

**European Financial Services
Round Table**

PAN-EUROPEAN PENSION PLANS
From Concept to Action

June 2007

Foreword

In September 2004, the EFR set out its ideas for third pillar pan-European Pension Plans (EPP). The intention was to start a debate within the EU and Member States. Subsequent discussions provided valuable input and led to the publication of a working paper entitled “Pan-European Pension Plans - Deepening the Concept” in December 2005. In this paper, the EFR outlined the generic aspects of the EPP structure and the specific common standards for a product to qualify as an EPP. A key element was the proposal for a separate European structure for individual retirement products operating alongside the existing national legal regimes, which would be left undisturbed.

This paper further stimulated the debate with Members of the European Parliament, representatives from the European Commission, Member States, consumer representatives and industry bodies. EFR was asked to provide more detail on how the EPP could overcome the existing barriers to a single pensions market. In this third paper on pan-European Pension Plans the EFR responds to this challenge.

The report has two main objectives: to identify obstacles to the achievement of a third pillar single pensions market within the EU through clarification of the main differences in national legislations, and to show how the EPP can overcome or accommodate these obstacles.

We strongly support the recent Council Conclusions of 8 May 2007, which “encourage[s] industry’s efforts to further enhance the supply of pension savings products ...”. We also fully agree with the statement in the European Commission’s Green Paper on Retail Financial Services in the Single Market¹ that the “EU framework needs to lay strong foundations for enabling a competitive, open and effective market for long-term savings, retirement and pension solutions that meet consumers’ needs”.

This latest paper is a further contribution to the developing debate.



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¹ COM (2007) 226 final, page 11.

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Executive summary

There is general agreement that Member States within the EU are facing a significant demographic challenge: increasing life expectancy combined with falling birth rates is leading to an ageing population with major implications for public pension systems.

Several Member States have already taken action to reform their national (state) pension systems in order to achieve a better financial balance between the costs for contributors and the benefits paid out, which is an essential consideration for systems operating on the pay-as-you-go principle. Inevitably these reforms must lead to a reduction in the pensions payable to tomorrow's pensioners, and create a pensions gap compared with the pensions payable to those who are already retired.

Although employer sponsored pension provision may fill some of the gap, there will be a need for individuals to make their own savings if they are to look forward to the same levels of pension benefits as people retiring today. This need will vary from Member State to Member State but increasingly people everywhere in the EU will be faced with the need to make some savings of their own for retirement. Indeed the ECOFIN Council has recognised the urgent need for action in its recently adopted call for more individual retirement savings.

In order to meet the challenges lying ahead people should have the full benefit of a single market. Today's reality is different, however. There are significant differences between the national legislations at different levels affecting the creation of a single market for retirement savings. Due to the complexity it will take a long time to build even a partially integrated European financial services market for retirement savings.²

The full harmonisation of national pension legislation does not seem realistic in the near future. Therefore the European Financial Services Round Table (EFR) believes that an intermediate practical level of regulation, co-existing with the current national regulations, in which pan-European pension products could be developed, would be a good step forward.

Building on our previous papers on pensions, the first objective of this latest paper is to identify obstacles to a truly European single pensions market for individual retirement savings by examining the different legislative requirements in five Member States. The second objective is to show how these obstacles could be overcome or accommodated within a set of rules (or framework) to support the development of pan-European Pension Plans (EPP). The proposed structure would allow financial services providers anywhere in the

² ECOFIN Council conclusions "Ageing and financial markets", 8 May 2007 – "Encourage industry's efforts to further enhance the supply of pension savings products, where relevant, and raise the standards of advice and customer support, in order to ensure proper matching between the customer profile, on the one hand, and the nature of the investment proposed including in relation to all costs, on the other hand. This would require in particular consolidating a competitive environment with adequate prudential supervision, and facilitating issuance by the financial industry of instruments that enhance assets and liabilities management by providers of pension saving products and annuities..."

EU to set up and sell EPPs in all Member States.

EPP is a framework for pan-European voluntary pension savings that would provide more flexibility and choice for European consumers. Products under this framework ought to have following features in common: they would be flexible and portable, offer the opportunity of asset pooling and diversification to the consumers' benefits, help increasing the competition, offer a pension solution available throughout Europe. Even if this is conceived for all the EU citizens' needs in general, it provides extra advantages for special consumer groups, such as, for example, job switchers, occupational professionals working cross border, students on European exchange programs and retirees residing in a country other than the country of origin for which the portability is very important.

EFR analysed differences in legislation of five countries: Czech Republic, France, Germany, Italy, and the Netherlands.³

We can conclude that differences in legislation do NOT always represent obstacles and solutions can be often found. However, there are several real obstacles to the introduction of EPPs. Those are differing rules related to:

- ◆ pre-contractual information for consumers
- ◆ rules on disclosure / information requirements for plan holders
- ◆ pay-out and surrender options
- ◆ transferability of accumulated capital / portability
- ◆ rules for asset classes and asset allocations
- ◆ eligible providers

- ◆ requirements of regulators / supervisors
- ◆ and to a certain degree taxation laws

To overcome or accommodate the aforementioned important obstacles the EFR proposes, inter alia, to establish an EPP-framework with following characteristics:

- ◆ robust consumer protection rules based on the best rules and/or practices throughout Europe,
- ◆ shared key characteristics of private pension plans in Member States,
- ◆ respect of existing national legislation (civil, labour, and social laws) to a wide extent, and
- ◆ reuse of existing EU legislation as far as possible.

Taxation differences between Member States are often cited as the biggest hurdle for pan-European pension provision but we do not believe that this is entirely true. The differences in tax treatment can be accommodated within the EPP structure although the need to do so makes the concept more complicated than would otherwise be the case. The differences in tax treatment affect the retirement savings of people today who are mobile across national borders. Progress in eliminating these differences will further increase the attractiveness of the EPP concept. In this paper we have examined the effects of tax laws on retirement savings using a simple case study involving someone moving from Member State to Member State. Problems caused by different tax rules should be removed irrespective of the development of EPP.

³ In alphabetical order.

Proposing this framework under which financial services providers could develop and distribute their EPP products, EFR intends furthermore to answer the Commission's and the experts' questions about the feasibility and usefulness of a single market approach for voluntary individual pension products.

More than 15 million EU citizens have already moved across borders to work or to enjoy their retirement and (possibly) are affected by the described obstacles for private retirement savings. Members of the EFR therefore believe that concrete policy steps have to be taken by the European leaders to establish a competitive and open market for retirement savings, which would serve the needs of an ageing and increasingly mobile population in Europe.

Hence, we fully support that the "EU framework needs to lay strong foundations for enabling a competitive, open and effective market for long-term savings, retirement and pension solutions that meet consumers' needs".⁴

1. Introduction

1. Following the publication in December 2005 of the work-in progress paper named *Pan-European Pension Plans - Deepening the Concept*⁵ the EFR identifies in this paper the main obstacles to the existence of a truly European pensions single market, and, as a means to overcome them, proposes the out-

line for a set of rules or "framework" for pan-European Pension Plans (EPP) with an explicit focus on voluntary individual "third pillar" pensions. The proposed structure would allow financial services providers to set up and sell pan-European Pension Plans in all EU Member States.

2. The traditional European (state) pension systems face difficulties in dealing with ageing societies. Rising numbers of pensioners combined with fewer workers, as a consequence of lower birth rates, put strong and increasing pressure on state pension systems predominantly based on the pay-as-you-go-principle. Over the last decade governments in many EU countries have reacted by reducing benefits, acknowledging that cut-backs in the generous pension promises from the past are needed to avoid (future) serious fiscal crises. An increase in taxes or social security contributions are generally not considered to be a realistic alternative due to the potentially adverse effects on the competitiveness of European industry and overall employment level. This ongoing process of reduction in state pensions will most likely continue in the foreseeable future. Thus, current and future generations might be compelled to save more for retirement either on an individual basis or through employer sponsored pension provision. The savings gaps for retirement (i.e. the additional savings consumers would need to ensure adequate provision for retirement) have reached huge amounts as mentioned in one of the previous EFR reports.⁶

⁴ Green Paper of the European Commission's Retail Financial Services in the Single Market, COM (2007) 226 final, page 11.

⁵ See www.efr.be.

⁶ The estimated additional annual savings to close the gap building up over 40 years for the countries France, Germany, Italy, the Netherlands, Spain and the UK would be €390bn, *The European pension crisis – what is to be done?*, 5 March 2003, www.efr.be.

These gaps would ultimately need to be filled, at least partially, by increased private provision with innovative products, tailored to suit consumers' needs.

3. Given that the European Union is increasingly an integrated economic area, it seems obvious that EU-citizens should be allowed to accumulate their pension savings and close their savings gaps irrespective of the country they choose to live in. The possibility to do so is not only consistent with the main goals of the EU – the free movement of goods, services, people, and capital – it is also a necessary precondition for achieving these aims in practice. The fact that pension savings are taxed very differently across the EU and that it is difficult, if not impossible, to transfer pension plans from one country to the other, is a major drag on labour mobility. Pan-European Pension Plans could be a valid option to surmount the existing hurdles, thus contributing to the alleviation of the existing pension gap and the increase of efficiency in the European pension markets.

4. However, the pension landscape in Europe is a regulatory patchwork. European pension systems are characterised by national idiosyncrasies and remain under firm national control. Although a lot has been done already to create a single market for financial service with many directives now in force, the single market has not become effective for pensions due to the differences in local law and tax-treatment between Member States. A full harmonisation of the regulations regarding pension provision seems unrealistic in the medium and maybe even in the long term.

5. The fragmentation of the European market is a major impediment for the provision of pan-European Pension plans; the possibility to offer pension plans effectively ends at each national border. The costs and the risks involved in offering products cross-border are prohibitively high – a result of the regulatory differences and legal uncertainties. Fragmented national pension markets cause higher costs, restrict consumer choice, are less competitive and are less efficient. At present, neither consumers nor financial services providers can benefit from the economies of scale linked to the increase in market size, to a European level, of the pensions business.

6. By creating a private pan-European pension regime alongside the existing pension regimes in Europe, the EPP concept seeks to realise the advantages of a single market without affecting the national structures of pension systems. The EPP is not an attempt to fully harmonise European pension systems, but rather an attempt to further support the convergence of the national regulations by creating an additional option for private pension provision, and thus:

- ◆ to bring more choice to the consumer and introduce more competition, and
- ◆ to eliminate losses in pension rights as a result of labour force mobility.

1.1 An EU-wide need for additional retirement savings

7. The major demographic changes⁷ sweeping throughout Europe and declining public pension provisions indicates a clear need for more private pension provision. This

⁷ On the demographic statistics see EFR's previous paper *Pan-European Pension Plans – Deepening the Concept*, December 2005, page 35.

will come from a combination of employer sponsored provision and individual savings. It should also be realised that in increasingly competitive (global) markets employers will be confronted with the pressure of cost cutting and therefore – different from Member State to Member State – might consider cutting back retirement contributions for employees.

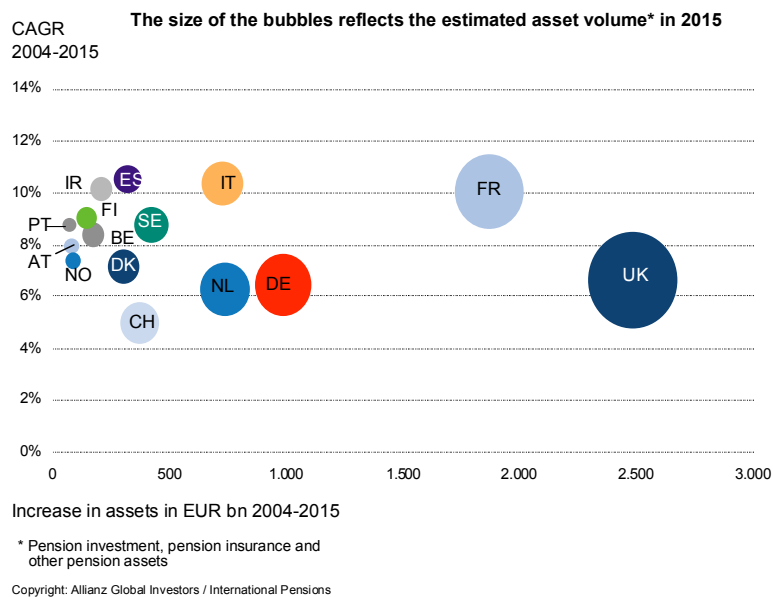
contributions or to reduce the benefits for tax payers or a combination of both. These developments will bring about a greater role for private pension provision in order to secure sufficient retirement income levels. Increased competition at a European level would be positive for European consumers in terms of costs, increased choice, and product quality.

8. Current government promises on old age retirement income are definitely being cut back. This is witnessed both in the old and in the new Member States. In the “Old Europe” (EU 15), governments are continuously facing the challenge to find the right balance between the interests of governments to have sustainable state pensions for their citizens, tax payers (contributors) and retirees (beneficiaries). In Central and Eastern Europe many countries have either reformed or are in the process of reforming their national pension systems. These states are already facing severe budgetary constraints and can no longer afford the generous pension promises previously given. As a consequence governments can decide to increase the

9. Given the fact that projections foresee steep growth rates of the national European pension markets, the time seems ripe to take the necessary steps towards a more efficient, and competitive European pensions market. We believe products under the EPP-framework could make a significant contribution.

10. The chart below shows that the total volume of European pension markets

Chart 1: Volume and growth of European pension markets 2004-2015



(investment assets, insurance assets and other) will reach € 16,367 billion in 2015, more than twice as much as today.⁸

11. The retirement of baby boomers over the next 10-20 years will greatly increase retirement income needs, since people are likely to live 20 years or more after retirement. They will need to be aware and take the necessary steps well in advance of their retirement to maintain a level of income in line with the required standards defined by each individual. Otherwise they have to face the risk of outliving their assets. Consequently, they will possibly ask for:

- ◆ high returns
- ◆ guaranteed lifetime income
- ◆ possibility to add additional risk riders according to changing life situations
- ◆ access to their capital during the pay-out phase in order to have more flexibility with their lifestyle, and
- ◆ the ability to change their investment strategy during retirement

12. The younger generation will probably think more short-term rather than long-term, and opt for products with – if any – short-term guarantees and the flexibility to withdraw their savings, despite the fact that some countries have a long-term savings culture, sometimes with a 20-40 year period of regular premiums paid out into an annuity.

1.2 Why does EFR focus on individual voluntary (3rd pillar) pensions?

13. EFR recognises the importance of 2nd pillar (occupational) pension provi-

sions. In countries such as the Netherlands, for instance, occupational pensions contribute, on average, up to 40% of the pension income. However, major differences in labour and social law as well as in investment regulations create many obstacles to set up occupational pan-European pension solutions. As stated in our previous paper we believe that the directive on the Institutions for Occupational Retirement Provision (2003/41/EC) is a step in the right direction, but its concrete effects on the promotion of, e.g., pan-European occupational pension plans are still to be seen and examined in more detail.

14. We can no longer rely on the level of savings in countries with a long-standing tradition of occupational retirement savings. Therefore we see 3rd pillar products playing a far more important role in the future than today. Hence we are focusing on individual pensions. The level of complexity seems considerably lower and offers greater prospects for progressing towards a single market.

15. The proposed EPP-framework for the 3rd pillar individual voluntary pension provision aims at supporting the liberalisation of the level playing field for the private pensions market without disturbing the existing national systems.

16. We examine the main obstacles to the introduction of pan-European Pension Plans, provide examples for those obstacles, and propose concrete solutions by establishing a “reference framework” governing the EPP.

⁸ Western European Pensions. Reform Trends and Growth Opportunities, Allianz Global Investors, International Pensions, Allianz, 2005, page 11. Short version available at http://www.allianz.com/images/pdf/saobj_1234469_european_pension_study_2005_short_version.pdf

2. What is preventing the introduction of EPPs?

17. Although national private retirement legislations aim all at the same objective – “secure savings for retirement “ – they all have developed differently and come to different set ups. Those differences are, however, not justified by consumer needs or preferences. The reason for these disparities is historical since regulatory regimes so far have developed on purely national lines.⁹

18. As one can easily imagine there are many differences in national pension frameworks. Those practical or legal differences have an impact on doing business in different ways. Many differences are relatively minor and can be overcome through innovative business solutions. Other differences force providers to use several IT platforms in comparison with a uniformly developed platform if they are established in more than one Member State, which can be very expensive.

19. The EPP framework concentrates on those obstacles that have a real influence on the day-to-day execution and management of the EPP contracts: such is the case of the law applicable to the EPP contract (apart from imperative laws), the competent jurisdiction, the pre-contractual prospectus given to the consumers, or annual disclosures/information for plan holders, cancellation of the contract, termination of the plan (retirement age), transferability of the individual pension records, asset management and technical provisions of the providers, and pieces of information to be given by the providers to the local tax administrations.

In addition, an EPP-framework may allow or deny some options according to local legislations (e.g. the obligation to offer a capital protection guarantee in Germany or in Italy, or a lifestyle investment profile in France, or pay-outs: annuities or lump sum) in order to accommodate local differences.

20. Taxation differences between Member States are often cited as the biggest hurdle for pan-European pension provision but we do not believe that this is entirely true. The differences in tax treatment can be accommodated within the EPP structure although the need to do so makes the concept more complicated than would otherwise be the case. The differences in tax treatment affect the retirement savings of people today who are mobile across national borders. Progress in eliminating these differences will further increase the attractiveness of the EPP concept. Further below (2.2 and 2.3) we have examined the effects of tax laws on retirement savings using a simple case study involving someone moving from Member State to Member State. Problems caused by different tax rules should be removed irrespective of the development of EPP.

2.1 Comparative study of five national legislations on private pensions

21. In order to capture the main obstacles to the setting up and selling of a private pension product through Europe, EFR conducted a comparative study of the legal/regulatory frameworks for voluntary personal pensions in five European countries: Czech Republic, France, Germany, Italy, and the

⁹ The same accounts for consumer protection rules, which also mainly developed at a national level; see also page 19 of EFR's report *Consumer Protection and Consumer Choice*, February 2004, www.efr.be.

Netherlands. The outcomes of this study are detailed in appendix 2.

The comparison shows many differences in national pension frameworks on almost every topic and especially, e.g.:

- ◆ pre-contractual information requirements for consumers (II 2 a)¹⁰
- ◆ information provided to the plan holders during the contract (II 2 b)
- ◆ payment and limitations on contributions (IV)
- ◆ pay-out options: some countries almost forbid lump sum payments (France, Italy, the Netherlands), others allow them (Germany) (II 7 a)
- ◆ transferability (individual or collective bases): strongly regulated in most countries (including the computation of transfer values and transfer protocols between providers in France), possibilities of collective transfers in some countries (quite easily transferable in France, more difficult in the Netherlands) (II 5 a + b)
- ◆ investment options: almost all countries imposes a secured investment option, the level of security being different from one country to another (France only requires a life style investment with decreasing asset portfolio volatility) (II 6)
- ◆ asset management: asset segregation and ring fencing required in some countries (e.g. France) (VI 5)
- ◆ status of the provider: only insurers in most countries, banks are admitted as pension providers in very few countries, and
- ◆ taxation (VII)

2.2 Examples

22. The three following three examples illustrate some of the differences between Member States' rules.

Example 1: Pre-contractual information requirements (for more details see also II 2 a)

23. The pre-contractual information given to consumers varies from Member State to Member State since national rules and practices are different. Depending on the product type the information requirements differ accordingly. Even if the issues such as obligations, costs, simulation of performance, etc, are commonly defined, the detailed requirements might differ quite substantially between Member States. Therefore we provide examples of similarities and differences without providing details.

France: information given to the potential client must be enclosed in a prospectus (established by the insurer) and given to the plan holder by the subscriber of the contract creating the EPP; information on the “profits sharing” clause is required: insurers are obliged to insert a clause in every life-insurance policy on the sharing of profits between the insurer and its policyholders (at least 90% of the financial and “biometric” profits shall be given to the policyholders);

Information on unit-linked plans shall include the fees and commissions of the underlying units (UCITS) and the same information as in the simplified UCITS prospectus;

information on the transfer values of the plan for the first 8 years after subscription and a draft letter to facilitate the cancellation of the plan.

¹⁰ The numbers in brackets used in this section refer to the numbering in appendix 2.

Germany: For Riester products providers must inform potential clients about the following points:

- ◆ Level and temporal allocation of acquisition costs
- ◆ Administration costs
- ◆ Costs of switching to a different (certified) product
- ◆ Costs of switching to a different provider
- ◆ If client has already a product with the provider, he/she must be informed about possibilities to convert the existing contract
- ◆ Information about certification number and certification authority
- ◆ Simulations of fund performance and costs for a period of at least 10 years
- ◆ Structure of asset portfolio
- ◆ Risks
- ◆ Consideration of ethical, social and ecological issues in investment behaviour

The Netherlands: Financial service providers are obliged to supply consumers with a Financial Information Leaflet free of charge. The Financial Information Leaflet must also be available for download on the financial service provider's website. It sets out general information about the financial product, such as an indication of the risks attached to the product. The Financial Information Leaflets are compiled according to standard models, based on certain groups of consumers, and provide an objective estimate of the costs, risks and returns associated with a particular financial product by group.

The law prescribes in detail what kind of information should be provided. For 3rd pillar products, these obligations for information to the plan holder do not go beyond what is proposed for the EPP, except for

complex financial products, like insurance policies with investment options (such as unit linked products).

Examples of which information are provided, inter alia:

- ◆ Product information
- ◆ Obligations
- ◆ Pull out and consequences
- ◆ In the event of death
- ◆ Income tax
- ◆ Complaints procedure
- ◆ Statutory guarantee system
- ◆ Supervision
- ◆ Time to reconsider
- ◆ Providing information
- ◆ Applicable law
- ◆ Credit check and registration
- ◆ Further information
- ◆ Other information

Under certain circumstances some of the above mentioned sections of the Financial Information Leaflet can but do not have to be mentioned.

Example 2: calculation of projected benefits for premiums

24. Several Member States have special rules governing the calculation of projected benefits for premiums paid for third pillar pension products. At present these requirements vary widely across Europe, essentially for historical reasons.

In the **UK**, the provider is obliged to give a projection of the benefits at the time of entering into the contract, according to three different rates of assumed return. Next to that the provider is allowed to show an additional projection of the combined effect of investment growth and inflation, in order to provide a real rate of return.

In **France**, except for some special insurance policies (linked to internal funds), there is no requirement to show a range of possible outcomes, like in the UK, but the provider is obliged to show the transfer or surrender values for the eight first years after concluding the contract (such values being moreover strongly constrained by regulation). The nature of any projections is left to the (discretion of the) provider.

The Netherlands obliges all providers to issue a Financial Information Leaflet for all complex financial products. The provider also has to show three separate types of projections. Although the investment return to be assumed is specified for only one type. There is no requirement to show inflation-adjusted returns.

Italian life insurance companies have to provide projections with two different rates of investment returns.

In **Germany** there is no obligation to provide projection of benefits, but when projections are provided voluntarily they have to be realistic and not misleading. Usually the projections are provided in nominal terms, without adjustment for inflation. We have to keep in mind that in Germany there is a legal requirement to guarantee a rate of return on premiums paid.

Example 3: Taxation issues

25. Key elements for a more coherent tax policy would be the complete elimination of double taxation as well as non-taxation of transfers and the broadest possible application of the EET system (exemption on contributions, exemption on investment income and capital gains of the pension institution, taxed benefits). At present the EET system is already the most widespread in the EU. It gives a fiscal incentive to accumulate an old age pension by granting a tax concession.

This system of deferred taxation is chosen, since contributions to pension funds diminish a person's ability to pay taxes; at the same time it encourages citizens to save for old age. In addition, it will help Member States to deal with the demographic time-bomb, as the State will receive tax revenue by taxing the pensions paid to people when more people will be dependant upon state aid.

However there are three Member States (Denmark, Italy and Sweden) that use the ETT principle whereby investment results or the value of the pension account are taxed at a special rate. Four other Member States (Austria, Germany, Poland and Luxembourg) use TEE for certain type of pension plans. The Czech Republic and Hungary have another approach. In the Czech Republic there is a state subsidy for the contributions while investments and benefits are tax-exempt. In Hungary there is a tax credit system for the contributions while investments and benefits remain tax-exempt. Yet, even when a country uses the EET system, the requirements for tax deductibility vary widely and are often limited to a certain level of income replacement or a fixed amount.

2.3 A 'simple' case study on taxation: moving from one Member State to another

26. Let us imagine a consumer subscribing to a voluntary pension scheme (existing today) in Italy who later moves to Belgium. He is not able to transfer directly his acquired pension rights, or benefits representing them, to an equivalent pension plan in Belgium. Two options are open to him:

a) to withdraw from the pension scheme and receive a capital sum representing the pension rights accrued under the scheme. In this case, if the pension scheme allows for

fund withdrawal the capital sum would be subject to 23% withdrawal tax (15% in restricted cases). It should also be borne in mind that private pensions in Italy are subject to an ETT taxation regime. Once in Belgium the employee would use the capital sum as a contribution to the new voluntary pension scheme,

b) or to retain the pension rights accrued under the pension scheme until he is eligible for a supplementary pension.

27. The Italian reform law (Decreto Legislativo n.252 of 5th December 2005) provides for direct transfer of accrued pension rights; however it also states that the transfer of pension rights with full exemption from tax is only possible between voluntary pension schemes regulated under the reform law, i.e. schemes operating in Italy authorised by the Italian pension authority (COVIP).¹¹

28. If the consumer takes up fiscal residence in Belgium and wishes to make contributions to a personal pension plan, he will be able to contribute into his existing Italian plan. To take advantage of tax benefits in Belgium, some conditions must be fulfilled: the contract must have a minimum duration of 10 years, and the plan holder must be the beneficiary of the plan benefits. In addition, the pension should not be payable before age 65.

29. Those tax benefits consist of a yearly tax deduction of the premiums paid to the personal pension plan, subject to a maximum of 1,950 EUR per year (from 1 January 2007).

30. If the same consumer then moves to France, he cannot under French law pay further tax deductible contributions to his Italian scheme unless this plan fulfils certain requirements. These include a requirement for plans to take the form of insurance policies providing for a lifetime annuity commencing on retirement at the legal minimum age, subscribed for between an association of consumers and an insurer with an oversight committee set up for the plan, and for the corresponding assets and liabilities to be ring fenced. As those requirements are not fulfilled by the Italian or the Belgian plans, the consumer is obliged to subscribe to a French personal pension plan in order for contributions to be tax deductible. If the consumer transfers his accrued rights to the French pension plan, there will be a double tax disadvantage: the transfer from the Italian plan would be subject to tax in Italy (see above), and in addition the amount transferred into the French plan would not be tax deductible to the extent that it exceeds a ceiling of 10% of the net professional income (with a maximum in 2006 of €24,154).

31. Assuming the consumer remains in France on his retirement, the benefits paid by the Italian and the Belgian plans will be subject to French income taxes, depending on whether the benefits are paid in the form of a lifetime annuity or a lump sum. The benefits will also be subject to social taxes on gains as if the plans were insurance contracts. No income tax will be payable in Italy or Belgium as the tax treaties between France and these countries provide, in the circumstances, for taxation of such income in France. However, where the Italian or Belgian insurer in fact

¹¹ By contrast, transfers between occupational schemes will, by virtue of the implementation of the IORP Directive, benefit from a tax exemption.

pays the benefits net of applicable local tax, the French resident recipient will need to seek reimbursement, which can be a lengthy process.

3. A Pan-European Pension Plan - an alternative solution

3.1. General principles

32. The harmonisation of national laws by means of a regulation or directive could enable the introduction of truly pan-European pension plans, but would consequently mean the abolition or at least (substantial) modification of national approaches. This path does not seem very realistic nor necessary for the time being. We therefore advocate for an alternative route, an optional pan-European framework. In essence, the EFR proposes the creation of a pan-European legal regime for personal retirement savings co-existing with national 3rd pillar structures and/or products, which would enable financial institutions to provide and sell pan-European Pension Plans in all Member States. The EPP framework would allow for the creation of (new) innovative products for additional retirement savings.

33. This solution aims at designing a minimal workable synthesis in the spirit of other already existing pan-European solutions (e.g. regulation on *Societas Europaea*) or international conventions.¹²

The main characteristics of this optional legal framework could be described in the following way:

1. respect of national and EU legislation governing the existing products
2. a high and robust level of consumer protection across Europe
3. product innovation must be possible in order to best meet consumers changing needs
4. must allow competition between providers

3.2 General appeal of EPPs as a solution

34. An earlier EFR study highlighted consumer benefits from increased product choice and lower prices in a single market for pension products.¹³

EFR estimated that reductions in fund management costs combined with the effects of greater competition might increase pensions at retirement by 10% or more for a given level of savings.¹⁴ By introducing the EPP, European consumers may benefit from an increasing awareness about the level of their retirement income with a trendy, positive communication on pensions, and by the provision of greater choice and transparency on the products available across the EU. Mobile workers would no longer be discriminated in comparison to national employees because they would not suffer benefit losses resulting from cross-boarder switching of pension plans. Eventually, service providers and consumers would benefit from economies of scale, enhanced administrative efficiency, product innovation as well as freedom and flexibility of investment.

¹² E.g. The Hague Convention on Trusts and on their Recognition signed in 1985, Geneva Convention on Uniform Law on Bills of Exchange, Promissory Notes and Cheques from 1930.

¹³ *The Benefits of a Working European Retail Market for Financial Services*, February 2002, www.efr.be.

¹⁴ *One Europe, One Pension – Affording the Future*, EFR, June 2002, www.efr.be.

35. Even though the EPP is conceived to cater for EU citizens' needs in general, it provides additional advantages for special consumer groups, such as "job-switchers", occupational professionals working cross border, students on European exchange programs and retirees residing in a country other than the country of origin, for which portability will be a key element. In addition, truly European solutions would not only provide one more choice for private savings, but would also meet the challenges for future markets.

36. This leads to a variety of consumer preferences. The design of the products has to take into account all these different requirements. Therefore the EPP is not just one product, but a "family of products" (or better: framework) that offers:

- ◆ security – the assurance that a fund will be properly managed and that sums contributed will be safeguarded plus sufficient guarantees as needed by consumers (e.g. that pay outs will continue throughout life)

- ◆ efficiency – the cost-effectiveness of the operations of the provider as they apply to the fund; (investments) and the plan (administration); potential competitive pricing, linked to economies of scale and a risk based supervision; an advantage for the consumer, since lower costs may imply higher returns

- ◆ flexibility – the ability of the pension plan to adapt to a changing environment (employment, residency and other life circumstances of the pension holder); in other

words, full portability for mobile workers, savers and retirees

- ◆ asset pooling and diversification – backed by truly pan-European asset management; by not being linked to country-specific regulations, but to the prudent person rule based OECD's recommendations, the framework of the EPP could be tailored to best practices in terms of geographical and asset class diversification

3.3 Particular appeal of EPPs as a solution

a. Occupational mobility and its effects on private retirement savings

37. More than 15 million EU citizens have moved across borders to work or to enjoy their retirement¹⁵ and about 3.5 million new labour market entrants every year. The first number is likely to increase due to improvements of labour market transparency and freedom of labour movements in EU Member States. Moreover, labour mobility will be stimulated by two additional developments. First, the enlargement of the EU is likely to contribute to a higher number of workers not living in their country of origin. In the long term, 2-3%¹⁶ of the population of the accession countries may migrate to another country. Second, a "job-for-life" is becoming increasingly rare. In 2003, about 8.2% of the EU employed labour force had moved to another job after one year. This percentage is much higher with the younger generation. Research in this area concludes

¹⁵ Interim report from the European Commission to the 2007 Spring European Council, *A Single Market for Citizens*, COM (2007) 60 final, page 11.

¹⁶ *The enlargement of European Union and Labour market: trends and challenges*, quote from Bauer and Zimmermann (1999). An overview of different migration scenarios and the literature is provided by Patricia Alvarez-Plata, Herbert Brücker und Boriss Siliverstovs: *Potential Migration From Central and Eastern Europe into the EU-15 - An Update*. Report for the European Commission, DG Employment and Social Affairs. Berlin and Brüssel 2003.

that the rate of job changes will more than double in the coming 15 years. Given an environment of decreasing or eliminating the obstacles to work abroad it is likely that “job switchers” increasingly take up a job abroad, a situation for which the pension systems should be prepared.

38. Given the increasing mobility of the workforce, it is vital that the movement of individuals across national boundaries does not complicate the building up of retirement savings. Individuals should be able to take their pension savings with them when they change jobs anywhere within the EU, either by easily transferring their savings from provider to provider, or, where appropriate, being able to continue to contribute to their existing pension plan or policy, regardless of which European country they live in. EPP meets this market need and by addressing this issue, could stimulate market growth.

b. Retirees

39. It is well documented that a considerable number of people choose to spend their retirement in a different Member State. The number of persons that live and work in a Member State other than their Member State of origin for part of their working life is increasing, and enlargement of the European Union and greater mobility will probably contribute further to this trend. The figure of retirees living abroad would increase if retirees could be able to move from country to country and remain in a single pension scheme or pension policy located in a given State, irrespective of where he or she happens to be retiring. For this group of people, EPP could become their preferred option.

c. Mobile student group

40. Obviously, although buying a pension product is not their number one concern, many students are already consumers and will become employees in the near future and as such will be strongly affected by the decrease of Social Security pensions. Due to their education, they are quite likely to be more mobile professionally than previous generations were. They would therefore profit in their later career from EPP products. If they contribute to a voluntary pension scheme, EPP would allow them to stay enrolled in their scheme while studying in several countries as envisaged by the Bologna process. Students are also likely to have a higher financial understanding, so they are likely to exploit the advantages of EPP and benefit from the compound interest effect.

4. A set of rules for EPP as both a solution to the main obstacles and a reference framework

41. In order to overcome the obstacles, EFR proposes a set of rules that would govern the EPP. To this end, EFR made use of existing European legislation as far as possible (for details see appendix 1). However, it has to be borne in mind that if the EPP concept would be introduced immediately, the EPP contract would be governed by three types of laws (depending on the issue of the contract):

1) civil laws of the residence of the plan holder for the consequences of marriage or death of the plan holder or for the assessment of the rights of its creditors,

2) set of rules governing the EPP, and

3) for others provisions, the law applicable to the contract (which is either the home or the host Member State law).

4.1 Reminder of the key elements of Pan-European Pension Plans as proposed by EFR¹⁷

42. To qualify as an EPP these different pension products would have to fulfil the following key features reflecting common characteristics of private pension systems in the Member States:

- ◆ The EPP products will be highly (not fully) standardised plans which can be provided all over the EU with basic characteristics;

- ◆ The provider can choose to offer various product types in the framework of the EPP;

- ◆ An EPP is provided by financial services providers that are duly authorised to operate in a Member State, in accordance with the requirements currently in place;

- ◆ The supervision of the provider as well as the compliance of the EPP with the EU-wide prudential rules will be the responsibility of the supervisor of the country where the (European) headquarters of the provider are located (the “home Member State”). This supervisor will act as lead supervisor;¹⁸

- ◆ Individual participants shall be the owner/holder of the EPP;

- ◆ The holder of the EPP should get tax incentives according to the EET-model: contributions to the EPP should - as far as possible - be tax-deductible, the investment gains during the pay-in phase will be tax-exempt and any pay out will be taxed;

- ◆ There should be no uniform fee level across the EU. This would allow competition between providers;

- ◆ During the accumulation phase the (flexible) contributions will be directed into an individual retirement contract. Contributions can be made as:

- ◆ Single premiums (lump sum);

- ◆ Periodic payments;

- ◆ Transfer or rollover from other plans or accounts;

- ◆ The participant can choose between different product types with different risk/return profiles. If the participant bears the investment risk he will have different investment choices. The provider has to offer the option where the value of the retirement plan is not less than the contribution paid, minus expenses. An appropriate balance between freedom to choose and protection is important;

- ◆ In the pay-out phase the income stream will be life-long, but in accordance with the requirements of the Member States, money withdrawal as a lump sum up to a certain limit is possible. The pay-out may be flexible such as variable level income to reflect the changing needs of the consumer during the retirement;

- ◆ The participant would be able to cover additional risk, like disability or survivor pension; specific riders will be available as an option;

- ◆ A minimum requirement on the level of information applies to ensure consistency in all Member States;

- ◆ Vested rights will be portable within and between Member States. During the accumulation phase a change of provider on fair terms will be possible. If the participant decides to change provider(s) of the

¹⁷ EFR, *Pan-European Pension Plans – Deepening the Concept*, December 2005, pages 17ff.

¹⁸ On the concept of the lead supervisor see *On the Lead Supervisor Model and the Future of Financial Supervision in the EU – Follow up recommendations of the EFR*, EFR, June 2005, www.efr.be.

specific EPP product, the (international) transfer value should not be subject to taxes;

- ◆ Regarding consumer protection: a code of conduct could require the industry to provide an EU-wide standard summary of the key features and terms of the EPP.

43. Finally, the EPP framework would prevent Member States from imposing declarative obligations, especially those required by the tax administration, upon the provider or the plan holder, which are different from those provided for with national pension products.

4.2 Proposal for a framework governing the EPP

44. The following framework for EPP sets out the common features and requirements for all products within the family of EPP products. It is thus composed of the following parts:

- ◆ general provisions: defining the scope of the EPP framework as well as the definition of the main terms ;

- ◆ the contract: definition of the types of benefits, guarantees and investment options, applicable law, cancellation period, information due to consumer and to plan-holder before and after subscription of the EPP, individual transfers, pay-out of the plan ;

- ◆ the distribution and marketing of the EPP: this part mainly relies on existing legislation (directives 2002/65/EC and 2002/92/EC) ;

- ◆ the contributions to the EPP: this part enables all means of payment, including portfolio transfers, and states a non-discrimination principle versus national contracts ;

- ◆ complaints, redress: this part comes within consumer protection rules and specifies the conditions under which a plan holder may take action against the provider (notably through the definition of the competent jurisdiction) ; those provisions do not cope however with the law of the forum for other complaints (such as the ones opposing the heirs of a deceased plan holder) ;

- ◆ the EPP provider: this part deals with the rules applicable to the provider concerning supervision, prudential rules (investment rules, liabilities, solvency) ; those rules come within the home Member State regulation and control ;

- ◆ taxation issues: the chapter states a second non discrimination rule between national operations and EPP as long as they provide the same types of retirement benefits, and defines a unique communication form between providers and tax administration over EU for EPP. However those provision don't impose a given taxation system (EET, TEE,...) but implicitly suggest for harmonisation purposes the use of the EET system which is consistent with the aim of the EPP to supplement the Member States pension lifelong annuities ("first pillar pensions").

4.3 Some observations on taxation

45. It is often said that differences in tax regimes are the biggest hurdle for pan-European pension provision, but we believe that this is not entirely true. The basic principle of the EPP would be that it should qualify for the tax treatment in the country where the plan holder pays taxes according to the same restrictions as applied to existing third pillar

products. Under this approach, it could be required for the provider to set up “compartments”¹⁹ for every country that has special rules regarding the tax deductibility of the pension contributions or benefits. Of course it would be easier, less expensive and therefore favourable to set up an EPP without any compartments for taxation. But as long as the convergence of tax treatment of third pillar pensions is not likely to occur in the medium term, the EFR recommends the design of such compartments.²⁰

It is worth noting that such compartments should not prevent providers from pooling the assets of the EPP.

46. If the participant needs to switch between the national compartments or decides to change provider(s) of the specific EPP product, the (international) transfer value should not be subject to taxes, at least as long as the transfer is operated on each compartment independently.

47. Another aspect of taxation on pensions is the tax deductibility of contributions paid to foreign providers. Some Member States have restricted the tax deductibility of contributions paid to providers that were not established in their country. The European Court of Justice ruled in the Danner case²¹ that those obstacles are not in line with EU law.

48. The European Commission has also forced other Member States to accept that contributions to foreign-based providers would be given full tax deductibility in line with contributions made to domestic ones.²²

Therefore the EFR believes that tax deductibility of contributions paid to providers that operate on European scale should be politically acceptable and practically workable.

5. Robust consumer protection is an essential requirement in the design of EPP

49. EPP constitutes a framework for competing products. The provider would be free to offer various product types in the framework of the EPP, which include deferred annuities-like products and others where the plan holder has the option to direct his contributions – partially or in total - to several kinds of investment funds where the payment at retirement (and / or in the event death, disablement, long term unemployment, or a dread disease) will depend on the return on investment (e.g. unit-linked products).

Although the framework should allow a high degree of flexibility to foster competition and innovation, the features relating to consumer protection mentioned below should

¹⁹ A compartment is defined as a sub-account of the individual plan record related to a given Member State having specific tax regulations, where the provider keeps track of the contributions paid when the plan holder had its residence in this Member State – see also glossary Appendix 3.

²⁰ This approach is similar to the approach in the IORP directive related to different pension law regulations.

²¹ See ruling of the ECJ Case C-136/00, 3 October 2002.

²² *Pan-European pensions move a step nearer*, article by Peter Schonewille, 7 March 2007, published in IPE, http://www.ipe.com/magazine/Pan_European_pension_moves_a_step_nearer_21364.php.

definitely be included in the framework of the EPP.

5.1. EPP and consumer protection

50. For the separate EPP framework we propose one set of rules in respect of consumer protection for plans whereby the plan holder is bearing the investment risks, designed according to the best workable pieces of regulation.

51. The EFR has consistently pointed out that differing consumer protection rules for retail financial services products across the Member States constitute real barriers for providers to efficiently organise their operations and distribution activities.²³

Consumers have less choice because - due to the differing legal regimes - providers might choose not to offer their products in markets other than their domestic.

52. Also in the context of EPPs the EFR is convinced that the application of several principles should form a solid basis to ensure a robust consumer protection regime. We compared a number of consumer protection related issues for private pensions across five countries and come up with a proposal for a common set of rules (see below annexes 1 and 2).

53. Responses to our previous contributions included the remark that an optional legal regime would lead to the consequence of having differing sets of consumer protection rules in one Member State, which might 'confuse' consumers. First, if the EU is

serious about striving towards a single market essential consumer protection rules should be harmonised in the future in any case. The difference of rules for retail products would be far smaller than today. Second, and more importantly, consumer protection rules within Member States vary from product to product already today. Consumers have to deal with different rules depending on whether they choose banking or insurance products, for instance. If the consumers are properly informed about the product features and of her / his rights, we do not see the danger of people getting 'confused'. Third, if there are more and more mobile workers in the European Union the desire of those people to have more consistency as regards to their basic rights across the EU will probably also increase. It is more than a nuisance to get accustomed to different legal regimes when moving from one Member State to another.²⁴

54. An important question in this context is, of course, how and under which conditions the consumer can ensure his rights in case of a legal dispute. We believe that the consumer should be able to deal with authorities best known to her/ him. Given that the pan-European framework would cover the products in question, it should be relatively easy for judges to examine the case at hand.

55. For the EPP framework we propose four fundamental consumer protection principles. The highlights of the proposed set of rules are:

1st principle: appropriate information

²³ See, for instance, EFR's report *Consumer Protection – Consumer Choice - Deepening EFR's concept on consumer protection in retail financial services*, January 2006, www.efr.be.

²⁴ Mark In the UK a cumulative total of 630,000 applicants have applied to register on the Worker Registration Scheme (WRS) between 1 May 2004 and 31 March 2007, *Accession Monitoring Report*, May 2004 – March 2007, page 4, http://www.ind.homeoffice.gov.uk/aboutus/reports/accession_monitoring_report.

56. Before the consumer is bound by any contract or offer, he/she shall be provided with all the basic information to be able to “shop around” and compare what is on offer. This information package will include notably:

- ◆ identity of the distributor and provider
- ◆ main business and geographical address relevant for the customer’s relations with the provider
- ◆ nature of the product – general description
- ◆ collection of contribution
- ◆ what happens in the case of backlog in contribution payment (necessary in DB products and/or with risk coverage – i.e. death and/or disablement but not for pure DC)
- ◆ investment options
- ◆ risk and costs of the different investment options
- ◆ applicable pay out options, and
- ◆ procedure for out-of-court complaint

2nd principle: opportunity of reflection / right of withdrawal

57. The consumer will be given sufficient time to study the offer and shop around, before signing the contract. Alternatively the information may be supplied at the moment the contract is signed, but then the plan holder must be given enough time within which the contract can be revoked.

The contract is regarded to be “established” when the consumer signs the contract and becomes plan holder, or if no signing procedure is foreseen, the first payment of the contribution has been executed.

3rd principle: receive advice

58. Advice to meet the needs of all types of consumers, from the do-it-yourself to the reluctant or the highly interested buyer, will acquire a full range of personalised advisory services. This does not necessarily need to be done by the financial service provider himself, but also by intermediaries. The advice could be given online, on paper, by phone, in consultation with an advisor, or through a managed account program. It will be up to the consumer to ask for more advice if needed.

4th principle: easy and cheap redress schemes

59. EPP providers should establish adequate and effective procedures for out-of-court complaints and redress procedures for the settlement of disputes.

Consumers and plan holders should also have the opportunity to settle disputes with the provider out-of-court without legal costs. Consumers would be allowed to submit complaints concerning providers established in other Member States to extra-judicial bodies located in the Member State where they live.

6. Road map for next steps

60. For the comparison of the legal systems we have chosen ‘only’ five countries. In reality, the comparison of 27 legal systems is far more complicated and complex, of course. A more detailed study should be done by, for instance, the responsible authorities. To enhance the debate, however, we encourage stakeholders, especially consumers, the European Parliament and the European Commission, to evaluate and comment on our proposals. A wider policy dialogue starting at the EU level would be warmly welcomed.

61. We strongly support the Commission's and Council's intentions to further explore the possibilities to tackle the pension gap at the European level.²⁵ We are, in particular, looking forward to studying the findings of the report on pensions, which was commissioned by the Commission and is expected for the end of this year.

62. The EFR expects however that more concrete proposals with specific targets for actions will be set out in the short to medium-term on how to get closer to a truly single market for retirement savings. To validate EFR's proposal and possibly other contributions related to pan-European pension solutions the European Commission in cooperation with Member States might consider setting up working parties, for instance. Also the European Parliament should play an active role in this process and start by possibly organising a hearing on pan-European pension solutions, for instance.

7. Conclusions

63. The Members of the EFR believe that a long-lasting and concerted dialogue on the establishment of truly European retirement products between the European institutions, Member States, industry, and, in particular, consumers should be undertaken. Today there are too many differences across national legal systems, which constitute huge obstacles to the introduction of truly pan-European products, and cannot be side-stepped by solutions of the financial services industry. One of the major obstacles are differing tax laws, which, in particular, can generate negative consequences for savers, who move from one Member State to another.

64. At present around 15 million people in Europe work or live in another Member State than the one of origin. European citizens can expect that administrations find ways to reduce or abolish obstacles deriving from differences in national pension systems over time. There are no good reasons to leave the situation as it is today. If Europe should serve its people, the internal market should make life easier and not more complicated to be of real benefit. It can be expected that the number of mobile people will increase over the next years, especially when all European people are free to choose where they want to live and work. Consequently, we assume that the demand for truly European solutions will also increase over time. EFR's proposal of pan-European Pension Plans is just one of many other possible other solutions. But our small-scale comparison show that the differences in national regulations and rules often seem to be bigger than they possibly are. It will be necessary to compare and analyse those differences in order to create the building blocks for truly pan-European solutions.

65. Solutions for retirement products cannot be developed overnight. But it takes much longer before pension solutions actually take effect – namely when consumers of retirement products retire. Given the fact that the ageing is increasing from day to day, the time for policy-makers to act decisively has come!

²⁵ See *Green Paper on retail financial services in the single market*, (COM (2007) 226 final), and Council Conclusions of 8 May 2007.

APPENDIXES

Appendix 1: Proposal for a framework governing Pan-European Pension Plans

This annex provides an example of how such a framework for pan-European Pension Plans could be drafted and what kind of provisions it should contain. We compared the rules and provisions governing private retirement products existing in several jurisdictions, combined and enclosed them in a meaningful manner in this framework as far as possible.

<p>I. General provisions</p>
<p>This EPP framework lays down rules for the marketing and selling of private personal pan-European Pension Plans (third pillar pension plan).</p> <p>A provider may supply to the public within the territory of the Community pension plans on the conditions and in the manner laid down in this framework. The provider is subject to the provisions relating to its statutes unless those provisions come to conflict with this framework.</p>
<p>I.1 Approval</p> <p>A provider wishing to produce, market and sell pension plans subject to this framework in one or more Member States is not subject to any form of prior notification or approval from any competent authority of any Member State.</p>
<p>I.2 Prerogative to use term EPP</p> <p>A product which does not comply with the requirements set out in this framework may not be marketed or sold as pan-European pension plan or EPP.</p> <p>A provider or any other assurance or financial institution shall not market or sell as a Pan-European pension plan or EPP any pension or other product which does not comply with the requirements of this framework.</p>
<p>I.3 Sanctions</p> <p>Member States shall provide for appropriate sanctions in the event of a provider's failure to comply with the provisions laid down in this framework.</p> <p>Any measure adopted involving sanctions or restrictions on the activities of a provider must be properly justified and communicated to the provider concerned. Every such measure shall be subject to the right to apply to the courts in the Member State which adopted it.</p>

II. The contract, the plan

II.1 General provisions concerning the contract

II.1.a The contract

1. A Pan-European pension plan shall be a contract concluded with the provider by the plan holder or by a third party (the “policyholder”) on behalf of him to entitle the plan holder to retirement benefits in accordance with the legal form of the plan and the provisions of this framework.
2. The contract for a Pan-European pension plan is concluded when the plan holder, after acceptance of the provider, signs the contract or makes the first payment of contributions which ever comes first.
3. The contractual terms of the Pan-European pension plan shall include:
 - a) Conditions and procedures of participation in the plan;
 - b) Procedure and timeframe for paying contributions including a clause on possible modification thereof;
 - c) Charges and fees to be paid;
 - d) The principles for asset allocation;
 - e) Procedure for calculating pension benefits;
 - f) Description of all types of pension payments and conditions for paying thereof;
 - g) Rights and responsibilities of the plan holder;
 - h) Name of the provider, its legal form and address of his head office and/or his main administration, including the name of the Member State and of the competent authority responsible for the financial and prudential supervision of the provider;
 - i) Law applicable to the plan;
 - j) Other terms and conditions complying with this framework and the law applicable.

II.1.b Applicable law

1. Without prejudice to this framework, the plan shall be governed either by the law of the host Member State at the time of subscription of the plan or by the law of the home Member State according to the terms of the contract creating the plan.
2. The law specified in paragraphs 1 of this section shall govern the validity of the plan, its effects and its administration, and in particular the relationships between the provider and the plan holders or the beneficiaries, unless this law come to conflict with this framework.
3. The provisions of this framework, except sections I.1, I.2, II.1.a, II.1.b, II.2.a to II.4.b, II.6.f, IV.1, V.1, VI.1, VI.3 to VI.5, may be disregarded when their application in the host Member State would be manifestly incompatible with public policy or with rules laid down for consumer protection.
The law of the host Member State may therefore govern :
 - the recourses of the personal creditors of the plan holder ;
 - the matrimonial property ;
 - the plan holder’s estate upon his death.
4. The laws specified in this section shall not govern the provisions which come under the financial and prudential supervision of the provider.
5. Where a Member State includes several territorial units, each of which has its own rules of law concerning contractual obligations each unit shall be considered a Member State for the purposes of identifying the law(s) applicable to the contract under this framework.

II.1.c Fees and charges

When the retirement benefits depend on the balance of the individual account, the fees and charges to be paid under an EPP, including the basis they are calculated on, shall be expressed in any promotional or other material and in the contract.

II.1.d Types of plans

A Pan-European pension plan may for example take one of the following forms or any combination of them:

- a) a pension promise expressed in the form of a defined retirement benefit paid at the retirement age set in the plan, whereby the portfolio of assets held on the account of the plan holder is managed by the provider and the provider takes the investment risk;
- b) an agreement for the payment of contributions whereby the retirement benefit will depend on the balance of the individual account of the plan holder, whereby the provider offers the plan holder certain options for the investment of his assets and the plan holder takes the investment risk.

II.1.e Phases of the plan

A Pan-European Pension Plan may be split up in :

- a) an accumulation phase, covering the payment of contributions and accrual on savings;
- b) a pay-out phase, covering the payment of retirement benefits.

II.2 Information given to the consumer and the plan holder on the EPP contract

II.2.a Communication prior to the conclusion of the contract

Before the plan is concluded or the first payment of contribution is made, the information listed hereafter shall be communicated to the plan holder, besides those information to be given by the supplier or by the insurance intermediary according to directive 2002/65/EC and directive 2002/92/EC:

A) concerning the provider

- a) Name of the provider and its legal form;
- b) Address of the head office and/or the main administration of the provider, including the name of the home Member State and of the competent authority responsible for the financial supervision of the provider ;

B) concerning the contract

- c) Law applicable to the plan;
- d) Where applicable, the name of a protection fund against insolvency or bankruptcy of the provider ;
- e) Description of the main characteristics of the plan;
- f) Contributions to be paid by the consumer to the provider, including all related fees, charges and expenses, and all taxes paid via the provider or, when an exact price cannot be indicated, the basis for the calculation of the contributions, fees and charges enabling the consumer to understand it;
- g) Notice of the possibility that other taxes and/or costs may exist that are not paid via the provider or imposed by him;
- h) Any limitations of the period for which the information provided is valid;
- i) Duration of the contract and any rights the consumer may have to terminate the contract early or unilaterally, including any penalties imposed by the contract in such cases;
- j) Right of withdrawal including the address to which the notification of a withdrawal should be sent;
- k) In which language, or languages, the contractual terms and conditions, and the prior information referred to in this section are supplied, and furthermore in which language, or languages, the provider, with the agreement of the plan holder, undertakes to communicate during the execution of the contract;
- l) Definition of each benefit (including ancillary benefits) and each option (guarantees, investment options) ;
- m) Means of terminating the plan (surrender, paid-up or withdrawal) ;
- n) Means of payment of contributions and duration and, if appropriate, periodicity of payments ;
- o) Where appropriate, means of calculation and distribution of bonuses and/or profits sharing; for plans or options where the plan holder takes the investment risk, information on the sensitivity of the corresponding asset portfolio to the evolution of financial markets ;
- p) Indication of surrender, paid-up and withdrawal values and the extent to which they are guaranteed ;
- q) Arrangements for handling complaints concerning the plan, without prejudice to the right to take legal proceedings ;
- r) The lapse of time by which actions against the provider are prescribed ;
- s) Indication that other information is available on request and of what nature this information is.

When the provider offers the plan holder certain investment options to allocate his contributions to, the provider shall inform the consumer before the conclusion of the contract about

- a) the range of investment options,
- b) the risk exposure and costs related to the investments options,
- c) the terms under which the plan holder may change investment options and the corresponding charges and fees to be paid.

II.2.b Communication during the contract

The plan holder shall be kept informed throughout the term of the plan, and at least once per year, on the items listed hereafter:

- a) any change in the information mentioned in section II.2.a ;
- b) the profits sharing granted to plan holders ;
- c) the target level of the retirement benefits, if applicable ;
- d) the level of benefits in case of cessation of contribution ;
- e) the biometrical risks that are covered ;
- f) the terms under which the plan holder may transfer his accrued rights to another retirement plan and the corresponding charges.

For each investment options, the provider shall issue the following information:

- application of contributions to purchase units,
- information on the underlying investments within a fund,
- risk/reward ratings,
- changes to underlying investment mix,
- fund mergers and closure,
- accuracy of published prices,
- dealing with mistakes,
- transparency of charging if the fund is multi-layered,
- accounting standards,
- custodianship,
- publishing of prices,
- availability of switches and time delays allowed for switching.

II.2.c Information about pay out options

Each beneficiary shall receive, on retirement or when other benefits become due, the appropriate information on the benefits which are due and the corresponding payment options.

II.2.d Additional information

The provider shall, on the request of a plan holder and at reasonable charge, either put at his disposal or communicate to him, by any appropriate means in accordance with the legislation of the Member State, including distance communication, in particular through voice or electronic messaging or internet site, additional information and advice about the topics listed in sections II.2.a to II.2.c.

The contract specifies the practical terms, including charges, under which the provider implements the duties provided for in this section.

II.2.e A clear and understandable communication

The information given to the consumer and/or plan holder shall be necessary for them to have a proper understanding of the essential elements of the Pan-European pension plan and to make an informed judgement of the investment proposed to them.

The information given to the consumer referred to in sections II.2.a to II.2.d must be provided in a clear and accurate manner, in writing or via an electronic medium, in the language(s) provided for in section II.2.a(k).

II.3 Cancellation of the plan**II.3.a Cancellation period**

The consumer who subscribes a Pan-European pension plan shall have a period of 30 days to cancel the contract without penalty and without giving any reason.

The cancellation period shall begin:

- from the day on which the consumer receives the contractual terms and conditions and the information about the contributions to be paid in accordance with this section ; or
- from the day of the conclusion of the contract or when, the consumer has not signed the contract, from the day when the consumer is informed that the contract has been concluded due the first payment of contributions, if that is later than the date referred to in the first intend.

II.3.b Effect of cancellation

When the consumer exercises his right of cancellation he or she may only be required to pay, without any undue delay, for the service actually provided by the provider in accordance with the contract or the intermediary in accordance with their contract or commitment.

The amount payable to the provider shall not:

- exceed an amount which is in proportion to the extent of the service already provided in comparison with the full coverage of the contract,
- in any case be such that it could be construed as a penalty.

The giving of notice of cancellation by the plan holder shall have the effect of releasing him/her and the provider from any future obligation arising from the contract.

II.4 Plan records**II.4.a Individual plan record**

There shall be an individual plan record for each plan holder. The provider shall ensure keeping personified records in particular, maintaining plan holders individual accounts or plan record.

The provider shall open the personal account or record mentioned above within three business days of the day of concluding the plan.

The individual record for a plan holder may have sub-accounts for accounting contributions paid, investment returns allocated to these contributions and retirement benefits affected, if a member State has set specific rules in relation to the tax treatment of these contributions.

II.4.b Personified record keeping

The provider shall ensure keeping personified records of the plan holders or of the beneficiaries, in particular, maintaining individual pension accounts.

The personified record keeping system shall include information on :

- contributions paid by the plan holder;
- contributions paid on behalf of the plan holder;
- allocation of investment return;
- pension payments effected.

The information of the plan holder's individual account shall be kept by the provider during the effective period of the contract and during the effective period for paying retirement benefits, if done by the provider himself.

The provider shall give the plan holder access to his individual account by internet or any other appropriate distance communication means or shall provide the plan holder with an overview of his/her individual account and all transactions in the fiscal year on paper for free once a year.

II.5 Transferability

II.5.a Individual transfer

The plan holder has the right to transfer, before the payment of the retirement benefits, the value of its individual account to another pan-European pension plan and/or another provider subject to this framework.

The contract must make provisions, under the sole conditions laid down by this framework, for the determination of the transfer value and specifies the terms under which of the transfer operation is achieved (notably time limits, deadlines, terms of payment).

II.5.b Transfer of personified records of all plan holders

The provider may transfer to another provider personified records and relevant documentation on the plan holders in the case of termination of the contract creating the plan, liquidation, reorganization of the provider or withdrawal of the license issued to the provider.

On receiving the notification of selection or temporary appointment of a new provider, the old provider shall ensure full transfer of the personified records and all relevant documents relating to the plan holders. In so doing, the provider shall continue performing its functions until the completion of transferring the personified record keeping system and relevant documentation.

The responsibility for determining the procedure for transferring personified records and relevant documentation shall rest with the competent authorities of the home Member State.

II.6 Investment options

II.6.a Allocation of contributions

If the provider offers the plan holder several options for the investment of the contributions, the first contributions shall not be invested unless the plan holder has communicated to the provider his choice of investment option.

However, when the plan provides with a default investment strategy subject to section II.6.d, contributions are directed to this strategy if the plan holder has not made or communicated to the provider his choice of investment option.

Allocation of the contribution over the investment options chosen by the plan holder starts as soon as the provider receives the first contribution.

Only received contributions can be allocated. The allocation will be done in one business day after the contribution is received by the provider.

The plan holder may change the allocation of incoming contribution over the investment options offered by the provider (designated hereafter as “rebalancing”) at least once a year with no charge levied by the provider. The provider may allow more frequent changes in allocation and levy a charge for the costs involved.

When a provider offers a lifestyle fund, the rebalancing of investments may be done automatically and periodically.

II.6.b Policies linked to units of UCITS or internal fund

If an investment option offered by the provider is a trust/mutual or investment fund or an internal fund within the meaning of article 25 of directive 2002/83/EC, held by an insurance undertaking, the invested money will be converted into accumulation units, corresponding to the value of units in that fund.

The value of the investment shall be expressed as the number of accumulation units held in the fund, multiplied by the unit value.

The unit value, and thereby the investment value, shall be determined every normal business day after the close of the European stock markets.

II.6.c Switches between investment options

The plan holder may switch his investment from one investment option to another option offered by the provider.

A switch of investment between investment options does not influence the allocation of future contributions.

Fund switches between investment options offered by the provider may be subject to management advisory fees or commission for brokerage.

These charges are deducted from the value of the (fund) shares. The level of charges, fees and commission has to be disclosed in the plan document.

To avoid the use of EPP as a vehicle for frequent trading in response to short-term fluctuations in the market, the provider may limit the number of transfers between funds that can be made each year.

II.6.d Default investment strategy

If the provider offers the plan holder several options for the investment of the contributions, he has at least to offer one option as default investment strategy.

This default investment strategy based either on a single fund or on a combination of an investment fund with an insurance product as in unit-linked insurances, allows for an appropriate investment depending on the liability structure of the group the plan holder belongs to (e.g. age group).

II.6.e Diversification of investment options

The investment options the provider offers to plan holders shall make it possible to diversify investments over options with different types of risk-return profiles.

The investment options may include insurance products with a guaranteed yield.

The provider has to offer at least an option in which the value of the plan at the retirement is not less than all the contributions paid minus expenses (including the cost of the additional risks covered).

II.6.f Responsibility for investments choices

All gains and risks associated with the choice of allocation over the investment offered by the provider and the results of switches between these options are the full and sole responsibility of the plan holder.

<p>II.7 Pay-out of the plan</p>
<p>II.7.a Pay-out options</p> <p>The Pan-European pension plan provides for lifelong retirement benefits that may take the form of:</p> <ul style="list-style-type: none"> a life-long income stream; a pension benefit for a defined period ; a lump sum at retirement ; a combination of these options. <p>The plan may also provide, on an ancillary basis and according to the legislation in force in the host Member State, supplementary benefits for biometrical risks.</p> <p>The provider shall not be obliged to offer all pay out options.</p> <p>A host Member State may restrict or prohibit a pay-out option for contributions and accrued savings allocated to these contributions that gained tax-deductibility or any other tax-incentive in this Member State.</p>
<p>II.7.b Retirement age</p> <p>The plan shall set the period of time where the payment of retirement benefits may start in accordance with the rules of the relevant host Member State for Social Security pensions.</p> <p>A Member State shall not require that the plan holder retires from employment before receiving retirement benefits from the plan.</p>
<p>III. Intermediation, marketing of the EPP</p>
<p>III.1 Distribution</p> <p>The provisions of the directives 2002/92 EC and 2002/65 EC apply to this framework prior to the subscription by plan holders of any Pan-European pension plan, notably concerning information to be given to the consumer by the supplier or the insurance intermediary.</p> <p>The provider or the insurance or financial intermediary shall, after the conclusion of the plan, communicate to the plan holder the contractual terms and conditions of the plan, on paper, another durable medium or by electronic means.</p> <p>The supplier or the insurance intermediary shall inform the consumer that other information is available on request specifying the nature of this information.</p>

IV. Contributions to the EPP : payment and limitations

IV.1 Payment of contributions

The contributions to a Pan-European pension plan may be paid to the provider, by any means recognised by the legislation in force within the Community or the home Member State, by the plan holder or any third party acting on his behalf, in accordance with the rules applicable in the host Member State.

The contributions may be paid as a single premium, periodic payments or by transfer or rollover, including in the form of a transfer of an asset portfolio, from another retirement plan subject to this framework.

IV.2 Prohibition on limitation of contributions

A Member State shall not set limitations on the amount of contributions a plan holder may pay to a Pan European pension plan. However any Member State may limit the tax deductibility or tax incentives given to contributions to a Pan-European pension plan, as long as these limitations do not constitute unequal treatment in comparison with other pension plans.

V. Complaints, redress

V.1 Complaints – Relevant jurisdiction

Complaints shall be addressed to the claims officer of the provider by the plan holder or a beneficiary of a plan. The parties will attempt to resolve disputes amicably without prejudice to the right of the parties to take legal proceedings.

Any dispute which is not amicably settled within 30 days from the date on which either party provides its point of view in writing, shall be resolved by the relevant jurisdiction of the host Member State. The plan holder, as the moving party, might also choose to take legal proceedings in the home Member State.

The provisions of article 11.3(a) of directive 2002/65/EC relating to the burden of the proof [concerning the existence of prior information, written confirmation where applicable, compliance with time limits and consumer consent] apply when the pension plan is concluded through a distance contract within the meaning of the above-mentioned directive.

V.2 Out-of-court redress

Member States shall encourage the setting-up of appropriate and effective complaints and redress procedures for the out-of-court settlement of disputes between duly authorized intermediaries and customers, using existing bodies where appropriate.

Member States shall encourage these bodies to cooperate in the resolution of cross-border disputes.

VI. The EPP provider

VI.1 Powers and duties of the competent authorities

The provisions of directives 2002/83 EC, 2003/41 EC, 85/611 EEC and 2001/107 EC relating to the powers and duties of the competent authorities apply, with respect to the statute of the provider, to the management of Pan-European pension plans subject to this framework.

The competent authorities may prohibit, for the operations of the provider relating to the management of a Pan-European pension plan, the free disposal of assets held by a depositary or custodian located within the territory of the Community.

VI.2 Responsibilities of the provider

The provider is responsible for the administrative (notably record-keeping, collection of contribution, payment of benefits, disclosure to plan holders, claims, regulatory compliance) and financial management (notably actuarial analysis, asset-liability management, investment strategies, asset management) of the plans operated by him.

The provider's responsibility shall not be affected by the fact that it has entrusted to a third party all or some of the administrative and financial management tasks of the plans.

VI.3 Custody

The provider shall appoint, for the custody of the assets, institutions established in any Member State and duly authorised in accordance with directive 93/22/EEC or directive 2000/12/EC, or accepted as a depository for the purposes of directive 85/611/EEC.

In order to ensure safe keeping and, where applicable, proper segregation of the assets of the retirement plans, the provider shall appoint a depository entrusted with the duties mentioned in the articles 7 and 14 of the directive 85/611/EEC.

VI.4 Technical provisions

The provider, operating plans where the provider underwrites the liability to cover biometric risks or guarantees a certain return on investment or a given level of benefits, shall execute the calculation of technical provisions and solvency margin according to the relevant rules, with respect to its statute, laid down in directives 73/239/EEC, 92/49/EEC, 98/78/EC, 2002/83/EC, 2003/41/EC and 2005/86/EC.

VI.5 Asset management

The provider shall manage prudently the portfolio of assets held on the account of the plan holders in accordance with its statute and may appoint investment managers established in another Member State and duly authorised for this activity, in accordance with the relevant rules laid down in directives 85/611/EEC, 93/22/EEC, 2000/12/EC, 2002/83/EC and 2005/86/EC.

Member States shall not prevent providers from:

- investing up to 70 % of the assets covering the technical provisions or of the whole portfolio for plans in which the members bear the investment risks in shares, negotiable securities treated as shares and corporate bonds admitted to trading on regulated markets and deciding on the relative weight of these securities in their investment portfolio. Provided it is prudentially justified, Member States may, however, apply a lower limit to providers which provide retirement products with a long-term interest rate guarantee, bear the investment risk and themselves provide for the guarantee;
- investing up to 30 % of the assets covering technical provisions in assets denominated in currencies other than those in which the liabilities are expressed;
- investing in risk capital markets.

VII. Taxation, non discrimination principle**VII.1 Taxation**

Member States must adopt provisions designed to ensure that Pan-European pension plans governed by this framework are granted the same tax deductibility or tax-incentives as applicable to pension plans or retirement plans defined on a national basis, where appropriate. However, the Member State may limit or restrict the pay out options in accordance with the rules that apply for other retirement or pension products with tax-deductibility or tax-incentives, avoiding unequal treatment of the EPP.

The host Member State may require that for contributions that were tax deductible or got another tax-incentive in that Member State, the pay out of the benefit based on these contributions and the return on investment thereon, will remain subject to taxation in that host Member State.

In the personified record keeping system the provider shall hold track, in the subaccount as mentioned in section II.4.a, of all contributions, the return on investment and the pay out based thereon that were tax-deductible or got another tax-incentive in a host Member State.

The provider may disclose information on the rights of the plan holder to the Tax administration of the host Member State in a European format to be defined hereafter. Conversely, the host Member State shall not require that the provider disclose to its Tax administration additional information or the information listed in a different format.

VII.2 Non discrimination principle

Any law, regulation or administrative provision in force in a Member State, including declaratory obligations of the plan holders towards the tax administration, having as a direct or indirect consequence a discrimination against EPP in comparison with other personal pension plans defined on a national basis is null and void.

Appendix 2: Some Member States' requirements for private pensions compared with the EPP reference framework

This appendix provides an exemplary comparison of national laws, regulations and administrative provisions of some Member States²⁶ (Czech Republic, France, Germany Italy, Netherlands) with the EPP-framework as set out in appendix 1.

Although this comparison is not necessarily exhaustive, it highlights noteworthy differences. Differences in national laws can, but do not necessarily have to prevent the introduction of pan-European Pensions Plans.

I. General provisions

This EPP framework lays down rules for the marketing and selling of private personal Pan-European pension plans (third pillar pension plan).

A provider may supply to the public within the territory of the Community pension plans on the conditions and in the manner laid down in this framework. The provider is subject to the provisions relating to its statutes unless those provisions come to conflict with this framework.

Czech Republic: 3rd pillar products are basically provided by the voluntary open Pension Funds stipulated by the specific Act about Supplementary Pension Insurance with the state support (since 1994). Also Life Insurance companies are allowed to offer specific Insurance retirement products, which are eligible for the tax incentives. Two main conditions must be reached to obtain full tax relief – the minimum saving period is 60 months and the minimum age at contract maturity is 60 years for all. The assets can be withdraw or as lump-sum or long-term annuity (incl. whole life annuity).

France: French law only authorises insurance undertakings as providers of personal pension plans.

French law requires that retirement benefits become due when the beneficiary retires or at the retirement age of the State pensions (65 years old).

Germany: Special regulations for 3rd pillar products apply to Riester pension products. Riester plans are subsidized by direct subsidies or tax breaks. Non-subsidized products are subject to general insurance or investment fund regulation.

Riester products can be offered by insurance firms, asset management companies and banks. Payout must not start before beneficiary reaches age of sixty. Income stream must be lifelong, but 30% of accumulated capital can be withdrawn as a lump sum.

Italy: Third pillar pension products are regulated by Legislative Decree n. 252/2005, the new pension reform law. The supplementary pensions are still in a start-up phase in Italy; the recent Reform identifies TFR (Severance Pay) as an important financial channel to be used with the aim of increasing the assets managed by Pension Funds.

²⁶ Countries are mentioned in alphabetical order

- Netherlands:** The new Dutch pension law, effective since 1-1-2007, is only applicable to 2nd pillar products. For 3rd pillar products there is no special law. Rules governing 3rd pillar products can be found in:
- The tax law , setting conditions for tax deductibility of 3rd pillar products
 - The rules on consumer protection for complex financial products
- Under the current Dutch law, tax deductible products can only be provided by companies with a life insurance license. A proposal to allow banks to provide 3rd pillar tax deductible products is under discussion. Asset managers cannot sell 3rd pillar product themselves.
- Since the Financial Services Act has become effective (on 1 January 2006), financial services may only be provided by parties that have been granted either a licence or dispensation.

1.1 Approval

A provider wishing to produce, market and sell pension plans subject to this framework in one or more Member States is not subject to any form of prior notification or approval from any competent authority of any Member State.

- Czech Republic:** The licence for either pension fund or life insurance is issued by integrated financial market supervision – the Czech National Bank. The principles of the European unified passport are valid for financial services providers (registration duty).
- Germany:** Riester plans must be certified by the Federal Financial Supervisory Authority (Bafin).
- Italy:** At the moment, according to Italian legislation, the second and third pillar pension plans have to be included in a specific Register called “Albo dei Fondi Pensione” kept by COVIP (the national competent supervisory Authority). However, we believe that this aspect would not constitute a real problem in a context of harmonization among different Member States.
- Netherlands:** There is no product approval or certification process.

1.2 Prerogative to use the term EPP

A product which does not comply with the requirements set out in this framework may not be marketed or sold as Pan-European pension plan or EPP.

A provider or any other assurance or financial institution shall not market or sell as a Pan-European pension plan or EPP any pension or other product which does not comply with the requirements of this framework.

- Italy:** According to Italian legislation, supplementary pension schemes have to include in their denomination the specific terms “Fondo Pensione” exclusively reserved to Pension Funds regulated by the Italian law that governs private pensions). However, we believe that also this aspect would not constitute a real problem in a context of harmonisation among different Member States.

II. The contract

II.1.a The contract

1. A Pan-European pension plan shall be a contract concluded with the provider by the plan holder or by a third party (the “policyholder”) on behalf of him to entitle the plan holder to retirement benefits in accordance with the legal form of the plan and the provisions of this framework.
2. The contract for a Pan-European pension plan is concluded when the plan holder, after acceptance of the provider, signs the contract or makes the first payment of contributions which ever comes first.
3. The contractual terms of the Pan-European pension plan shall include:
 - (a) Conditions and procedures of participation in the plan;
 - (b) Procedure and timeframe for paying contributions including a clause on possible modification thereof;
 - (c) Charges and fees to be paid;
 - (d) The principles for asset allocation;
 - (e) Procedure for calculating pension benefits;
 - (f) Description of all types of pension payments and conditions for paying thereof;
 - (g) Rights and responsibilities of the plan holder;
 - (h) Name of the provider, its legal form and address of his head office and/or his main administration, including the name of the Member State and of the competent authority responsible for the financial and prudential supervision of the provider;
 - (i) Law applicable to the plan;
 - (j) Other terms and conditions complying with this framework and the law applicable.

France: Even the individual pension plan has to be ruled by a contract subscribed by an association representing the plan holders (or an enterprise for second pillar schemes). Any modification of the plan requires the vote of the assembly of plan holders, whereas, under French civil law, for individual insurance policies, modification of the policy requires the consent of both parties, insurer and policyholder.

The statement of principles for asset allocation (§ 6.3.d) is not required by French law.

French law requires that an oversight committee be set up: this committee is entrusted with powers to control the management of the plan by the insurance undertaking and shall therefore be independent of the insurer.

Netherlands: Since 1 January 2007 all providers of financial services are subject to the Financial Services Act (Wet financieel toezicht - Wft). The Wft provides for a wide range of obligations for financial service providers and rights for consumers.

Financial service providers are obliged to inquire from any consumer, before the consumer purchases a financial product, what the level of knowledge and experience with the financial product in question is for the specific consumer, what risks this consumer is prepared to take, what the financial position of this consumer is and what this consumer intends to achieve with the financial product.

For complicated financial products, such as pension schemes, the provider is obliged to supply the consumer with certain information before the agreement is made definite.

Furthermore the Wfd states that financial service providers must supply their consumers with open, understandable and clear information about the

products that they sell and the services they provide, prior to sale. This means that consumers are granted certain rights pursuant to the Wft:

- They are entitled to information about the products' characteristics;
- The financial service provider must supply a Financial Information Leaflet on request;
- They are entitled to information about the remuneration form used by the financial service provider;
- The financial service provider is obliged to inform the consumer if it has any contractual obligations in respect of a bank or insurance company for whose products it mediates or advises;
- References to returns in advertising must also state the costs and risks.

II.1.b Applicable law

Without prejudice to this framework, the plan shall be governed either by the law of the host Member State at the time of subscription of the plan or by the law of the home Member State according to the terms of the contract creating the plan.

The law specified in paragraphs 1 of this section shall govern the validity of the plan, its effects and its administration, and in particular the relationships between the provider and the plan holders or the beneficiaries, unless this law come to conflict with this framework.

The provisions of this framework, except sections I.1, I.2, II.1.a, II.1.b, II.2.a to II.4.b, II.6.f, IV.1, V.1, VI.1, VI.3 to VI.5, may be disregarded when their application in the host Member State would be manifestly incompatible with public policy or with rules laid down for consumer protection.

The law of the host Member State may therefore govern :

- the recourses of the personal creditors of the plan holder;
- the matrimonial property;
- the plan holder's estate upon his death.

The laws specified in this section shall not govern the provisions which come under the financial and prudential supervision of the provider.

Where a Member State includes several territorial units, each of which has its own rules of law concerning contractual obligations each unit shall be considered a Member State for the purposes of identifying the law(s) applicable to the contract under this framework.

Czech Republic: These principles (obligations) are more or less in line with existing Czech law for 3rd pillar.

France: For second pillar pension plan where the subscriber is an enterprise or a professional association, the law applicable to the plan is the law of the Member State where the subscriber has its registered office. For third pillar pension, the same rule applies as the subscriber is an association established in France.

Germany: The German insurance contract law enables a decision about the applicable law (law of the host or home member state) at the beginning of the contract. For a third pillar product there should be no legal hindrance in place.

Italy: The Italian life insurance law states that the parties have freedom of choice over the applicable law. If there is no express choice, the contract is governed by the law of the Member State where the subscriber has his habitual residence.

Netherlands: Choice of applicable law is possible for 3rd pillar products. The Regulations on the provision of information to policyholders state that an insurer that offers life insurance to a prospective policyholder residing or domiciled in

the Netherlands shall ensure that the policyholder is provided with information on the law governing the agreement, or otherwise the choice of law proposed by the insurer;

II.1.c Fees and charges

When the retirement benefits depend on the balance of the individual account, the fees and charges to be paid under an EPP, including the basis they are calculated on, shall be expressed in any promotional or other material and in the plan document.

Czech Republic: No obligations yet to disclose charges and fees with the exception stipulated in the law regulating the Mediators in Czech market - on client request the mediator is obliged to inform him about the mediators remuneration principles. But nearly whole life insurers offering Unit linked products include at least part of fees being paid by client into contract proposal. The situation in the traditional life insurance product is different – nobody informs client about charges and fees connected with contract.

France: The French law requires that all kinds of fees and charges are detailed in the contractual and pre-contractual documents, including the various fees and commissions of the underlying units (mainly UCITS) in unit-linked policies.

Furthermore, the French law prohibits :

- to charge the first premium with future acquisition fees ;
- any agreements involving the insurer, the management company or a third party (notably brokers) on soft-commission or any retrocession of fees to the insurer.

Germany: Fees and charges must be disclosed for the Riester pension plans and no cap on fees.

Netherlands: Based on the Regulations on the supply of information about complex products, the Financial leaflet shall provide information about administrative costs, management costs, production costs and selling costs forecast and/or already incurred, as well as the interest charges forecast and/or already paid plus the costs that the provider charges to the consumer in the event of premature termination and that relates to loss of interest income. Furthermore on life insurance contracts the consumer shall be informed about the influence of costs and withholdings at the policyholder's expense on the return and the payment connected to the agreement.

The regulations do not contain any cap on charges or fees.

II.1.d Types of plans

A Pan-European Pension Plan may, for example, take one of the following forms or any combination of them:

- (a) a pension promise expressed in the form of a defined retirement benefit paid at the retirement age set in the plan, whereby the portfolio of assets held on the account of the plan holder is managed by the provider and the provider takes the investment risk;
- (b) agreement for the payment of contributions whereby the retirement benefit will depend on the balance of the individual account of the plan holder, whereby the providers offers the plan holder certain options for the investment of his assets and the plan holder takes the investment risk.

Czech Republic: Basically only DC schemes are available in voluntary pension pillar, in life insurance different types of traditional life and also unit-linked products can be offered

Germany: At the moment there are clear differences between 2nd and 3rd pillar products. Taking future developments into account these distinctions may blur. Riester pension foresees three types of plans: Bank savings plans; Investment fund plans; Insurance plans

Italy: The Italian law recognises two types of third pillar individual pension plans:
 “Open Pension Funds” (which can be offered by Banks, Insurance companies and Asset management firms);
 Life insurance contracts also called “PIP” (Individual Pension Plans) that can be manufactured exclusively by Insurance companies.

Netherlands: The new Dutch Pension law, effective from 1-1-2007 on, recognises three forms of pensions:

- Defined benefit;
- Defined contribution
- A capital clause (a target amount to be reached at age 65).

For the 3rd pillar at present only insurance products that provide life-long annuities are tax-deductible.

II.2.a Communication prior to the conclusion of the contract

Before the plan is concluded or the first payment of contribution is made, the information listed hereafter shall be communicated to the plan holder, besides those information to be given by the supplier or by the insurance intermediary according to directive 2002/65/EC and directive 2002/92/EC:

A) concerning the provider:

- (a) Name of the provider and its legal form;
- (b) Address of the head office and/or the main administration of the provider, including the name of the home Member State and of the competent authority responsible for the financial supervision of the provider ;

B) concerning the contract:

- (a) Law applicable to the plan;
- (b) Where applicable, the name of a protection fund against insolvency or bankruptcy of the provider ;
- (c) Description of the main characteristics of the plan;
- (d) Contributions to be paid by the consumer to the provider, including all related fees, charges and expenses, and all taxes paid via the provider or, when an exact price cannot be indicated, the basis for the calculation of the contributions, fees and charges enabling the consumer to understand it;
- (e) Notice of the possibility that other taxes and/or costs may exist that are not paid via the provider or imposed by him;
- (f) Any limitations of the period for which the information provided is valid;
- (g) Duration of the contract and any rights the consumer may have to terminate the contract early or unilaterally, including any penalties imposed by the contract in such cases;
- (h) Right of withdrawal including the address to which the notification of a withdrawal should be sent;
- (i) In which language, or languages, the contractual terms and conditions, and the prior information referred to in this section are supplied, and furthermore in which language, or languages, the provider, with the agreement of the plan holder, undertakes to communicate during the duration of the plan;
- (j) Definition of each benefit (including ancillary benefits) and each option (guarantees, investment options) ;
- (k) Means of terminating the plan (surrender, paid-up or withdrawal) ;
- (l) Means of payment of contributions and duration and, if appropriate, periodicity of payments ;
- (m) Where appropriate, means of calculation and distribution of bonuses and/or profits sharing; for plans or options where the plan holder takes the investment risk, information on the sensitivity of the corresponding asset portfolio to the evolution of financial markets ;
- (n) Indication of surrender, paid-up and withdrawal values and the extent to which they are guaranteed ;
- (o) Arrangements for handling complaints concerning the plan, without prejudice to the right to take legal proceedings ;
- (p) The lapse of time by which actions against the provider are prescribed ;
- (q) Indication that other information is available on request and of what nature this information is.

When the provider offers the plan holder certain investment options to allocate his contributions to, the provider shall inform the consumer before the conclusion of the contract about

- (r) The range of investment options;
- (s) The risk exposure and costs related to the investments options,
- (t) The terms under which the plan holder may change investment options and the corresponding charges and fees to be paid.

Czech Republic: Currently there is less obligation regarding the scope of information which has to communicate to the new client than is stated in this section.

France: The information mentioned in this article is enclosed in a prospectus which must be established by the insurer and given to the plan holder by the subscriber of the contract creating the EPP (an association or an enterprise for second pillar pensions).

An information on the “profits sharing” clause is required : French law obliges insurers to insert a clause in every life-insurance policy on the sharing of profits between the insurer and its policyholders (at least 90% of the financial and “biometric” profits shall be given to the policyholders).

Information on unit-linked plans shall include the fees and commissions of the underlying units (UCITS) and the same information as in the simplified UCITS prospectus.

French law requires information on the transfer values of the plan for the first 8 years after subscription and a draft letter to facilitate the cancellation of the plan.

French law provides, as a sanction for improper information, that the cancellation period starts when all the required information have been given to the policyholder.

Germany:

For Riester products providers must inform potential clients about the following points:

- Level and temporal allocation of acquisition costs
- Administration costs
- Costs of switching to a different (certified) product
- Costs of switching to a different provider
- If client has already a product with the provider, he/she must be informed about possibilities to convert the existing contract
 - Information about certification number and certification authority
 - Simulations of fund performance and costs for a period of at least 10 years
- Structure of asset portfolio
- Risks
- Consideration of ethical, social and ecological issues in investment behaviour

Netherlands:

For 3rd pillar products, these obligations for information to the plan holder do not go beyond what is proposed for the EPP, except for complex financial products, like insurance policies with investment options (such as unit linked products). For these products it is obligatory to provide a Financial Information Leaflet. The Financial Information Leaflet sets out general information about the financial product, such as an indication of the risks attached to the product. The Financial Information Leaflets are compiled according to standard models, based on certain groups of consumers, and provide an objective estimate of the costs, risks and returns associated with a particular financial product by group.

The law prescribes in detail what kind of information should be provided in the Financial Information Leaflet. These legal obligations are more detailed than what is proposed for the EPP.

The Financial Information Leaflet can be obtained before the sale of the product, allowing consumers to shop around and compare different products offered by different financial service providers. The financial service provider must supply any consumer that asks with the Financial Information Leaflet free of charge. The Financial Information Leaflet must also be available for download on the financial service provider's website.

II.2.b Communication during the contract

The plan holder shall be kept informed throughout the term of the plan, and at least once per year, on the items listed hereafter:

- (a) any change in the information mentioned in section II.2.a ;
- (b) the profits sharing granted to plan holders ;
- (c) the target level of the retirement benefits, if applicable ;
- (d) the level of benefits in case of cessation of contribution ;
- (e) the biometrical risks that are covered ;
- (f) the terms under which the plan holder may transfer his accrued rights to another retirement plan and the corresponding charges.

For each investment options, the provider shall issue the following information:

- application of contributions to purchase units,
- information on the underlying investments within a fund,
- risk/reward ratings,
- changes to underlying investment mix,
- fund mergers and closure,
- accuracy of published prices,
- dealing with mistakes,
- transparency of charging if the fund is multi-layered,
- accounting standards,
- custodianship,
- publishing of prices,
- availability of switches and time delays allowed for switching.

Czech Republic: For voluntary pension pillar the following points b.; d.; are valid, for life insurance contracts you have to inform client about change of the legal form of insurer, about change of address of insurer or agency, concluded the contract, about change of Terms and conditions or any change of the insurance legislation concerning concluded contract, about the bonuses.

France: French law requires for unit-linked policies information on any significant change in the underlying units. Moreover, annual information disclosed to the plan holder shall include the (financial) performance of the investment funds.

Germany: Provider has to inform client about use of contributions, current capital formation, acquisition, distribution and administrative costs, as well as returns on a yearly basis (Riester pension)

Netherlands: During the contract, the insurer shall ensure that the policyholder is informed in writing of:

- a. any changes to the name, the trade name, the legal form or the address of the insurer, and, if applicable, the address of the branch office involved in the agreement;
- b. any changes to the general or specific policy conditions;
- c. any changes to rules and/or regulations applicable to the payment of contributions and the pay-out options, the tax treatment, the termination of the contract and investment risks;
- d. the annual state of affairs concerning the profit-sharing.

II.4.b Personified record keeping

The provider shall ensure keeping personified records of the plan holders or of the beneficiaries, in particular, maintaining individual pension accounts.

The personified record keeping system shall include information on :

- contribution paid by the plan holder;
- contributions paid on behalf of the plan holder;
- allocation of investment return;
- pension payments effected.

The information of the plan holder's individual account shall be kept by the provider during the effective period of the contract and during the effective period for paying retirement benefits, if done by the provider himself.

The provider shall give the plan holder access to his individual account by internet or any other appropriate distance communication means or shall provide the plan holder with an overview of his/her individual account and all transactions in the fiscal year on paper for free once a year.

France: The French law sets no time limit for the opening of the individual accounts mentioned in this article.

II.5.a Individual transfer

The plan holder has the right to transfer, before the payment of the retirement benefits, the value of its individual account to another pan-European pension plan and/or another provider subject to this framework.

The contract must make provisions, under the sole conditions laid down by this framework, for the determination of the transfer value and specifies the terms under which of the transfer operation is achieved (notably time limits, deadlines, terms of payment).

Czech Republic: The individual accounts are transferable at any time within voluntary pension pillar. In life insurance contracts if you want to change the insurance provider you can only cancel existing contract and conclude new one. This way is also very inconvenient for client (higher taxes, necessity to include into income tax-return the tax deducted premium for the period of life insurance contract duration etc).

France: The individual accounts are transferable at any time, the transfer value being almost defined by regulation. Such provisions also apply to second pillar plans where collective agreements do not make affiliation mandatory. For other second pillar plans, the plan holder gets the right to transfer his individual account when his contract of employment is broken off.

Italy: According to a minimum period of participation to the plan (2 years), it is possible to transfer accrued rights into other plans operating in Italy.

Netherlands: The Dutch law contains detailed rules about transfers between pension accounts and the accounting of the transfer value. For 3rd pillar products it is almost no possible to transfer from one account to another.

II.5.b Transfer of personified records of all plan holders

The provider may transfer to another provider personified records and relevant documentation on the plan holders in the case of termination of the contract creating the plan, liquidation, reorganization of the provider or withdrawal of the license issued to the provider.

On receiving the notification of selection or temporary appointment of a new provider, the old provider shall ensure full transfer of the personified records and all relevant documents relating to the plan holders. In so doing, the provider shall continue performing its functions until the completion of transferring the personified record keeping system and relevant documentation.

The responsibility for determining the procedure for transferring personified records and relevant documentation shall rest with the competent authorities of the home Member State.

- France:** Under French law, the assembly of plan holders may collectively decide to transfer the assets of the plan to another provider. The provider cannot oppose to this collective decision. In this case, the procedure of transfer is determined by the contract or by the oversight committee.
- Germany:** Riester plans can be switched to a different provider; accumulated capital can be transferred to a new plan, which fulfils Riester conditions and is certified. However, old provider can charge fees.
- Netherlands:** Insurers that want to transfer the policies of all plan holders or a group of plan holders to another provider needs prior approval from the supervisor. Policyholders have the right to make objections. If these objections sum up tot a quarter of the transfer value, the supervisor will not give permission. If the transfer is allowed also the records have to be transferred, as far as they are relevant.

II.6.a Allocation of contributions

If the provider offers the plan holder several options for the investment of the contributions, the first contributions shall not be invested unless the plan holder has communicated to the provider his choice of investment option.

However, when the plan provides with a default investment strategy subject to section II.6.d, contributions are directed to this strategy if the plan holder has not made or communicated to the provider his choice of investment option.

Allocation of the contribution over the investment options chosen by the plan holder starts as soon as the provider receives the first contribution.

Only received contributions can be allocated. The allocation will be done in one business day after the contribution is received by the provider.

The plan holder may change the allocation of incoming contribution over the investment options offered by the provider (designated hereafter as “rebalancing”) at least once a year with no charge levied by the provider. The provider may allow more frequent changes in allocation and levy a charge for the costs involved.

When a provider offers a lifestyle fund, the rebalancing of investments may be done automatically and periodically.

- Czech Republic:** For 3rd pillar voluntary pensions there is obligation for providers to deliver to each individual account at minimum 0+ returns on yearly basis. Only one type of investment portfolio is currently offered in voluntary pension funds. (But this will be probably changed in next years).

- France:** Under French law, the allocation of contribution is up to the contract.
- Germany:** Riester plans foresee the nominal guarantee of paid-in capital.
- Netherlands:** The Dutch law has not obligation to offer a money back guarantee or zero-option. Protection rules are only under discussion for occupational pensions. For 3rd pillar products there is total freedom of investment choices.

II.6.c Switches between investment options

The plan holder may switch his investment from one investment option to another option offered by the provider.

A switch of investment between investment options does not influence the allocation of future contributions.

Fund switches between investment options offered by the provider may be subject to management advisory fees or commission for brokerage.

These charges are deducted from the value of the (fund) shares. The level of charges, fees and commission has to be disclosed in the plan document.

To avoid the use of EPP as a vehicle for frequent trading in response to short-term fluctuations in the market, the provider may limit the number of transfers between funds that can be made each year.

- Czech Republic:** For life insurance products there is no limitation on the number of transfers between funds.
- France:** The plan might provide no possibilities for switches between investment options.
- Germany:** Almost all providers of Riester investment plans follow a lifecycle concept, in which asset allocation is adjusted to clients' age. So providers tend to offer one fund with several underlying funds, and client cannot choose between investment options, which is, however, not due to regulation.
- Netherlands:** For 3rd pillar products there is no limitation on the number of transfers between funds.

II.6.d Default investment option

If the provider offers the plan holder several options for the investment of the contributions, he has at least to offer one option as default investment strategy.

This default investment strategy, based either on a single fund or on a combination of an investment fund with an insurance product as in unit-linked insurances, allows for an appropriate investment depending on the liability structure of the group the plan holder belongs to (e.g. age group).

- Czech Republic:** A default investment strategy is not required by Czech law for life insurance retirement products. (the voluntary pension fund see above)
- France:** A default investment strategy is not required by French law.
- Germany:** No default option in Riester plans
- Italy:** The new pension reform law establishes that the share of TFR (Severance Pay) belonging to silent workers has to be invested in a default investment solution with capital guarantee and returns comparable with TFR revaluation rules.

Netherlands: For 3rd pillar products there is no obligation to have a default investment strategy.

II.6.e Diversification of investment options

The investment options the provider offers to plan holders shall make it possible to diversify investments over options with different types of risk-return profiles.

The investment options may include insurance products with a guaranteed yield.

The provider has to offer at least an option in which the value of the plan at the retirement is not less than all the contributions paid minus expenses (including the cost of the additional risks covered).

Czech Republic: Czech law for life insurance retirement products does not require that the plan provide for several investment options with different risk profiles. (the voluntary pension fund see above)

France: French law does not require that the plan provide for several investment options with different risk profiles.

Germany: No restriction on investment options for Riester plans

Italy: According to Italian law several investment options with different risk profiles can be offered by third pillar pension Plans.

Netherlands: The Dutch law does not contain any obligation to provide several investment options. The obligations for information to the plan holder prior to the contract are in line with the requirements for the new Financial Information Leaflet.

II.7.a Pay-out options

The pan-European pension plan provides for lifelong retirement benefits that may take the form of:

- a life-long income stream;
- a pension benefit for a defined period ;
- a lump sum at retirement ;
- a combination of these options.

The plan may also provide, on an ancillary basis and according to the legislation in force in the host Member State, supplementary benefits for biometrical risks.

The provider shall not be obliged to offer all pay out options.

A host Member State may restrict or prohibit a pay-out option for contributions and accrued savings allocated to these contributions that gained tax-deductibility or any other tax-incentive in this Member State.

France: The retirement benefits shall take the form of lifelong annuities except for annuities below 40 euros per month or in some cases: disability of the second and third kind according to the French social Security, plan holder no longer entitled to State unemployment insurance or for the head of a company, after the winding-up of his company.

Supplementary benefits in case of death or disability are strongly limited and take the form of lifelong annuities.

Lifelong annuities might however take different profiles: increasing annuities after a defined age, or high annuities in the first years decreasing up to a given age then increasing again, etc...

- Germany:** Differences between 2nd and 3rd pillar. In the case, that the pension plan replaces 1st pillar benefits tax incentives are linked to lifelong payments (with lump sums possible up to certain ceilings). Riester plans allow three options: annuity / withdrawal plan with annuity pursuant of remaining capital / lump sum or variable instalments up to a maximum of 30% of accumulated capital. At the age of 85 remaining capital (at least 10% of accumulated capital at the beginning of retirement) must be annuitised in any case.
- Italy:** According to Italian legislation, a lump sum payment is not admitted. In fact, it is possible to take as a lump sum no more than 50% of the total amount accumulated during the participation to the plan.
- Netherlands:** Under the current Dutch law in the 3rd pillar only insurance policies with an annuity clause are tax deductible.
The annuity payments have to be life long, and need to commence between age 65 and 70 or have a 5 year pay-out and do not exceed the amount of € 19 161 per year.

II.7.b Retirement age

The plan shall set the period of time where the payment of retirement benefits may start in accordance with the rules of the relevant host Member State for Social Security pensions.
A Member State shall not require that the plan holder retires from employment before receiving retirement benefits from the plan.

- Czech Republic:** Retirement age for private provisions is 60 years; so you would lose part of tax incentives on a contract with an earlier retirement age.
- France:** French law requires that the plan holder has retired in the State pension system before having his retirement benefits paid from the plan.
- Germany:** In Germany you have to be 60 years old at the time of retirement; so you would not get any tax incentives on a contract with an earlier retirement age.
- Netherlands:** As of 1st January 2006 only products with age 65 as retirement goal are tax deductible (with some exemptions).

III. Distribution and marketing of the EPP

III.1 Distribution

The provisions of the directives 2002/92 EC and 2002/65 EC apply to this framework prior to the subscription by plan holders of any Pan-European pension plan, notably concerning information to be given to the consumer by the supplier or the insurance intermediary.
The provider or the insurance or financial intermediary shall, after the conclusion of the plan, communicate to the plan holder the contractual terms and conditions of the plan, on paper, another durable medium or by electronic means.
The supplier or the insurance intermediary shall inform the consumer that other information is available on request specifying the nature of this information.

- France:** Distribution of pension plans (or more generally life-insurance contracts through distance means) through means of distance communication is not fully workable, mainly because of the uncertainties of the French law

on the validity of electronic documents in the information prior to subscription.

Netherlands: Providing info via email or internet is not yet an accepted legal form. A proposal to change the law is under discussion.

IV. Contributions to the EPP: payment and limitation

IV.1 Payment of contributions

The contributions to a Pan-European pension plan may be paid to the provider, by any means recognised by the legislation in force within the Community or the home Member State, by the plan holder or any third party acting on his behalf, in accordance with the rules applicable in the host Member State.

The contributions may be paid as a single premium, periodic payments or by transfer or rollover, including in the form of a transfer of an asset portfolio, from another retirement plan subject to this framework.

Czech Republic: No transfer of asset portfolio is allowed as payment of contribution.

France: No transfer of asset portfolio is allowed as payment of contribution.

IV.2 Prohibition on limitation of contributions

A Member State shall not set limitations on the amount of contributions a plan holder may pay to a Pan European pension plan. However any Member State may limit the tax deductibility or tax incentives given to contributions to a Pan-European pension plan, as long as these limitations do not constitute unequal treatment in comparison with other pension plans.

Czech Republic: The same as in the Netherlands

Germany: From 2008 onwards, premiums up to a limit of 2,100 Euro are tax-deductible.

Netherlands: The Netherlands has only limits in the tax deductible amounts of premium payments. The deductible amount depends on the personal pension gap. You may pay more than the maximum deductible amount.

V. Complaints / redress

V.1 Complaints – Relevant jurisdiction

Complaints shall be addressed to the claims officer of the provider by the plan holder or a beneficiary of a plan. The parties will attempt to resolve disputes amicably without prejudice to the right of the parties to take legal proceedings.

Any dispute which is not amicably settled within 30 days from the date on which either party provides its point of view in writing, shall be resolved by the relevant jurisdiction of the host Member State. The plan holder, as the moving party, might also choose to take legal proceedings in the home Member State.

The provisions of article 11.3(a) of directive 2002/65/EC relating to the burden of the proof [concerning the existence of prior information, written confirmation where applicable, compliance with time limits and consumer consent] apply when the pension plan is concluded through a distance contract within the meaning of the above-mentioned directive.

V.2 Out-of-court redress

Member States shall encourage the setting-up of appropriate and effective complaints and redress procedures for the out-of-court settlement of disputes between duly authorised intermediaries and customers, using existing bodies where appropriate.

Member States shall encourage these bodies to cooperate in the resolution of cross-border disputes.

France:

Any action stemming from the execution of the contract is subject to limitation by a lapse of time of two years after the event that gave birth to this action. This lapse of time is put up to ten years if the action is taken by someone else than the plan holder.

Netherlands:

From 1 January 2007 on all financial service providers that operate in the Netherlands are obliged to be associated with an Institute for the handling of complaints that is recognized by the Minister of Finance. The financial sector has set up the Complaint Institute KiFid, that will operate from 1 April 2007 on.

The financial service providers are obliged to inform all consumers on the rules governing the handling of complaints from the policyholder, insured persons or beneficiaries of payments connected to the agreement, including, if applicable, the existence of the extra-judicial bodies that are charged with investigating complaints;

VI. The EPP provider

VI.5 Asset management

1. The provider shall manage prudently the portfolio of assets held on the account of the plan holders in accordance with its statute and may appoint investment managers established in another Member State and duly authorised for this activity, in accordance with the relevant rules laid down in directives 85/611/EEC, 93/22/EEC, 2000/12/EC, 2002/83/EC and 2005/86/EC.
2. Member States shall not prevent providers from:
 - (a) investing up to 70 % of the assets covering the technical provisions or of the whole portfolio for plans in which the members bear the investment risks in shares, negotiable securities treated as shares and corporate bonds admitted to trading on regulated markets and deciding on the relative weight of these securities in their investment portfolio. Provided it is prudentially justified, Member States may, however, apply a lower limit to providers which provide retirement products with a long-term interest rate guarantee, bear the investment risk and themselves provide for the guarantee;
 - (b) investing up to 30 % of the assets covering technical provisions in assets denominated in currencies other than those in which the liabilities are expressed;
 - (c) investing in risk capital markets.

France: The French law requires a strict segregation of assets covering pension plans liabilities. Furthermore, in the same spirit, the French regulation strongly limits the use of reinsurance contracts/techniques or of any global derivative instruments.

VII. Taxation

VII.1 Taxation

Member States must adopt provisions designed to ensure that Pan-European pension plans governed by this framework are granted the same tax deductibility or tax-incentives as applicable to pension plans or retirement plans defined on a national basis, where appropriate. However, the Member State may limit or restrict the pay out options in accordance with the rules that apply for other retirement or pension products with tax-deductibility or tax-incentives, avoiding unequal treatment of the EPP.

The host Member State may require that for contributions that were tax deductible or got another tax-incentive in that Member State, the pay out of the benefit based on these contributions and the return on investment thereon, will remain subject to taxation in that host Member State.

In the personified record keeping system the provider shall hold track, in the subaccount as mentioned in section II.4.a, of all contributions, the return on investment and the pay out based thereon that were tax-deductible or got another tax-incentive in a host Member State.

The provider may disclose information on the rights of the plan holder to the tax administration of the host Member State in a European format to be defined hereafter. Conversely, the host Member State shall not require that the provider disclose to its tax administration additional information or the information listed in a different format.

VII.2 Non-discrimination principle

Any law, regulation or administrative provision in force in a Member State, including declaratory obligations of the plan holders towards the tax administration, having as a direct or indirect consequence a discrimination against EPP in comparison with other personal pension plans defined on a national basis is null and void.

Czech Republic: Basically the EET system is applied:

3rd pillar voluntary pension funds

- Up to first 6.000²⁷ CZK of contributions the plan holder will obtain up to 1.800 CZK of direct state contribution per year.
- personal income tax exemption on contributions up to 12.000 CZK (additionally to the previous incentive);
- Corporate income tax and social security contribution exemption on contributions to the individual account from employer up to 3% of pay a roll fund per employee;
- in case of long-term pension benefit tax rate of 15% on the gains part of the pension benefits, 0% tax for the rest of the pension benefits;
- in case of lump-sum pension benefit tax rate of 15% on the gains part of the pension benefits, 15% tax for the employers' contributions part of the pension benefits and 0% tax rate for the rest of the pension benefits;
- in case of early withdrawal of pension benefit, tax rate of 25% on the gains part of the pension benefits, 25% tax for the employers' contributions part of the pension benefits, the state direct contributions have to be returned back and 0% tax rate for the own plan holder contributions part of the pension benefit.

3rd pillar life insurance products

- personal income tax exemption on contributions up to 12.000 CZK;
- corporate income tax exemption on contributions to the individual account from employer up to 8.000 CZK per a year;
- social security and health contribution exemption on contributions to the insurance policy from employer up to CZK 12 000 per a year;
- in case of life insurance contract maturity benefit tax rate of 15% on the gains part of the life insurance contract (i.e. tax rate of 15 % from the value (maturity benefit – whole premium paid for main cover)). The employers' contribution is included into premium paid.
- in case of early withdrawal of life insurance contract, tax rate of 25% on the gains part of the life insurance contract.(i.e. tax rate of 25 % from the (surrender value – policyholder premium paid for main cover)). The employers' contribution is not included into premium paid, i.e. 25 % tax is paid from whole employers' contribution part.
- in the year the life insurance policy was pre-term cancelled you also have to include into income tax-return the tax deducted premium for the period of life insurance contract duration.

France:

The French tax law provides for an almost EET taxation system: the contributions are exempt from income tax up to 10% of the net professional income (with a maximum of €24,154 in 2006) but subject to a social security tax of 0,16% of the contributions paid. The retirement benefits are taxed as incomes.

Besides, the provider is due to send both to the plan holder and to the tax administration some pieces of information on the individual account of the plan holder under a strict format (the tax administration imposes penalties to the provider which doesn't comply with these obligations, including the format under which the information is disclosed).

²⁷ The exchange rate January 15, 2007: 1 Euro = 27.7 CZK

- Germany:** The German tax law provides for an EET taxation system: the contributions are exempt from income tax up to €4,296, the retirement benefits being taxed as income.
- Italy:** The new pension reform law provides for an ETT taxation system:
- income tax exemption on contributions (to second and third pillar pension plans) up to €5,164.57;
 - tax rate of 11% on investment gains realized during the pay-in phase ;
 - tax rate of 15% on pension benefits, with tax exclusion of the amounts already taxed during Contribution and Investment periods.
- There is a tax rate reduction of 0.30% for each year of participation to the plan beyond the 15th (maximum tax rate reduction admitted is 6%).
- Netherlands:** The Dutch tax law is based on EET but only to a limit (defined as the individual “pension gap”). The 3rd pillar product has to fit in the old age umbrella (total pension out of the three pillars may be up to 70% of average pay). The consumer has the possibility to choose between tax deduction of contribution paid into a life insurance contract within the third pillar or to leave the contributions outside the tax assessment. If the contributions are tax deducted the EET rules apply and the benefit will be taxed as income. If the contributions are not taxed as income the TTE rule applies. This means that during the accumulation phase the account value will be subject to a special levy for income taxation as savings, but the benefits in the pay out phase will be tax free.

Appendix 3: Glossary of “EPP” terms

This appendix gives the definition of some terms widely used throughout this report to specify the EPP framework.

‘Beneficiary’ means a person receiving retirement benefits from a pan-European pension plan.

‘Biometrical risks’ mean risks linked to death, disability and longevity.

‘Compartment’ – A compartment is defined as a subaccount of the individual plan record related to a given Member State having specific tax regulations, where the provider keeps track of the contributions paid when the plan holder had its residence in this Member State

‘Competent authorities’ means the national authorities designated to carry out the duties of financial and prudential supervision of the provider.

‘Consumer’ means any natural person who is acting for purposes which are outside his trade, business or profession.

‘Contribution’ means a payment made directly or indirectly by or on behalf of a plan holder to the relevant Pan-European pension plan in accordance with the terms of the plan.

‘Cross-border transfers’ means cross-border transfers within the meaning of directive 97/5/EC and of regulation 2560/2001/EC on cross-border payments in euros.

‘Default investment strategy’ means an investment strategy established by a provider for the investment of the contributions of the plan holder.

‘EPP framework’ means the EFR document laying out the rules for the marketing and selling of private personal Pan-European pension plans (third pillar pension plans).

‘Home Member State’ means the Member State in which the provider has its registered office.

‘Host Member State’ means the Member State where the plan holder has his/her habitual residence.

‘Insurance intermediary’ means any natural or legal person who, for remuneration, takes up or pursues insurance mediation within the meaning of directive 2002/92/EC on insurance mediation.

‘Pan-European Pension Plan (EPP)’ means: 1. A product marketed and sold in compliance with the requirements set out in the EPP framework; 2. a contract concluded with the provider by the plan holder or by a third party (the policyholder) on behalf of him to entitle the plan holder to retirement benefits in accordance with the legal form of the plan and the provisions of the EPP framework.

‘Pan-European plan provider’ or **‘EPP provider’** means a provider selling Pan-European Pension Plans.

‘Personified record keeping’ means collection, processing, systematisation and storage of information on plan holders, their contributions, accumulated savings and amount of retirement benefits (those personal information are referred to as ‘individual account’ or ‘personal plan record’).

‘Plan holder’ means a person who has concluded a contract for a Pan-European Pension Plan or is covered by a contract subscribed by a third party (the policyholder) on behalf of him and whose commitment to contribute to that EPP entitle or will entitle him/her to retirement benefits in accordance with the provisions of that plan.

‘Provider’ means:

- (a) a credit institution or an ancillary banking services undertaking within the meaning of directive 2000/12/EC (the banking sector);
- (b) an insurance undertaking within the meaning of article 1 of directive 98/78/EC (the insurance sector);
- (c) an asset management company within the meaning of article 1a of directive 85/611/EEC (UCITS);
- (d) or any group of institutions mentioned in a, b or c acting jointly for the purpose of providing a plan subject to this framework.

‘Retirement benefits’ means benefits paid, according to the legal rules in the host Member State:

- (a) by reference to reaching retirement, or
- (b) by reference to the expectation of reaching retirement, or
- (c) at the age specified in the EPP and defined by reference to the age of retirement in the host Member State.

These benefits should take the form of a lifelong income stream, but in accordance with the requirements of the host Member State, money withdrawal as a lump sum up to a certain limit may be possible.

‘Transferability’ means: 1. The plan holder’s right to transfer, before the payment of the retirement benefits, the value of its individual account to another pan-European pension plan and/or another provider subject to the EPP framework; 2. the provider’s option to transfer to another provider personified records and relevant documentation on the plan holders in the case of termination of the contract creating the plan, liquidation, and reorganization of the provider or withdrawal of the license issued to the provider.

‘Third pillar pension plan’ means any private personal pension plan within the meaning of article 2 (a) of directive 2002/65/EC that is not covered by directive 2003/41 EC or by regulations n°1408/71/EC and n°574/72/EC.

EFR Members and vision statement

EFR's vision

The Members of the European Financial Services Round Table (EFR), Chief Executive Officers and / or Chairmen of leading European insurers and banks, believe that a fully integrated EU financial market, combined with a strong and competitive European financial services industry will lead to increased choice and better value for all users of financial services across the Member States of the European Union. An integrated market will support investment and growth and thus increase the overall competitiveness of the European economy.

The EFR therefore strongly encourages national governments and the EU institutions to commit to creating a truly single market for wholesale and retail financial services in Europe. However the integration of financial markets does not stop at the EU's borders but is increasingly global. EFR Members therefore encourage both national and European leaders to work for internationally consistent financial regulation and supervision and to support and promote free and open markets throughout the world.

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Space for personal notes

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