risk mitigation technique for the Basic PEPP is the best way to ensure that it is both low-cost**

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[52] Proposal for Art. 45, ibid., 25–26. This is, of course, a simplification; the actual list in MiFID is slightly more specific in its set of criteria and exclusions.
[53] Proposed replacement for Art. 45 PEPP Regulation ibid., 25.
[54] European Commission, *Impact Assessment of the Supplementary Pensions Package*, 76.
[55] This is for instance the core strategy of Sweden's "AP7 Safa" Premium Pension, which shows a cumulated nominal return of 855% since 2001, see: BETTER FINANCE, *Will You Afford To Retire? Edition 2025.*
[56] Berardi, Tebaldi, and Trojani, *Consumer Protection and the Design of the Default Option of a Pan-European Pension Product.*

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***and* cost efficient**. With this approach, the Basic PEPP can indeed become the product for those EU citizens who currently have no affordable and high-performance option to save for their retirement.

Designing the *right* life cycle investment strategy is, however, inherently tricky. The principles-based approach taken by the Commission in its proposal is then welcome: the proposed paragraph 2 of Art. 45 sets limits to the overall universe of investable assets[57] then the new paragraph 2a of Art. 46 describes in qualitative terms how PEPP providers should design life cycle investment strategies, and paragraph 3 mandates EIOPA to specify the "*minimum qualitative criteria*" that the risk mitigation techniques must satisfy.[58] Needless to say that, here again, flexibility must come with accountability: **for any Basic PEPP offer, the specifics of the life cycle strategy** should be **publicly available**, **disclosed to the (prospective) PEPP holder in terms that can be understood** by the average early pension saver, and **scrutinised by supervisors** on a regular basis.

While we strongly believe that life-cycling should be the sole risk mitigation technique embedded in all Basic PEPPs, we support the continued freedom for providers to select amongst a wide range of risk mitigation techniques for their offers of tailored PEPP: as the name suggests, a "tailored" PEPP should be tailored to the specific needs of the target market, not only as regards the investment strategy, but also risk mitigation. **What matters here is that the selected technique is effective in reaching the level of risk-mitigation promised to the (prospective) PEPP holder, its features transparently explained and, crucially, its cost transparently discloses, together with the impact of this cost on the overall performance** of the tailored PEPP contract. The regulatory technical standards (RTS) to be drafted by EIOPA should include clear requirements on these matters: prospective PEPP customers should be able to properly assess the costs and expected benefits of each risk mitigation technique in order to make an informed decision.

We acknowledge the criticism of the requirement that risk mitigation techniques used for PEPP offers should be tested with stochastic modelling and maximum probabilities of losses. Nevertheless, the RTS should **require PEPP providers to demonstrate in a reliable way the effectiveness of the risk mitigation techniques they intend to use**. The new wording of paragraph 3 of Art. 46,[59] which mandates EIOPA to develop these RTS should explicitly mention this requirement.

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[57] European Commission, *Proposal Amending the PEPP Regulation*, 25–26: The proposal refers to financial instruments listed in Art. 25.4(a) of the MiFID, effectively limiting the range of investable assets to listed equity and bonds, simple money market instruments and shares of UCITS funds.
[58] Ibid., 26.
[59] Ibid.

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PEPP distribution

Product information

PEPP KID

BETTER FINANCE welcomes the proposed amendments to Art. 28 on the PEPP KID, in particular:[60]

- In the section "What is this product", the requirement to include the **information that the central public register lists all available PEPPs** and to **provide the link to the register**. Beyond the "information that all registered PEPPs are available", the mention should specify that essential information about all the PEPPs, including costs and performance data, is available in the register, so that readers of a PEPP KID know what the links leads them to.[61] The indication could be similar to that proposed by the Commission for inclusion in the PEPP Pension Benefit Statement (see below).
- Also in the section "What is this product?", the provision of information about opt-out and other special features when the PEPP is provided as part of a workplace arrangement using auto-enrolment (see our earlier comments on auto-enrolment).
- In the section "What are the costs", the explicit requirement that costs must be disclosed over the previous 12 months and an estimation of the impact of the costs on the final capital accumulated".

By contrast, we do not believe that the addition of a "description of the range of investment options" offered by a provider and of an explanation about Basic vs. tailored PEPPs in the body of the PEPP KID is necessary. Using an information layering approach, a simple mention that the product is a Basic or a tailored PEPP, with a link to find more information about what this means seems enough. Similarly, where several investment options are offered by the same provider, the KID could simply mention that "The provider of this PEPP offers other investment options, find out which.", with a link to more information.

PEPP Benefit Statement

We support the proposed change to Art. 36, paragraph 1, point (f), which further specify that **costs must be disclosed both for the previous 12 months and since the start of the contract**, and also requires the itemised breakdown to include the "costs for any capital guarantee".[62] The total cost since the start of the contract is paramount: seen in relation to the total performance since the start of the contract, it enables the PEPP holder to **better understand the total impact of costs on the**

[60] Ibid., 22–23.
[61] The link should also, to the extent possible, be short and simple enough for users of the paper version to type it manually into a web browser.
[62] European Commission, *Proposal Amending the PEPP Regulation*, 23.

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performance of their investment and, therefore, assess the cost-efficiency of the PEPP contract.

We also strongly support the introduction in the PEPP PBS of "an indication that EIOPA maintains a register of all PEPPs allowing for a comparison of cost and performance"[63]

Central public register

BETTER FINANCE strongly supports the proposed extension of central public register of PEPPs maintained by EIOPA in application of Art. 13.[64] The proposed **addition to the cost, performance data and summary risk indicator greatly facilitates the prospective customer's comparison of the risk-return profile** of the various PEPPs available in their Member States.

Indication of the existence of the register and of the availability of cost, performance and risk indicators on it should be widespread. As already noted, this indication should be included in the PEPP KID and PBS, with a link to access it, and we welcome the proposed addition to Art. 34, paragraph 2 that **requires PEPP providers or distributors to "clearly inform the prospective PEPP saver that comparative information on the costs and performance of all PEPPs is publicly available** through the register".[65]

Advice: Mandatory or upon request?

Before the conclusion of a PEPP

Most of BETTER FINANCE member organisations **support the Commission's proposal to have the Basic PEPP sold without advice by default**, provided that the **possibility for a client to request advice is made clear** for the client at all times, and that **this advice is then provided on an independent basis**, as results from the Commission's proposal for Art. 34, paragraph 3 of the PEPP Regulation.[66]

This position is strictly conditional upon the design of the Basic PEPP being simplified as proposed by the Commission and with the caveats we have expressed earlier (see above). This majority of our member organisations believes that a simple product, with a single type of risk mitigation technique, investments limited to simple, non-structure and generally liquid types of assets, whose performance and costs can easily be compared across providers, can be distributed online, with appropriate product information (see above) but without advice.

Choosing a personal pension product is an important decision—especially as contributions are locked until retirement—, which must be properly informed and accompanied. Nevertheless, this majority of our member organisations does not

[63] New point (m) in Art. 36.1, European Commission, *Proposal Amending the PEPP Regulation*.
[64] Ibid., 20–21.
[65] Ibid., 23.
[66] Ibid.

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support the view that making the provision of financial advice mandatory necessarily leads to better decision making in the specific case of the Basic PEPP. First, its proposed design makes it ***by design* suitable for most early pension savers**; second with Basic PEPP **being largely standardised going forward, offers become comparable**; third the larger PEPP framework **allows transfers, free of charge, to a variety of tailored options** offered by the same or other providers, in the same or other Member States. In other words: it is most likely a good fit for you, you can easily compare it to other offers, and even if you realised that the Basic PEPP was not the best option for you, you never are "stuck with it".

We must nevertheless note that support for this proposal from the Commission is not unanimous among our membership: a minority view holds that the long-term nature of personal pension products warrants making the provision of advice mandatory for all PEPP offers, including the Basic PEPP, even though the simplification and standardisation of the Basic PEPP would enable a corresponding simplification of advice on this Basic PEPP, thereby reducing its cost and easing customer onboarding.

That being said, that investment advice might not be *necessary* for the Basic PEPP does not mean that it cannot be *useful*. **High-quality financial advice**—which, in our view, is by definition provided by a competent and knowledgeable professional on an independent basis—**brings added value to individual investors in many situations;[67] access to such financial advice should be eased and encouraged**. Unfortunately, as we have in various previous publications, we must note that, due to the prevalence of the "inducements-based" distribution model in Europe, receiving investment advice is far from always a guarantee of being recommended the most suitable product.[68] Given how **inducements-taking investment advisors' recommendations can be biased against simple, cost-efficient products** and towards fee-laden, underperforming products, we believe there is a strong case **in favour of requiring that, when a customer shows interest for the Basic PEPP, any advice they might receive should be given "on an independent basis"**, as proposed by the Commission for paragraph 3 of Art. 43.[69] Furthermore, we argue that a wide-ranging, study of individual providers' practices on the prevention of conflicts of interest in investment advice, and their effectiveness, should be commissioned, to assess the extent of the problem across Europe.

From the above, we conclude that **prospective Basic PEPP holders should *not be required* to take financial advice**, but **always have the possibility to access high-quality financial advice** and **be made aware of that possibility at all steps** of their investor journey: before taking a contract, during the accumulation phase, in the pre-retirement period *and* during the decumulation phase. Arts. 26 and 28 should

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[67] See our analysis of what "high-quality financial advice" should be in BETTER FINANCE, *Financial Advice in the EU*.
[68] BETTER FINANCE, *Evidence paper on the detrimental effect of "inducements"*; BETTER FINANCE, *RIS Position Paper*; European Insurance and Occupational Pensions Authority, *Uncovering the IBIP Sales Process*.
[69] European Commission, *Proposal Amending the PEPP Regulation*, 25.

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then be amended to include a requirement to inform the prospective PEPP customer about possibilities to access advice, and the proposal for Art. 34.3 should include a requirement for the provider of a Basic PEPP to provide information on the ways and costs of obtaining advice.

For **tailored PEPPs**, the situation is quite different. The implementation of the prudent person principle, together with the removal of the limit of six investment options per PEPP provider makes for a framework that is sufficiently flexible to ensure that there will be a PEPP offer available to any prospective client that wishes to add other asset classes to their portfolio. This however implies a **greater risk of mismatch between a specific tailored PEPP and the needs and demands of a given prospective client**, which renders necessary a **suitability assessment**—the core element of investment advice in the EU legal framework.

In this context, we argue that **advice should also, ideally, be given on an independent basis**. At the very least, **where a PEPP distributor takes and retains inducements, they should disclose this information clearly** prior to starting the advice process, disclose the benefits they receive from product providers, and inform the client about possibilities to obtain advice on an independent basis elsewhere. The point is: the client should be informed of the potential for and extent of conflict of interests to decide whether to trust that distributor's recommendation.

EIOPA should be mandated to develop draft RTS regarding the way in which PEPP provider should inform prospective clients about the possibility of obtaining advice on an independent basis and setting criteria for PEPP distributors to either refer the client to an external, independent financial advisor, or provide advice on an independent basis themselves (in the case of a distributor that is not a provider).

Advice during the term of the contract and during the pre-retirement period

Beyond the question of advice for the initial selection of a PEPP contract, we should consider the **need for advice during the term of the contract**, when a PEPP customer is contributing to their PEPP contract and, in particular, **in the pre-retirement phase**.

We argue that **advice should be mandatory when switching** between two tailored PEPPs or between a tailored PEPP and a Basic PEPP (or vice-versa) for the same reasons that make advice necessary for the distribution of tailored PEPP: the variety of potential options imply a greater possibility of mismatch between the product's feature and the needs of the client. The **same criteria that apply to advice for initial sales should apply to advice for switching**; where moving from or to a Basic PEPP, the advice should always be given on an independent basis.

The pre-retirement period is a pivotal moment in a pension saver's journey and **we argue that advice will be necessary for most (if not all)PEPP holders to chose the most suitable decumulation option**. The Commission's proposal to provide more specific information on decumulation options at that moment of the

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contract's life is certainly much welcome.[70] Indeed, the various options differ in terms of their costs and tax treatment, but also in the extent to which they enable the PEPP holder to manage their longevity risk (i.e., the risk that they outlive their accumulated savings).

We also **welcome the Commission's proposal to require PEPP providers to offer *all* PEPP holders "personal retirement planning" at the start of the decumulation phase**,[71] and not *only* to holders of Basic PEPPs. While lifelong annuities are, in principle, the best option to manage that risk,[72] we note that, where given the choice, in PPPs like the French *PER*, for instance, individuals seldom chose this option voluntarily. This is due, at least in part, to the lack of clear, understandable information on the respective costs and benefits (notably tax treatment) of each decumulation option, which makes professional advice particularly helpful. We reiterate our call that advice remain *available* throughout the life of the contract—before retirement, at retirement and afterwards—and that this availability is advertised prominently to all PEPP holders. As already mentioned, a minority of our member organisations would go further and argue that there is a "duty of advice" throughout the life of the contract, and, therefore, would support a *requirement* to provide advice during the pre-retirement phase.

Nevertheless, we believe that the proposal should go further and **require that the PEPP provider ensures that a PEPP saver receives financial advice, *given on an independent basis*,** not only to select amongst the various pay-out options offered by their current provider, but also to **examine whether other providers might offer a more suitable solution for the decumulation phase**. Independence of the advice at this stage is important. When a PEPP provider only offers one decumulation option and that option is not the one most suitable for the needs of the PEPP saver, the best interest of the saver might be best served by switching to another provider, a recommendation that we can of course not expect a PEPP provider to give its own client. Besides the immediate cost factor, we note that transfers at the time of retirement may also have consequences in terms of the prudential treatment of the accumulated savings, which should be taken into account by the PEPP holders, an analysis that is very much likely to benefit from the assistance of a knowledgeable and competent advisor.

Product Oversight and Governance: Value for Money

The requirement for PEPP to implement a product approval process that includes a "value for money assessment" appears highly sensible,[73] so sensible in fact that we can wonder how it is not already the standard practice of all providers of packaged investment products. Testing the quality of one's product before putting

[70] Ibid., 24, proposed replacement of Art. 38.
[71] Ibid., 28: New wording for Art. 60, paragraph 1.
[72] Antolín, *Ageing and the Payout Phase of Pensions, Annuities and Financial Markets*.
[73] Proposal to replace Art. 25 on Product oversight and governance requirements, European Commission, *Proposal Amending the PEPP Regulation*, 21.

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it on the market is a requirement that should apply to investment product providers just as it applies to providers of pretty much any good or service.

Therefore, we welcome the amendment to Art. 8, paragraph 2, which requires providers to include in their application for registration the "*documentation that demonstrates compliance with product oversight and governance requirements [...]* ***including information on how the PEPP is designed to provide value for money to PEPP savers***". Nevertheless, we recommend further amending Art. 8 to *explicitly* require supervisors, as part of the examination of the application, to examine the **evidence put forward by the applicant PEPP provider regarding the justification and appropriateness of the costs** in regard to the projected performance. EIOPA should be mandated to review NCAs' practices regarding value for money assessment of individual investment products at the time of inception, identify best practices and issue corresponding guidelines for PEPP providers and supervisors.

Once the PEPP has been approved, the *expected* value for money should become *actual* value for money, in the form of substantial returns, even after accounting for costs and inflation. In this regard, we support the introduction in Art. 25 of a requirement for supervisors to "*evaluate them [the PEPPs on their markets] against relevant supervisory benchmarks used for the value for money assessment*"; we also welcome the explicit requirement that PEPPs' value for money be assessed not merely against other PEPPs but also "*compared with groups of comparable personal pension products manufactured and distributed in one or more Member States*".[74] Nevertheless, **while we support the principle of this value-for-money supervision**, we have **strong reservations as regards its practical effectiveness if it is to be conducted by implementing the provisions of the Insurance Distribution Directive as amended following the Retail Investment Strategy** negotiations. Our two main criticism to the RIS-amended IDD value-for-money assessment are as follows:

- Under EIOPA's methodology, the "benchmarking" is to take the form of peer-group comparisons, without any reference to the evolution of any indicator external to the market of investment products being benchmarked. Peer-group comparisons enable supervisors to locate a product *in comparison to others*, but they do not say anything about the relative performance of an individual product compared to *the underlying market* in which contributions are invested. In other words, they can tell you that you are the best in class, but what if the whole class is underperforming? The cost-efficiency of a particular product should not only be assessed in comparison to that of its peers, but also considering its absolute capacity to generate positive real net returns. This requires comparing the past performance of the product to inflation—using HICP—and to the performance of the underlying assets—using a market index or set of market indices

[74] Ibid., 22: Proposal for Art. 25, pragraph 3, point (a).

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corresponding to the markets in which the PEPP assets are invested.[75] The choice of the market index or set of indices should be made by the product provider, based on its stated investment strategy and performance objectives.

- So-called "supervisory benchmarks" are, to our understanding, not to be publicly disclosed but instead to remain hidden from the general public, used only by supervisors and product providers in value-for-money supervision. We argue that the benchmarks used for value-for-money assessment should be publicly available so that any interested party, not only the supervisor, can review the performance of a product relative to the benchmark. This way, this information becomes a tool not only for value-for-money *supervision* but a tool to empower investors in their search for a suitable product and the organisations supporting them (including independent financial advisors and independent investor associations) in supplementing these efforts.

We argue that relying on clearly identified external yardsticks such as inflation and a capital market index (or set of indices) selected by the product provider itself, on top of peer-group comparisons, would both reinforce and simplify value-for-money assessment for providers and supervisors alike. If these various value-for-money indicators were to be made publicly available—and easily accessible—then supervisors' efforts to identify and address value-for-money issues could be supported by the parallel efforts of all interested parties, including individual investors and their representative organisations.

Finally, we welcome the explicit mention that, where competent authorities are not satisfied that evidence of value for money has been provided, they "shall require the PEPP provider to take measures" and "[i]n the absence of such measures, the competent authorities shall use their powers under Articles8, 62 and 63", which include, for the most extreme of cases, deregistration of the PEPP.[76] Here the use of "shall" rather than "may" is important, in our view, as it *requires* rather than *allows* supervisors to act.

[75] This is the reasoning that guides our annual report on the real net return of long-term and pension savings products; see BETTER FINANCE, *Will You Afford To Retire? Edition 2025*.

[76] : Proposal for Art. 25, paragraph 2, second subparagraph European Commission, *Proposal Amending the PEPP Regulation*, 21.

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