

Comments Template for Discussion paper on a possible EU-single market for personal pension products		Deadline 16 August 2013 18:00 CET
Name of Company:		
Disclosure of comments:	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p><i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right and by inserting the word <b>Confidential</b>.</i></p>	<b>Public</b>
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ <u>Do not change the numbering</u> in the column “question”; if you change numbering, your comments cannot be processed by our IT tool.</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <ul style="list-style-type: none"> <li>○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies.</li> <li>○ If your comment refers to parts of a question, please indicate this in the comment itself.</li> </ul> </li> </ul> <p><b>Please send the completed template, <u>in Word Format</u>, to <a href="mailto:personalpensions@eiopa.europa.eu">personalpensions@eiopa.europa.eu</a>. Our IT tool does not allow processing of any other formats.</b></p>		
Question	Comment	
General Comment	The ABI welcomes the opportunity to respond to EIOPA’s discussion paper on a possible EU-single market for personal pension products (PPPs).	

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	<p>Pensions are inextricably linked to social policy and are shaped by national social and labour laws. Pension products are developed in line with national taxation systems, which are unique to Member States, and which lie in the competence of Member States. It is therefore unsurprising that pensions differ greatly across Member States. There are risks to any intervention at an EU level which would remove the ability of Member States to regulate according to the features of their own market and which could impede them from developing solutions in response to a lack of savings, such as the recent introduction of auto-enrolment in the UK. This policy was introduced to help address the savings gap in the UK and to help people save more for their retirement and has the support of all the main political parties, insurers and unions.</p> <p>While we can understand there is some appetite to carry out work on PPPs, we do not believe this should be done at an EU level given the regulatory and structural challenges in doing so. Rather, we see a role for EIOPA or the European Commission in encouraging the exchange of experience and good practice between Member States through utilising the open method of co-ordination. Individual Member States have a lot to offer each other through sharing their experiences with pension reform.</p> <p>There is also no evidence of widespread consumer demand for such products and given the costs involved with a change in regime, it seems perverse that the mass of consumers should suffer the costs of creating a market that so few will ever wish to participate in and where the economics of providing cross border schemes seem to mean that few if any providers would wish to participate in such a market.</p> <p>We strongly urge EIOPA and the European Commission to consider and acknowledge these concerns before any decision is taken on whether to regulate PPPs at an EU level.</p>	
Q1	<p>Identifying common features for PPPs is an essential before any decisions are made to develop a policy framework at an EU level. When identifying these features, it is important that the focus is on individual pension arrangements only. Employer facilitated pensions,</p>	

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	<p>where employers are legally required to enroll any eligible jobholder into a pension, should not be included in such a list of features. In the UK, this is known as automatic enrolment and was introduced to help people save more for their retirement. This operates in a similar way to private pension provision, but is funded through employee and employer contributions and government tax relief. As automatic enrolment is a legal obligation, the appropriate regulatory regime has been developed by the UK government in response to the uniqueness of this regime and should not be included in any future pension initiative at an EU level.</p> <p>While the features in the proposed list are generally common features of private pensions, there are limits to the features that are common, given the diversity of products across the EU given the range in retirement ages. For example there needs to be a reference to retirement ages included in feature 4 to explain why early withdrawals are often limited or penalised. There should also be recognition that two phases for pensions occur in some Member States; an accumulation and a decumulation phase. In the UK there is a distinct market for products in both of these phases; both are subject to their own disclosure requirements, and both merit different regulatory approaches being taken to allow for the types of products made available to consumers.</p>	
Q2	<p>The majority of pensions in the UK are insurance pension contracts and fall within the scope of European legislation governing such contracts, so unless any gaps can be identified in this current framework, irrespective if the broad categories of a PPP are DB or DC, we see no sensible reason to add additional and potentially duplicative requirements.</p> <p>Pensions exist because of tax benefits offered by national governments, without these benefits pensions would not exist. They also have very close links with social and labour law, and the form of these products differ across the EU as a result of these underlying differences in laws. As discussed in question 1, in the UK there are distinct accumulation and decumulation phases for retirement savings. These phases warrant a different approach in terms of information provided and the rules for sales. Other markets do not have such a clear distinction, and offer products that reflect consumer preferences in their market. National regulators have built up rules for many years in response to market</p>	

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	<p>developments and national savings objectives to reflect the products required and offered in that market. They are far better suited to regulate their market in an appropriate and proportionate manner.</p>	
Q3	<p>The insurance single market was established through the third generation of insurance directives in 1992, which enabled the distribution of life insurance products on a cross-border basis. These Directives have been consolidated and replaced by the Solvency II Framework Directive, which sets down a comprehensive risk management framework for insurers across the EU. Unless there are any gaps identified in this framework that need to be addressed, we see no sensible reason to require additional and potentially duplicative requirements.</p>	
Q4	<p>As per our response to question 2, pensions have developed due to tax benefits offered by governments and in response to the savings characteristics of consumers in those Member States. National regulators have then built up rules for many years to reflect the products offered in that market. Therefore, we do not believe it is feasible to create a fully single market for PPPs given the market diversity and number of different products offered . If there is any desire to sell or buy a pension cross border, providers can passport using the freedom of services framework. This regime requires that all providers must be regulated to at least a minimum standard at an EU level, inform the host Member State of the decision to provide pensions in that State and comply with local general good rules. This is an ability we support, and we do not believe the status quo should be changed</p>	
Q5	<p>The OECD definition does not work when comparing it to the products available on the UK pensions market and the EIOPA definition is very wide and could lead to uncertainty as to what products would not be in scope. Irrespective of this, any proposed definition of a pension needs to clearly exclude mandatory employer facilitated pensions, such as those required under automatic enrolment in the UK, and focus solely on individual pension arrangements. With automatic enrolment, the employer is a crucial player and must enrol their employees into a pension scheme and pay contributions to their employee's pension. These requirements are mandated by national law. Once in the scheme, the employee can then decide whether or not to opt out of that scheme. As in our response to question 1, the appropriate regulatory regime has been developed by the UK government in response to the needs of UK citizens and we would be very concerned if this type of</p>	

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	arrangement was included in a future pension initiative at an EU level.	
Q6	As in our response to question 5, the focus should be on individual pension arrangements only and should not include mandatory, employer facilitated pensions, such as those required under automatic enrolment in the UK. This requirement has been mandated by national law and the appropriate regulatory regime has been developed by the UK government in response.	
Q7		
Q8	We do not believe it is feasible for EIOPA to develop a product framework for the transferability of accumulated capital, when tax, the major obstacle to this, differs greatly between Member States. Further, even if transferability was improved, the practical obstacles facing the consumer – as in whether they should transfer, and a potential need for advice, would remain. Until and unless all pensions operate on near identical bases with near identical tax treatment, consumers will find it extremely difficult to understand whether a transfer is in their interest or not.	
Q9	Prudential obstacles are not the main obstacles in providing PPPs cross-border, there are other (non-prudential) obstacles that present challenges to providers. These include different tax regimes and social and labour laws. Firms also make decisions based on business appetite to provide cross-border services, access to appropriate market information, the ability to service consumers in other Member States and the type of products demanded by those consumers.	
Q10	Irrespective if PPPs have guarantees or not (although most of the UK market does not operate with guarantees), as per our response to question 9, the feasibility of a cross border framework is not just linked to the product, but many other obstacles that need to be taken into account.	
Q11	No we do believe these obstacles can be eliminated, as direct taxation is a competency of Member States.	
Q12	HMRC have imposed differing monitoring requirements on monies transferred to a QROPS to those transferred to another registered pension scheme.	
Q13	While in theory the ECJ case law should eliminate discrimination of foreign PPP providers in respect of taxation on contributions and on investment income made; there is still no ECJ case law regarding the discrimination of foreign PPP providers in respect of taxation	

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	<p>on benefits. Further, as in question 11, direct taxation is completely within the competence of individual Member States and the principles of non-discrimination under ECJ case law are not applicable.</p>	
Q14	<p>Firstly, we believe it is too simplistic to say that transferability would only require harmonisation of tax regimes across Europe. As discussed in earlier in our response and to the questions on the 2nd regime, there are many other obstacles to transferability that would need to be tackled. These include the range of retirement ages across the EU, competition from different providers of PPPs ; the different forms of pensions on offer ; the different approaches to pay-out phases and the understanding of what those pay out phase products are .</p> <p>Secondly, if a decision was taken to try and harmonise tax treatment of pensions, we would be very concerned about any disruption of savings initiatives already in place in Member States.</p> <p>Finally, even if a single tax regime was to be put in place in Member States, there are currently differences in how those regimes operate. For example the widely used EET system operates differently across Europe with differing levels of tax relief being set that are limited to a certain level of income or a fixed amount. These limits have been developed to reflect the national savings regimes of that Member State and we would question how these levels could be harmonised.</p>	
Q15	<p>A PPP provider selling to State A from State B can passport via the freedom of services framework. The ECJ Commission v Belgium case sets down that the foreign provider cannot be discriminated against in terms of contributions paid, however, this ECJ case does not address the issue of benefits paid and the different treatment of foreign providers in this situation.</p> <p>Further issues would occur when the individual moves from state A to state C if state A and C have different direct taxation systems, for example state A having an TEE system and state C having an EET system. This would mean that the individual would be subject to double taxation when moving. Issues could even occur if the direct taxation system had</p>	

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	the same set up, but different tax relief levels operated.	
Q16		
Q17	<p>In respect of 1st pillar bis products, there is a strong link to the state and regulating these products at an EU level would be pushing the boundaries of national competence for us to get view in the regulation of these products. Further, in order to not inadvertently undermine European goals, as set out in the Commission’s White Paper on Pensions, that Member States need to “weather the demographic changes that are set to take hold” and “help secure adequate replacement rates”, EIOPA and the European Commission need to be careful in addressing their attention to these systems, and in doing so lowering levels of pension provision in the future.</p>	
Q18	We see little merit in EIOPA getting involved in creating a cross-border framework for these products.	
Q19	<p>As with any business decision, firms look at start-up costs, the investment of developing a brand and a product for that market, the current level of insurance penetration and the likelihood of writing profitable business in that market when considering expanding into other markets. Other considerations can include but are not limited to:</p> <ul style="list-style-type: none"> <li>• differences in taxation systems</li> <li>• whether a physical presence is required in that Member State</li> <li>• the ability to produce documents in many different languages</li> <li>• knowledge of the local regulatory regime and understanding those rules and the ‘soft’ issues regarding the day to day practices of the local regulator</li> <li>• information relating to that market including detailed actuarial data</li> <li>• the distribution demands for that product</li> <li>• knowledge and understanding of the local tax regimes.</li> </ul> <p>As in our response to question 4, if there is an appetite to offer cross-border PPPs and companies take the decision to do enter into another European market, then firms can passport using the existing freedom of services is a framework.</p> <p>Further, the Commission has set up an expert group with a remit to consider the barriers</p>	

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	<p>to cross border insurance, including pensions, and we believe that a discussion on this should be kept to that forum.</p>	
Q20	<p>While a 2nd regime for PPPs might seem an attractive proposal at a theoretical level, individual private pensions are long term products that operate very differently across the EU. For example in the UK there are distinct accumulation and decumulation phases, and both merit a different regulatory approach. Other markets do not have such a clear distinction and offer PPPs that reflect consumer preferences in their market. National regulators have built up rules for many years in response to market developments and to reflect the products required and offered in that market. They are far better suited to regulate their market in an appropriate and proportionate manner.</p> <p>As we responded in question 11, we are unsure how EIOPA thinks a 2nd regime could operate without harmonisation of tax legislation. Tax is one of the main features of a pension, it is inextricably linked to the tax relief granted by the State and is an area of Member State autonomy that cannot be harmonised.</p> <p>Finally, as indicated in our response to question 4, if there is an appetite to offer cross-border PPPs, this can be done via passporting using the freedom of services framework.</p>	
Q21	<p>As in our responses to questions 11, 19, and 20, we do not support the development of a 2nd regime. It is not feasible to agree to a common set of features or a 'standard' product that would make PPPs marketable and appealing to consumers across the EU. There are also many commercial considerations to take into account before offering a PPP cross border as detailed in question 19.</p> <p>Crucially, it is also hard to attract providers to a 2nd regime given the uncertain legal nature. Creating an additional instrument would complicate the legal situation, and in the absence of case law, it would take many years before the ECJ would be able to give final rulings on the interpretative issues raised by this instrument. There are also risk of diverging interpretations by national courts and how that would be dealt with. Even within one Member State it can be very difficult to design a regime or product that will be actually be taken up by providers unless there is sufficient and demonstrable consumer demand,</p>	

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	<p>and legal certainty in order to justify the investment involved in designing and marketing such a product.</p>	
Q22	<p>As in our response to question 14 and as acknowledged by EIOPA, tax is a Member State competence and a 2nd regime cannot accommodate tax differences across Europe.</p> <p>EIOPA suggests that different tax regimes could be accommodated (page 18) under a 2nd regime, if a Member State were to conclude an agreement with a provider setting out the obligations of the provider regarding the collection of taxes. We do not know how this would work in practice and would be concerned about ad hoc arrangements being made with each provider. This would also undermine the purpose of a 2nd regime.</p>	
Q23	<p>It is not feasible to select a 'standard' PPP that would appeal to all consumers given the large differences in risk preferences, the different economic circumstances of individuals and the national savings gaps that exist and the steps taken to address this at a national level. In addition, a single PPP developed at an EU level would also be incompatible with the tax and social regimes operating in Member States</p>	
Q24	<p>As in our response to questions 11, 19, 20, and 21, we do not support a 2nd regime or Regulation to enable such a regime to be developed at either the product or product and provider level. We support the existing cross border sales of PPPs being facilitated through freedom of services framework.</p>	
Q25	<p>If PPPs are to be sold cross-border, as we have responded in question 17, then they should also be subject to European prudential regulation. It is in the interests of consumers to ensure that they are adequately protected, and also in the interests of competition in the market. There is no need to set down additional and potentially duplicative requirements when there are already rules in place</p>	
Q26	<p>The different products and regulatory regimes found in Member States means that there is no one approach fits all for information to be disclosed to consumers. What is important is that customers receive the right and accurate information they require to make an informed decision about their purchase.</p>	
Q27		
Q28	<p>In the UK, the provision of pre-contractual information for personal pensions is highly regulated and requires that consumers are provided with two main documents. The Key</p>	

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	<p>Features Document (KFD) sets out the main features of the product including information about the aims of the investment, the commitment required by the consumer and the risks. It must also contain, in the format of questions and answers, any additional information necessary for the consumer to make an informed decision. The Key Features Illustration (KFI) is a personalised document which contains information on the charges for the product, and a projection of the returns the consumer can expect.</p> <p>In addition to these documents, consumers are provided with a copy of the terms and conditions for the product and information about the individual funds that they may choose. Broadly, we believe this is sensible framework for setting out the necessary layers of information for consumers.</p>	
Q29		
Q30		
Q31	<p>There are many differences between a UCITS fund and a pension. A UCITS fund is a standardised fund across the EU whereas pension products are very diverse, with EIOPA currently identifying 46 different types of pensions. Further, a unit linked pension can offer consumers access to over 100 fund choices, so the proposition is very different to investing directly into a single UCITS fund.</p> <p>Many of the categories of information (in particular the risk/reward indicator, past performance and charges) required by the UCITS KIID would be extremely challenging to produce for pension products. It would not, for example, be feasible to calculate an accurate risk and reward indicator because pension products may offer a range of investment choices to consumers, so there is no single measure of risk/reward.</p> <p>Given the major differences in these products, we believe that national regulators are better suited to set down appropriate regulation for their markets.</p>	
Q32		
Q33		

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Q34	<p>The ABI has recently undertaken research into presenting information about investments to consumers. The research found that the disclosure document developed for UCITS funds is a useful template and contains much of the information consumers want. However, because of diversity in the structure of personal pensions, and the need for flexibility on how key information is presented to the consumer, for the disclosure of pension products should be regulated at the Member State level.</p> <p>With regards to projected returns, the ABI's recent research found that, in addition to the information provided on the UCITS disclosure, consumers want information on the possible future performance of their investments. However, there is a danger that it may be misinterpreted as there is tendency amongst consumers to assume the figures provided represent the maximum and minimum returns they may expect, rather than illustrative examples.</p> <p>In the UK it is common for insurers to meet the preference of consumers for individual information about saving targets by providing growth projections. This approach can be helpful to consumers in making decisions about contributions though, for the reason set out above, it can be difficult for regulators and firms to set appropriate projection rates. The ABI strongly believes the production of projections is a decision best taken by a national regulator.</p>	
Q35		
Q36	<p>Consumers should have the choice of different mediums, however, in the UK they are increasingly using electronic/online mediums to access disclosure (or, in other sectors, billing and statement) information. These methods offer opportunities to improve disclosure to consumers through the use of interactive tools etc. Regulation should not constrain the development of improved online/electronic disclosure by drafting regulation that has, as its starting point, paper-based disclosure.</p>	
Q37	<p>As discussed in our responses to questions 30-34, products differ across Member States and will continue to do so, therefore having key information in a standardised format could be misleading for consumers as terms and conditions change and new products are</p>	

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	developed.	
Q38		
Q39	Given the variance in pension structures and types of products across Member States, we believe national regulators are most suited to set down appropriate regulation for their market.	
Q40	<p>We agree with EIOPA’s report on “Good practices on information provision for DC schemes” which states that the information that consumers receive about their pension should help them make sensible decisions, and that policymakers should have a clear idea about what consumers should be able to “do” with the information that they receive. Given that the most significant factors in making a positive difference to people’s retirement income are how much they save, and for how long<sup>1</sup>, we believe that information that prompts this behaviour is the most important. This information should therefore include;</p> <ul style="list-style-type: none"> <li>a) the current value of their pension pot</li> <li>b) details of the contributions</li> <li>c) a summary of the pension’s performance over the past year</li> <li>d) an illustration of the projected pension value.</li> </ul> <p>However, as in our response to question 39, given the variance in pension structures, products and retirement ages across Member States, we believe national regulators are best suited to set down appropriate regulation for their market.</p>	
Q41	Information that consumers “must know” is information that will help them ascertain whether their pension scheme is suitable to their retirement income needs. This information should include the current balance of their scheme and the projected growth of the scheme based on their contributions and likely investment growth rate, as well as what this value is likely to translate into as a retirement income. The second layer should	

<sup>1</sup> Closing the gap: the choices and factors that can affect private pension income in retirement, Pension Policy Institute, February 2012.

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	<p>contain information to provide them with options to make decisions that will best suit their retirement requirements as well as details on who to contact with any queries they may have. The “nice to know” level would include descriptions about how pensions and investments work, the tax benefits associated with the pension scheme etc.</p> <p>Decisions regarding what information should be provided is closely linked with the types of products offered in Member States, and again is best agreed upon by national regulators.</p>	
Q42		
Q43	<p>The key issue related to pension switching is ensuring the retention of value and suitability for that consumer. A full review of scheme features and benefits, a justification and explanation of any increase in charges, a consideration of client’s attitudes to risk and investment objectives, and any tax regime implications should form the base considerations when a consumer is considering switching pension schemes.</p> <p>Decisions regarding this information are best agreed upon by national regulators.</p>	
Q44	<p>No. This is a very complex proposition to consolidate information across State, work-based and private pensions. One of the biggest challenges in doing this is how you can get full coverage and information to be provided to the consumer, and a significant amount of investment into joining up the state and private pension databases would be required to ensure consistency of the information disclosure before such a proposition could be achieved. This proposition could also lead to consumer confusion as to who is responsible for the provision of the state benefit if private pension providers were to offer this information.</p>	
Q45	<p>Providing consumers with electronic access to key information in order to track their pension is important. We believe that electronic communications provide a more efficient, targeted and environmentally friendly means of communication, and that increasingly customers will expect access to on-line tools to assist them in planning for their retirement.</p>	
Q46	<p>Information that will drive behaviour that will deliver good outcomes for consumers is of key importance. The aim should be communication that a consumer will better understand and be more likely to engage with, and that therefore may prompt a positive change in</p>	

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	<p>their attitude toward their savings. For this to occur there needs to be consistency between communications with consumers from the new business quote stage throughout the term of the pension policy, particularly in the area of projections.</p> <p>There are limits to standardisation of information at an EU level and decisions regarding what information should be provided is closely related to the types of products offered in Member States, and again is best agreed by national regulators.</p>	
Q47	<p>ABI research has indicated that in most cases, hard copy documents are still preferred to online alternatives, for their ability to 'flag' to the customer that their pension needs their attention. In addition, they are perceived to provide 'set in stone' evidence of the plan arrangements that can be used for future reference.</p> <p>The same research indicated that many customers are interested in the ability to go online to interact with their pension – typically in order to use a pension calculator to consider the impact of increasing their contributions – but this is mostly perceived as a means of enhancing communications, not as a replacement for the hardcopy statement.</p>	
Q48	<p>We believe that annual requirements are sufficient, however, a national regulator is best placed to make this decision in response to the products distributed in their market.</p>	
Q49	<p>In the UK, it is necessary to provide the consumer with information if there is a material change to their contract and to allow them, if appropriate, to cancel, transfer or otherwise alter their contract. The trigger is whether the event is material, rather than if it occurs – for instance a provider cannot be responsible for informing customers about <b>life events</b> unless they themselves are told, and cannot understand what would be the most appropriate action for a consumer to take unless they are in full knowledge of all the facts.</p> <p>In terms of taxation, there are regulatory requirements, such as tax return information, that must be provided to a consumer.</p>	

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Q50	<p>No we don't believe that further information should be provided on request as the current regulatory requirements appropriately handle the information that should be provided.</p>	
Q51	<p>Consumers should be encouraged to keep in contact with their providers and inform them of a change of address.</p>	
Q52	<p>The consultation separates “pre-retirement information” from “disclosure requirements for the pay-out phase”. In the UK the separation is not clear, because pension providers have duties to communicate with customers in the run-up to retirement, and this communication tends to focus on options for taking retirement benefits. There are distinct markets for decumulation products, and there is no “pay-out phase” as such, although many pension providers will offer an annuity or another retirement income product to their customer when their pension matures.</p> <p>In the UK there are existing requirements in the FCA rulebook (COBS 19.4) for firms communicating with PPP holders approaching retirement. This requires firms to give customers, 6 months from retirement, sufficient information to make an informed decision. This focuses on customers’ “open market option” – the right to shop around and purchase a retirement income product from a different provider to the one with which they had their pension savings.</p> <p>In addition, the ABI’s Code of Conduct on Retirement Choices, compulsory as a condition of ABI membership, sets out in much more detail the objectives and certain standards for pre-retirement packs. This includes benefit payment options, including the type of product. It also requires members to communicate with customers between two and five years from retirement about the decisions they will need to make.</p> <p>As these features of the UK market may not apply in other Member States, it does not make sense to apply these rules across the EU. Similarly, it does not make sense to apply EU-wide rules to Member States when features of the markets, the needs and expectations of the consumers, domestic requirements are varied.</p>	

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<p>Q53</p>	<p>In the UK there is no formal layering of information, but the priority of information can be described broadly as follows:</p> <ul style="list-style-type: none"> <li>- Compulsory regulated information: the right to shop around</li> <li>- Prescribed information in industry code: information needed to shop around (fund size, any Guaranteed Annuity Rate, products available, where to go for help)</li> <li>- Prescribed key messages in industry code: key decisions to make, further detail on different types of product available.</li> </ul> <p>It is important to note that the market evolves continuously, and the relevant features for pre-retirement information have changed over time. For example, when the Conduct of Business (COBS) rules mentioned above were published there were virtually no underwritten annuities; but now they form 25% of the market and informing customers about this is as a key part of our Code of Conduct. Flexibility in disclosure requirements must be allowed so that they reflect the market. Further developments are possible in future, whereby pension products could be used to pay for long-term care.</p>	
<p>Q54</p>	<p>In addition to COBS 19.4 mentioned above, there are specific disclosure requirements for firms selling an annuity or a drawdown product. These rules differ by product, which is appropriate given that the products are very different.</p> <p>For example: income drawdown keeps savers' money invested while they draw a pension income. It therefore has an investment risk attached and providers must disclose charges and use prescribed projections as well as setting out risks of depleting the fund. Lifetime annuities are entirely different, with the pension savings converted to a secure income with no investment risk; different risks must be set out, such as inflation.</p> <p>Such an example reinforces the difficulty in setting EU-wide disclosure requirements for very different products and the current disclosure regime in the UK is extensive.</p>	

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Q55	See response to Q53.	
Q56	<p>High levels of protection should be provided to consumers when purchasing a PPP, but given the diversity of these products in the EU, requirements will have to be tailored to each Member State. The 3L3 taskforce, when providing technical advice to the Commission on PRIPs in 2009, recommended that pensions should be left out of scope of PRIPS as it would be best to allow national discretion to extend appropriate and similar disclosure and distribution standards. We support this conclusion.</p> <p>Excessive harmonisation of distribution rules for pensions would remove the ability of Member States to regulate according to the features of their own systems and could impede Member States from developing innovative solutions to the problem of getting people to save more for retirement. Further, it is not solely about protecting the consumer; it is also about recognising consumer preferences and whether or not they will need advice. It is important that consumers have to ability to decide whether they need and want to pay for financial advice or not.</p>	
Q57	<p>IMD2 sets down information requirements and sales rules for all insurance products. This is a minimum harmonisation directive that allows for Member States to add additional rules applicable to their domestic markets. MiFID2 also sets down information requirements and sales rules for the sale of investment products. This is a maximum harmonisation directive that does not allow for Member State flexibility.</p> <p>Given the current requirements in IMD2 and MiFID2, we would not want to see any alternative requirements set down. It is important that a patchwork of regulatory requirements is avoided e.g. by adding another layer of legislation or by creating further rules that are not coherent in the current EU framework.</p>	
Q58	This should be up to Member States to develop, but as in our answer to question 56, we would not want to see any restriction of a consumers' decision to purchase PPPs without advice.	

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Q59	<p>In the UK, the Financial Conduct Authority (FCA), the UK's conduct supervisor, applies suitability rules<sup>2</sup> to the sales of insurance products, including PPPs, akin to those set down in the MiFID implementation directive. Assessing suitability means investment firms must obtain the necessary information for example information on objectives, attitude to risk, financial situation and knowledge and experience; in order to assess the suitability of any investment for that client. We believe these rules are appropriate for the sale of PPPs.</p>	
Q60	<p>It is important that any conflicts of interest in the distribution process are identified and managed in a clear manner to ensure there is no consumer detriment. The ABI supports this high level of consumer protection.</p> <p>In the UK conflicts of interest are managed under the FCAs, high level principles for business (Principle 8) where they set out that a firm must manage conflict of interest (COI) fairly, both between itself and its customers and between a customer and another client. Responsibility is put on senior management to set clear standards and have in place formal policies for the firm to identify and manage any COIs that may occur. There must also be clear guidance in place for staff on how to recognise a potential COIs and when to escalate it to management and these policies and guidance must be regularly reviewed. If COIs are found, they must be disclosed to consumers. Firms must also be ready to explain to the FCA how they are managing COIs and what policies and guidance are in place.</p>	
Q61		
Q62	<p>The ABI supports efforts to improve customer service and improving the way complaints are handled is an important part of this. The ABI has helped drive the development of good complaints handling within UK insurers through various initiatives including the production of a good practice guide, industry benchmarking and complaints management research.</p>	

<sup>2</sup> COBS 9.1: <http://fshandbook.info/FS/html/FCA/COBS/9>

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	<p>We supported the publication of the EIOPA guidelines on complaints handling for insurers as many of them were already covered by the FCA dispute resolution (DISP) rules, which have been in force in the UK for over 10 years. Furthermore, we also believed that UK insurance firms already meet the majority of the requirements set out for best practice and the UK FCA responded to say that the DISP rules complied with all the guidelines set down by EIOPA.</p> <p>We do not see any need for further action to be taken in regards to complaints handling.</p>	
Q63	<p>As per our answer to question 57, IMD2 lays down the information requirements and sales rules for all insurance products and MiFID2 sets down rules for the sales of all investment products. Given the current requirements in IMD2 and MiFID2, we would not want to see any alternative requirements set down. It is important that a patchwork of regulatory requirements is avoided by adding another layer of legislation or by creating further rules that are not coherent in the current EU framework.</p>	
Q64	<p>Solvency II sets down requirements of good repute, knowledge and ability for insurance companies' direct sales forces<sup>3</sup>. It also introduces new governance rules requiring insurance undertakings to adopt a good governance policy and to introduce internal control systems to ensure that their employees meet high standards on good repute, knowledge and ability. Furthermore, IMD2 includes rules on professional requirements applying to both insurance undertakings and intermediaries.</p> <p>In the UK, those who perform 'controlled functions' including directors of pension providers are required to satisfy the UK's prudential supervisor, the Prudential Regulatory Authority (PRA) as to their capability and good standing at outset and on an on-going basis. In practice this means before an individual can run a pension provider, the PRA (for a dual regulated firm) has to 'approve' the individual. The purpose is to ensure that those</p>	

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<sup>3</sup> Articles 41 & 42

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	<p>with certain functions (for example governing functions and systems and control functions) in the firm are fit and proper. Firms have to ensure that their staff are competent to do the job for which they are employed and that certain persons are approved before they can do certain roles.</p>	
Q65	<p>As in our response to question 64, we do not believe there is a need for further detailed rules on professional requirements.</p>	
Q66	<p>Insurers are responsible for training their employees and designing their own training programmes. These programmes are an element of competition between insurers and should not be standardised. This is consistent with CEIOP's advice to the EC recommending that it should be the responsibility of the insurance undertaking to check the qualification of its employees.</p>	
Q67	<p>There is no reason to develop any detailed professional requirements for the sale of pension products. Firstly, insurers are subject to provisions in Solvency II and IMD 2, so any further rules would result in duplicative and unnecessary administrative burden. Secondly, as in our response to question 66, no regime should interfere with specific requirements at a national level. It would be difficult to harmonise them without interfering with the national qualification systems. Further detailed requirements could result in burdensome requirements and costs, without bringing added-value, and no revision should result in lowering of professional standards in these countries.</p>	
Q68	<p>The ABI does not support any product regulation of PPPs at an EU level as it would be inconsistent with the freedom of product design established by Article 21 paragraph 1 of Directive 2009/138/EC (Solvency II) and would interfere with national markets delivering a wider range of products that meet different consumers' needs and expectations.</p> <p>Instead, we would argue that existing FCA consumer protection objectives and regulations, backed up by effective supervision of firms, is a suitable approach to take in terms of regulation.</p>	

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Q69	<p>No, we do not see a role for EIOPA to set down principles for the considerations the industry should take into account before launching a new product. Good management of risks associated with the launch of new products, operations and services is an important area of provider responsibilities, which can be addressed by high level requirements on firms to treat customers fairly.</p>	
Q70	<p>We do not see any benefits in developing an EU certification scheme for PPP. There is the potential for a kite mark to stifle competition in the industry and the success of a kite mark will depend entirely on the ability of consumers to be able to recognise the scheme and know what it means.</p>	
Q71	<p>As in our response to question 68, we do not see a role for product authorisation or product banning at an EU level. Good management of risks associated with the launch of new products, operations and services is an important area of provider responsibilities, which can be addressed by high level requirements on firms to treat customers fairly. Product bans for investor protection purposes should be a last resort based on clear evidence of detriment. Due process needs to be developed to govern the use of product intervention powers by national regulators, including consultation with industry and consumer groups at the earliest stage possible so that they have an opportunity to state their case and a thorough impact assessment must be carried out before using this power.</p>	