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The OCERP: a Proposal for a European Personal Pension Product



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1. Executive Summary

Building a regulatory framework for pan-European personal pension products, accessible to all EU citizens, has become an urgent necessity for two main reasons: the funding gap of the existing pension schemes, which is a challenge for the ageing populations of Europe, and the reduced ability of the financial sector to supply long-term financing, which is essential to bring the economy back to sustainable growth. An EU framework for personal pension products can help to respond to both these needs. Built on robust consumer protection rules, such a framework would contribute to regain the trust of European citizens. It would also facilitate mobility within the Union and increase economies of scale, thereby enhancing consumer choice and reducing costs.

EFAMA welcomes the efforts of the European Institutions to develop an EU-single market for personal pension products, and wants to contribute to the debate with a constructive proposal, based on the expertise of the asset management industry in developing investment solutions tailored to the needs of the investors, including for pension purposes.

The concept proposed in the report – the so-called “Officially Certified European Retirement Plan” (OCERP) – is a personal pension product which can be offered by insurance companies, banks, pension funds and asset managers. Unified standards for such product should allow individuals to choose between several investment options, foster well-informed choices, and ensure that providers maintain a robust governance framework and administrative systems. Products that meet these standards could be distributed throughout Europe with an EU passport.

EFAMA proposes the following standards, which are based on robust consumer protection rules:

- Standards for **Investment Options**:
 - Investors should be offered an **adequate choice** of investment options, offering a solution to their specific pension needs, without creating an overwhelming, potentially confusing range of options.
 - Investors should always be offered an **appropriate “default” investment option**, professionally constructed to respond to the needs of the “average” investor, and preferably taking into account the investment horizon.
 - The investor choice should be facilitated with a **clear risk-reward profile** of the options, taking into account the pension-specific investment horizon.
 - Investors should be offered **the possibility to change** their investment option at an acceptable and transparent cost during their investment period.
 - The investment options should be built **using a broad range of existing investment products** such as UCITS and the European Long-Term Investment Fund (ELTIF) recently proposed by the European Commission.
 - The investment options should comply with **the prudent person rule** in terms of risk management, possibly complemented by quantitative investment limits, exclusively inspired by prudential concerns and applied uniformly across the EU.
 - The OCERP could offer options to **protect against investment and biometric risks**.
 - The OCERP should offer a **range of solutions for the payout phase**.

- Standards for **Communication**:
 - OCERPs should be accompanied by clear and consistent **pre-enrolment information**, based on a Key Information Document.
 - OCERP providers should provide easily accessible and comprehensive **reporting**.
 - OCERPs should disclose **all cost items** in a form that individuals can easily understand.

- Standards for **Governance and Administration**:
 - OCERP providers should establish clear and transparent internal **governance rules** on issues such as responsibilities, risk management or complaints handling.
 - OCERP providers should maintain efficient, effective and solid **administrative systems**.

- Standards for **Distribution**:
 - Uniform rules on **advice** should be applied to OCERPs and all other personal pension products, aligned with the EU regulation on advice.
 - OCERPs would create a new market segment for which a **level playing field** among all types of providers would be guaranteed.
 - OCERPs should be **transferable** between providers, and ideally also between Member States.
 - OCERP providers should be able to market OCERPs throughout the European Union with a fully harmonized **passport**.

It is essential that the OCERP gets a fully harmonized passport throughout the EU. That can be achieved with a fully harmonized directive, a regulation or with a so-called 2nd regime. A pragmatic choice should be made as each of the possible solutions has its own legal and technical challenges.

The potential success of the OCERP is not only dependent on its product-specific regulatory framework. Other elements of the legal environment, such as taxation, contract law or even elements of civil law can be important hurdles for the emergence of a single market for personal pension products. This report does not have the ambition to provide clear-cut solutions for each of these issues. But it does propose some possible approaches and a way forward. More work on these issues is certainly needed, and EFAMA will continue its effort to further refine its proposal.

EFAMA hopes that this proposal contributes to the development of pan-European personal pension products, and is available to provide further information to all parties involved.

2. Introduction

The promotion of long-term savings and the strengthening of the European market for pensions have been at the heart of EFAMA's priorities for many years. Several reports were published and conferences were held to contribute to the public debate on the future of pensions in Europe. In this context, EFAMA published in 2010 a report entitled "*Revisiting the landscape of European long-term savings*" identifying a number of recommendations to improve the provision of long-term savings and distribution of investment products for the benefit of investors. This report put forward a proposal to introduce a personal pension product with unified certification standards across Europe, referred to as "*Officially Certified European Retirement Plan*" (OCERP). With this proposal, EFAMA aimed at providing a solution to reduce the fragmentation of the retirement savings market in Europe.

Since the EFAMA report was published, the European Commission has launched its Green and White Papers on pensions, and confirmed that it has become more urgent than ever to develop and put in place comprehensive strategies to adapt pension systems to the current demographic challenges. The Commission recognized, in particular, that "*the Single Market is a key instrument to support pension adequacy and fiscal sustainability*" and that "*we need a more European approach to tackling challenges to pension systems*". It specifically called for an enhanced role of "*complementary private retirement savings*", referring to both "*occupational and third pillar arrangements*". As a follow-up, the Commission has announced that it would take action to contribute to this goal, including initiatives aimed at raising the quality of third-pillar retirement products and optimizing the efficiency and cost-effectiveness of tax and other incentives for complementary private retirement savings.

Following a request from the European Commission, the European Insurance and Occupational Pensions Authority (EIOPA) has recently established a Task Force on Personal Pensions with the mandate to provide technical advice on the prudential regulation and consumer protection rules required to develop an EU Single market for personal pension products. Gabriel Bernardino, the Chairman of EIOPA, strongly supports this initiative and called for the development of an "*EU retirement product*".

Long-term investing is another area where the European Commission is very active, the goal being to find new funding to finance long-term investments and strengthen the growth of the European economy.

In light of this rapidly evolving EU agenda, EFAMA has decided to contribute further to the public debate on pensions and long-term investing by revisiting the OCERP concept with a view to providing a template for the creation of an EU personal pension product. EFAMA strongly believes that the creation of such product would give a new impetus to the pensions industry to realize efficiency gains and play a supportive role in channeling retirement savings towards long-term investments.

Whilst recognizing that differences in Member States' prudential requirements and tax arrangements will hinder the emergence of a single market for personal pension products, EFAMA

fully supports the efforts undertaken by the European authorities to assess the challenges to be addressed and to find appropriate solutions. The present report aims to shed light on essential elements of a regulatory framework for personal pension products. EFAMA will continue to explore in further detail certain aspects of this framework and will share its findings in the most appropriate manner to contribute further to the work of EIOPA and the European Commission on personal pension products.

This report is structured as follows.

Section 3 discusses pensions in the broader context of Europe's challenges in the area of pensions and long-term investments.

Section 4 develops the key standards that a European personal pension product could have in order to be certified as an OCERP and sold throughout Europe. These standards are based on the main findings of behavioral economics, on EIOPA and on the OECD recommendations in the area of pensions.

Section 5 highlights that there are already pension products around Europe with similar features to the OCERP. The analysis is based on EIOPA's database published in April 2013.

Section 6 discusses different approaches to create a specific EU legislative framework for the OCERP.

Section 7 discusses the hurdles in the development of an OCERP, focusing on the differences between national pension laws and the lack of tax harmonization. We argue that the hurdles are not an obstacle for developing a proposal for the creation of a European personal pension product.

Section 8 highlights the benefits that the creation of an OCERP would bring to the European economy, its citizens and the pension industry.

In section 9, EFAMA reaffirms its strong support for the current initiatives at EU level related to personal pension products and long-term investment, with the expectation that the OCERP may bring a valuable contribution to the current policy dialogue.

3. An Essential Project

3.1. Introduction

National pension policies are increasingly becoming a matter of EU concern. The urging need to consider pension systems in a comprehensive manner is seen as a result of the interlinkages of financial markets, regulation, labour markets, government finances and demographic trends. In Europe, the statutory pension reforms undertaken by Member States, the transition into retirement of the baby-boomers and the trends towards increased life expectancy challenge the building up of adequate pension income and enhance the need to build up safe complementary retirement savings.

Another problem that is worrying EU policy-makers is the growing need for long-term investment¹ in Europe to stimulate stronger and sustainable long-term growth.

The goal of this section is to discuss the pension challenges, the long-term financing gap and the current work that is being developed at global and European level. We argue that a European personal pension product would foster the European pensions market and strengthen the foundations for long-term growth with additional long-term investment.

3.2. An increasing pension gap in Europe

According to the 2012 Ageing Report, a drop of 18% is expected in public pension replacement rates at the aggregate EU27 level. This reflects the impact of changes such as higher pensionable ages, longer required contributory periods or the introduction of life expectancy factors in public pension benefit formulas. The decline in replacement rates will reduce pressures on the public pension systems. It will also have a negative effect on pension adequacy if the fall in replacement rates is not offset by the strengthening of occupational and personal pension savings.

Pension income derives primarily from first-pillar public schemes financed mainly on a “pay-as-you-go” (PAYG) basis. Presently, privately managed funded pension schemes play a significant complementary role in pension provision only in a few Member States².

As the European Commission has recognized in its White Paper on “*An Agenda for Adequate, Safe and Sustainable Pensions*”, the buildup of safe complementary retirement savings is one of the policy orientations for making pensions adequate and sustainable in the long-term.

In 2010, Aviva released a study where it quantifies the pension gap across the European Union³. Its research shows that European citizens must find an additional €1.9 trillion in savings every year to

¹ According to the Commission’s Green Paper on the “*Long-term financing of the European Economy*”, “*Long-term investment is the formation of long-lived capital, covering tangible assets (such as energy, transport and communication infrastructures, industrial and service facilities, housing and climate change and eco-innovation technologies) and intangible assets (such as education and research and development) that boost innovation and competitiveness*”.

² “*Pension adequacy in the European Union: 2010-2050*”, European Commission, May 2012.

fully close the pension gap, which is the equivalent of 19% of 2010 GDP for the EU⁴. At the individual level, Aviva estimates that some people will need to save EUR 12,000 each year to fully close their pension gap. These findings confirm those of the OECD which show that for the 11 OECD countries analyzed as a whole, the replacement rate from mandatory pensions is 40.6% for average earners, which implies a pension gap of 18.2% on average⁵.

3.3. An increasing long-term financing gap

The long-term financing gap, which reflects the financial crisis impact on investments and lending from the public sector and banks, has also become a major concern for policy makers.

According to the Group of Thirty, investors must increase their volume of long-term financing in the world's biggest economies by USD 7.1 trillion by 2020 or risk a global slowdown⁶.

The Financial Stability Board (FSB) has also prepared a report to the Group of Twenty (G20), assessing the effect of the G20 financial reform programme, such as regulatory and accounting frameworks, on the availability of long-term investment finance⁷. One of the FSB conclusions is that the reforms alter the incentives of different types of financial institutions to support long-term investments. The FSB will continue its monitoring of the financial regulatory factors affecting the availability, cost, time horizon and other terms of long-term finance.

Other international organizations will be contributing to the G20 work in this area. The International Monetary Fund is preparing a note on the role of international capital markets, banks and foreign direct investment in long-term finance; the World Bank is preparing notes on the roles of local currency bond markets and official sources of non-concessional financing in long-term finance, and the OECD launched an "*Institutional Investors and Long-Term Investment Project*" where it is working on the role of institutional investors, corporate finance and commercial banks in providing long-term financing for growth and development as well as on structural impediments in advanced and emerging market economies to the provision of long-term financing (FSB, 2013).

At European level, the European Commission has engaged in a number of initiatives to foster new sources of financing long-term assets, which could boost growth and create sustainable jobs. Long

³ In Aviva's report, the pensions' gap shows the difference between the pension provision that people retiring between 2011 and 2051 will need for an adequate standard of living in retirement and the pension amount they can currently expect to receive, expressed as an annual amount. Study available here: http://www.aviva.com/data/report-library/Mind_the_gap_regional_uk2010.pdf.

⁴ This assumes a 70% replacement rate as an adequate level for standard of living in retirement and a 5% return on investments in pension funds.

⁵ OECD (2009): "*Filling the Pension Gap Coverage and Value of Voluntary Retirement Savings*". OECD calculates the size of the pension gap, taken as the difference between the replacement rate from a country's mandatory pension system and the OECD average (58.7%).

⁶ G30 report available here: http://www.group30.org/images/PDF/Long-term_Finance_lo-res.pdf. The biggest economies considered are: Brazil, China, France, Germany, India, Japan, Mexico, the United Kingdom, and the United States. "*Long-term financing*" refers to the provision of long-dated funds to pay for capital-intensive undertakings that have multiyear payback periods.

⁷ FSB Report on "*Financial regulatory factors affecting the availability of long-term investment finance*" available here: http://www.financialstabilityboard.org/publications/r_130216a.pdf.

term finance is relevant for the delivery of EU 2020 objectives, as it concerns the ability of financial markets to complement the contribution by the public sector towards reaching those objectives.

In this context, the Commission published in March 2013 a Green Paper on “*Long-Term Financing of the European Economy*” with a view to launching a wide debate on the ability of the financial system to channel savings towards the financing of projects and businesses with long-term planning horizons.⁸ One major issue is how long-term investment is to be financed in an environment where the banking sector is undergoing a period of deleveraging and where government policies are severely constrained by excessive fiscal deficits and public debt.

As a first concrete follow-up action, the Commission released in June 2013 a proposal for a regulation on European Long-Term Investment Funds, or ELTIF.⁹ This is a new type of investment fund that would allow investors to put money into companies and projects that need long-term capital.

3.4. Action needed at EU level

The goals of adequate pensions and sustainable long-term investments are increasingly becoming a matter of common concern. The European authorities could contribute to achieving these goals by promoting the creation of a European personal pension product. By offering better opportunities for complementary and cost-efficient private retirement savings, such pension product would enhance the adequacy of pension provision. It could also help channel retirement savings towards long-term investments.

The European Commission could contribute to close both the pension gap and the long-term financing gap by linking its initiatives on long-term financing and ELTIF to the work undertaken by EIOPA in the field of personal pension products.

⁸ See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52013DC0150:EN:NOT>.

⁹ See http://ec.europa.eu/internal_market/investment/long-term/index_en.htm#maincontentSec1.

4. EFAMA’s Proposal for a European Personal Pension Product

4.1. Introduction

While the creation of a European pension product should ideally allow raising savings through both the occupational and personal pension products, the existing differences in national labor and social laws regulating occupational retirement schemes represent a major hurdle to the creation of a European occupational pension product. This is why EFAMA proposes to achieve, at least initially, an EU-single market for personal pension products. This objective could be made possible by defining the standards that a personal pension product would have to comply with to be authorized for cross-border distribution.

EFAMA believes that the goal should not be to redefine standards for all existing personal pension products at national level, but to create a “*European brand*” of personal pension products that could be distributed on a cross-border basis. We will call this product “*Officially Certified European Retirement Plan*” (OCERP) in reference to the name proposed in the report published by EFAMA in 2010 on the landscape of European long-term savings.

We will start by presenting the OCERP and its framework. The following section proposes a number of standards for the OCERP, which are based on the principles of consumer protection and good governance, taking into account good practices identified by EIOPA, academic research in the domain of pensions and OECD’s recommendations. The subsequent sections shed more light on how the OCERP could work from the perspective of a holder and a provider.

4.2. What is the OCERP?

The OCERP is a European personal pension product offering a limited number of investment options, an administrative support platform and professional advice. The OCERP targets European households who want to save more for their retirement and benefit from available tax advantages. As a personal pension product, an OCERP possesses the following features:

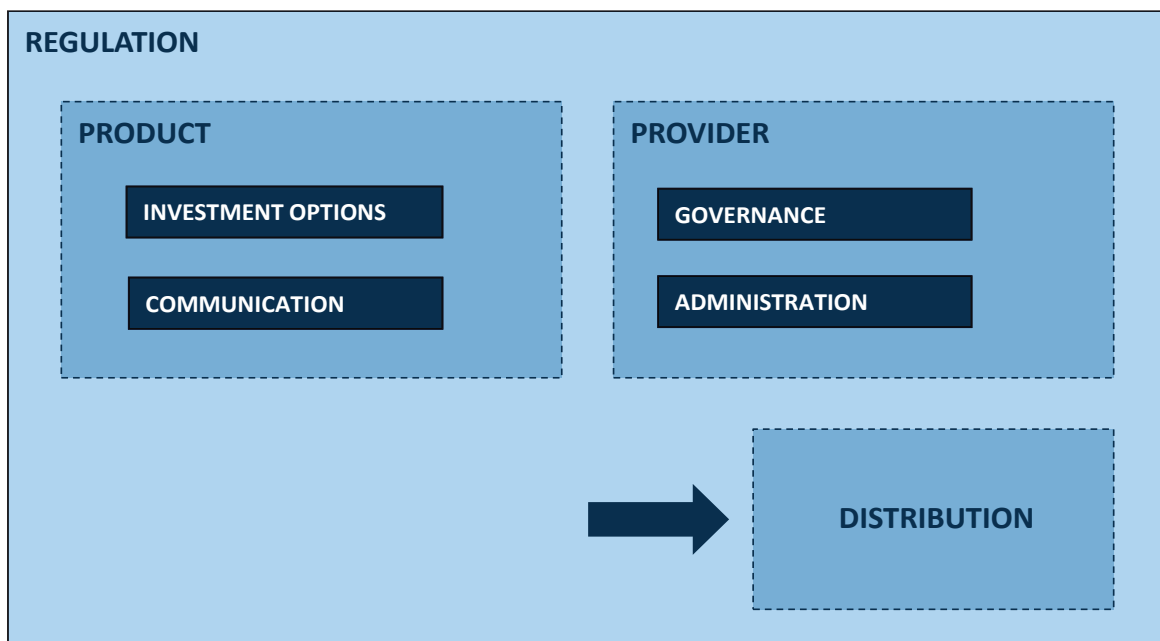
- **Individual membership:** Individuals decide voluntarily to subscribe to an OCERP and determine key aspects to their participation, in particular regarding the contribution level, the investment option and the payout solution at retirement.
- **Individual account:** OCERPs are financed by contributions paid to an individual account by OCERP holders themselves or by third parties on their behalf.
- **Retirement objective:** OCERPs are primarily designed to provide a source of retirement income which complements other sources.
- **Tax treatment:** OCERPs benefit from the available tax benefits that are applicable to other personal pension products available at national level.

- **Provider:** OCERPs are managed by private financial institutions.
- **Funding:** all OCERPs are funded.
- **Certification:** The national regulatory body that has the authority to authorize personal pension products awards the OCERP status to the personal pension products that comply with the agreed OCERP standards that are described in the next section. Once certified in one member state, an OCERP benefits from an EU passport and its provider is allowed to market it throughout the European Union.

4.3. Standards for OCERPs

The chart below illustrates the framework within which the OCERP standards have been developed. This framework distinguishes three levels of responsibilities in the OCERP provision: the product level, the provider level and the distribution level. An EU legislative framework for the OCERP would have to define standards for the certification of an OCERP as a product, for the governance and the administration arrangements that OCERP providers would have to comply with, and for the distribution of OCERPs at national level and across the European Union.

Chart 1: The OCERP framework



The proposed standards for OCERPs are summarized in Table 1, and explained below.

Table 1: Standards for the OCERP

Standards	Rationale
Investment options	
1. Adequate choice	<ul style="list-style-type: none"> - Meeting individuals' risk profile and circumstances - Facilitating individual choice
2. Appropriate default option	<ul style="list-style-type: none"> - Helping individuals unwilling/unable to take financial decisions, taking age into account
3. Clear risk-reward profile	<ul style="list-style-type: none"> - Helping individuals to select an investment option - Providing the basis for categorizing investment options
4. Ability to switch between options	<ul style="list-style-type: none"> - Offering the flexibility and possibility of switching to a lower risk-reward profile over the lifespan of the OCERP
5. Flexibility in underlying products	<ul style="list-style-type: none"> - Using existing investment vehicles to facilitate economies of scale
6. Prudent person rule for diversification	<ul style="list-style-type: none"> - Ensuring investor protection - Leaving space for innovation
7. Ability to offer risk coverage	<ul style="list-style-type: none"> - Reducing individual exposure to investment risk - Offering protection against biometric risks
8. Access to payout solutions	<ul style="list-style-type: none"> - Linking the accumulation and payout phases - Providing a retirement income solution
Communication	
9. Clear and consistent pre-enrolment information	<ul style="list-style-type: none"> - Helping individuals make an informed choice - Facilitating comparability between investment options
10. Accessible annual statements	<ul style="list-style-type: none"> - Providing useful information on a consistent basis - Helping to manage expectations of OCERP holders
11. Full transparency on all costs	<ul style="list-style-type: none"> - Informing OCERP holders - Ensuring fair and transparent competition
Governance	
12. Robust internal and product governance	<ul style="list-style-type: none"> - Clarifying responsibilities - Protecting holders' interests and assets
Administration	
13. Effective and efficient administration	<ul style="list-style-type: none"> - Maintaining comprehensive record-keeping systems - Offering high-quality services
Distribution	
14. Consistent regulation of advice	<ul style="list-style-type: none"> - Giving advice in the best interests of the consumer - Applying uniform rules for all personal pension products
15. Level playing field between different kinds of providers	<ul style="list-style-type: none"> - Fostering competition between providers - Increasing consumer choice
16. Flexibility of transferability between providers	<ul style="list-style-type: none"> - Allowing individuals to change provider - Encouraging people/job mobility
17. EU Passport	<ul style="list-style-type: none"> - Creating a single market for personal pension products - Facilitating cross-border distribution

4.3.1. Standards for Investment Options

Standard 1: Adequate choice

OCERPs should offer a limited range of investment options

The “*OECD roadmap for the good design of DC pension plans*”, which was approved and endorsed by the OECD working party on private pensions, confirms the importance of providing choice between investment options with different risk profiles and investment horizons.¹⁰

Providing choice between investment options can lead to better outcomes: giving individuals the possibility to choose tailored investment solutions that match their preferences and circumstances (e.g. age and wealth), which may be superior to “*one-size-fits-all*” outcomes.¹¹

Still, there is evidence in the literature that giving individuals too much choice concerning their pension investment may be counterproductive, as it adds to the decision-making complexity, increases search costs, and may increase the likelihood of bad decisions when the choice set is too broad and includes products that may not be appropriate for many. There is also a body of research indicating that excessive choice may exacerbate the problem of poor financial understanding.

Concerns about the ability or willingness of individuals to exert choice and make appropriate decisions when it comes to their pensions can be addressed by restricting the range of products in which they can invest. Research studies in the area of behavioral economics also conclude that limiting the number of options can raise participation rates in pension products (OECD, 2007).

Having a limited range of investment options could be a good compromise between a pension product that would impose a single “*one size fits all*” investment solution and one that would offer a large number of investment options. This is because whilst a single option is unlikely to meet in full the risk-return profile of holders, a broad range of options would add complexity to the decision-making. OCERPs should thus provide investment choice, yet be limited.

Standard 2: Appropriate default option

OCERPs should specify an appropriate default option

The problem of choice can also be addressed by specifying a default option for individuals who are unable or unwilling to make an investment choice.

A default option should be designed in a way that it would meet the requirements of those who will typically fallback on the default option.

Ideally, a default option should allow keeping pension investment simple from the perspective of the individual, while allowing some flexibility in allocating investment according to the individual’s

¹⁰ OECD (2012): “*The OECD roadmap for the good design of defined contribution pension plans*”. Report available here: www.oecd.org/finance/private-pensions/50582753.pdf.

¹¹ See “*Defined-contribution pension schemes: Risks and advantages for occupational retirement provision*”, OXERA (2008).

needs. One of the main conclusions from the academic literature is that, in general, it is optimal to have an individual's pension asset portfolio that is relatively high-return and high-risk early on, and to reduce the risk of the portfolio as the individual approaches retirement. Such a life-cycle investment approach may, at the basic level, involve switching the investment portfolio with the individual's age, but can also be structured to take into account other individual characteristics. The goal of the changes in the asset allocation over time is to limit portfolio risks closer to retirement, and avoid the costs of an overly conservative investment during much of the accumulation phase.

The OECD roadmap confirms that DC pension plans should “*consider establishing default life-cycle investment strategies as a default option to protect people close to retirement against extreme negative outcomes*”. Moreover, the OECD considers that life-cycle investment strategies are easier to explain to the public in general and much easier to implement than more sophisticated investment strategies.

Against this background, EFAMA believes the most appropriate default option should be age-dependent and therefore consistent with the goal of reducing investment risk as the holder is approaching retirement. In general, this involves switching the investment portfolio with the holder's age.¹²

Standard 3: Clear risk-reward profile

OCERPs should categorize the investment options according to their risk-reward profiles

Each investment option offered by an OCERP should be categorized according to its risk-reward profile, including a summary indicator of the profile. This standard aims to ensure that individuals are able to understand what the risks are and what they might get back, and to facilitate the comparison between different investment options and different OCERPs.

The risk-reward profile is an important measure that has been included in the European Commission's proposed Regulation on “*Key Information Documents for Investment Products*”.¹³ In this proposal, the Commission has requested that the European Banking Authority (EBA), the European Securities and markets Authority (ESMA), and EIOPA develop draft regulatory standards to determine the methodology underpinning the presentation of the risk-reward profile of the packaged retail investment products to be covered by the Regulation.¹⁴

In its advice to the European Commission on the review of the IORP Directive, EIOPA recognizes that it is in principle important to attribute a risk label to different investment options. It also notes that the presentation of a risk-reward profile for pension products implies an assessment of risk of different investment policies and asset allocations across different time horizons, up to the very long-term. This means that the relative ranking of the investment options may be conditioned to

¹² There are different ways of taking into account the age parameter in the default option's asset allocation. This is certainly an area where further research would be useful.

¹³ Also known as the “*Packaged Retail Investment Products*”, or “*PRIPs*” Regulation.

¹⁴ European Commission's proposed Regulation on “*Key Information Documents for Investment Products*”– Article 8 (6) a.

the time horizon of the holder and may not be an objective characteristic of the option itself.¹⁵ EIOPA concludes on this point by noting that a possibility worth exploring would be to label the investment options according to their investment horizon and not the level of risk.

EFAMA agrees that the risk ranking should vary with time horizons and, therefore, that the methodology supporting the synthetic risk and reward indicator (SRRI) might not be the most appropriate for pension products.

Standard 4: Ability to switch between options

OCERP holders should be allowed to change investment options over the investment period

An OCERP holder can change his investment choice selection at any time during the investment period. Switching is especially relevant in cases where the holder has chosen one specific investment option instead of a default option that already rebalances the portfolio over the investment period by taking age into account. As such, switching should be especially encouraged as the holder is approaching retirement. This could be done through an active communication policy whereby the provider would offer the possibility of switching to a lower risk-reward profile investment option as the holder gets older. Switches between options should be ensured at minimum cost. In case the investment option initially chosen includes less liquid assets/funds, there may be some restrictions and/or administrative costs associated with switches.

Standard 5: Flexibility in underlying products

OCERPs should invest in a selection of underlying investment products

In theory, the investment options offered by OCERPs can be managed as pools of different financial instruments (stocks, bonds, etc.). In practice, it is likely that the investment options will take the form of a single investment product, a group of investment products or an insurance policy. Indeed, it would be more efficient to use existing investment products to generate scale economies in the production of OCERPs.

In principle, the providers should be allowed to choose the underlying investment products which appear to them to be the most appropriate in terms of risk-reward profile, cost and consumer protection. This said, EFAMA also sees merits in the idea that only the investment products benefiting from an EU passport for distribution to retail investors should be eligible so as to preserve the quality and reliability of the European label of an OCERP when being sold cross-border. It would also seem that European Venture Capital Funds and European Social Entrepreneurship Funds should be considered as potential eligible investment products.¹⁶

In addition, the so-called “*European Long-Term Investment Fund*” (ELTIF), which the Commission has proposed to allow both retail and institutional investors to put money into companies and projects

¹⁵ EIOPA’s Advice to the European Commission on the review of the IORP Directive 2003/41/EC, 15 February 2012 (page 499).

¹⁶ The EU regulation provide all managers of qualifying European Venture Capital Funds and European Entrepreneurship Funds with a European marketing passport for selling to professional clients or to retail investors who commit at least EUR 100,000.

for the long-term should be considered as an eligible product for OCERPs. An individual with a long-term investment horizon should indeed be allowed to choose an investment option including an ELTIF to benefit from the illiquidity premium that may be associated with this type of investment. OCERPs would thus help channeling retail savings towards this new type of investment funds.

Standard 6: Prudent person rule for diversification

OCERPs should invest in accordance with "prudent person" rule

The investment rules for the OCERP should take into account that any restrictions being applied individually by Member States would restrict the ability of creating a truly European market for personal pension products. Furthermore, regulations that strictly limit investments may enforce holdings of a portfolio below the efficient frontier in terms of risk and return optimization. Quantitative rules tend to focus on the risk of individual assets and fail to take into account the fact that, at the level of the portfolio, risk can be reduced through diversification.

This is why it is proposed that the OCERP's investment options be defined and managed according to the "*prudent person*" rule. This means, in particular, that the assets should be invested in the best interest of OCERP holders, in such a manner as to ensure the security, quality and profitability of the portfolio as a whole. They should be properly diversified in a way that avoids excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole. In addition, there should not be a mandatory minimum level of investments in certain asset classes because, as EIOPA has recently noted, "*any preferential treatment of a certain asset class might result in a build-up of risk concentrations in the sector, with the associated higher level of systemic risk*".¹⁷

Should there be any quantitative investment rules, these should be justified from a prudential point of view and Member States should not be allowed to lay down more detailed rules at the national level.

Standard 7: Ability to offer risk coverage

OCERPs could offer options to manage investment risk and biometric risks

Capital or investment guarantees could be offered by OCERP providers as an element of some investment options. However, it is important to acknowledge that whilst any minimum capital/return guarantees limit the shortfall risk that may result from financial market volatility, they also limit individuals' upside potential returns. The cost in terms of foregone returns and, hence, lower retirement wealth accumulation, can be particularly significant if the guarantee is used throughout the entire or most of the pension accumulation phase. So there is an important trade-off that the individual should take into account between loss mitigation and its cost.

An OCERP could also propose the coverage of certain biometric risks such as death and disability. This could be achieved either through an insurance contract made in parallel to the OCERP's

¹⁷ EIOPA: "*Discussion paper on Standard formula design and calibration for certain long-term investments*", 8 April 2013.

investment options, or as an element embedded in one investment option. These types of biometric risk coverage could be insured at the beginning of the accumulation phase.

Standard 8: Access to payout solutions

OCERPs should offer a range of solutions for the payout phase

At the end of the accumulation period, when the OCERP holder reaches the retirement age, different payout solutions could be offered in accordance with the existing requirements of Member States.

Different types of payout solutions should be allowed¹⁸:

- Annuities, which offer protection against longevity risk but tend to deprive the retiree of bequests, control over assets and flexibility in the use of accumulated assets.
- Lump-sums, which provide a one-time payment for the total value of the accumulated capital in the pension product.
- Phased drawdown plans, which provide periodic payments in a certain pre-defined pattern, allow for greater flexibility and control over assets and bequeathing part of the assets to a beneficiary.
- Payout solutions combining lump-sums, annuities and drawdown plans, which provide a balance between protection against longevity risk and liquidity/flexibility.

Payout options such as annuities or integrated payout solutions could either be offered as a stand-alone contract at the end of the accumulation phase or as part of an integrated solution when signing the contract with an insurer provider.

Depending on the payout option chosen by the OCERP holder, OCERP holders may be offered to keep their OCERPs open during the payout phase, as would be the case for phased drawdown plans or integrated payout solutions. In such cases, the investment process would go beyond the individual's retirement date. Otherwise, the OCERP contract would end when the holder goes into retirement.

¹⁸ For more information on investment strategies for payout solutions, please refer to EFAMA's report published in 2009: "*Rethinking retirement income strategies - How Can We Secure Better Outcomes for Future Retirees?*". The report can be downloaded from: http://www.efama.org/Publications/Public/Long-Term_Savings_and_Pension_Steering_Committee/Maurer_Rapport.pdf.

4.3.2. Standards for Communication

Standard 9: Clear and consistent pre-enrolment information

OCERPs should be accompanied by a Key Information Document (KID)

EFAMA strongly agrees that improving transparency in the investment market for retail investors, including in the market for personal pension products, is a vital strategy to rebuild confidence on a sound basis. We also agree that the KID is an essential tool to strengthen the transparency of the pre-enrolment information that should be presented in order to help individuals to make sensible decisions about OCERPs. This is also an essential element of investor protection, especially given that individuals bear the investment risk. A common EU standard for KIDs is also important to make comparisons between OCERPs authorized in different countries easier, and therefore facilitate the cross-border distribution of OCERPs.

According to the PRIPs proposal, the KID of a packaged retail investment product should cover the following essential elements: the identity of the product and its manufacturer, the nature and the main features of the product, including whether the investor might lose capital, its risk-reward profile, costs and past performance as appropriate. Ultimately, under the current scope of the proposal, OCERPs will have to comply with the requirements for the KID for personal pension products that will be adopted at the European level, with the understanding that an OCERP might have to offer a KID per investment option.

Taking account of the behavior of Max, who is an average European DC scheme member framed in EIOPA's "*Good practices on information provision for DC schemes*"¹⁹, information provision in the field of pensions can be significantly improved by making use of insights from behavioral economics. Max is more likely to process and use information if it is offered in a way that fits his ways of thinking and making financial decisions. EFAMA believes that the insights provided by EIOPA could help frame pension products' information requirements in a way that attention is paid to the format, the structure and the information in such a way that it is clear to individuals how they should "*use*" the information to make an informed financial decision.

Standard 10: Accessible annual statements

OCERP providers should provide on-going information to OCERP holders

Holders of an OCERP should receive information on an annual basis. The elements that should be included in the statements could be inspired by EIOPA's advice on the review of the IORP Directive, and cover: (i) an accrued balance that indicates the total amount of pension savings that holders have accumulated in their OCERPs, (ii) the performance achieved in the previous year, and (iii) a summary of the fees/charges levied.²⁰

¹⁹ EIOPA (2013): "*Good practices on information provision for DC schemes*". Report available here: https://eiopa.europa.eu/fileadmin/tx_dam/files/publications/reports/Report_Good_Practices_Info_for_DC_schemes.pdf.

²⁰ EIOPA's Advice to the European Commission on the review of the IORP Directive 2003/41/EC, 15 February 2012 (page 503).

Standard 11: Full transparency on all costs

OCERPs should disclose all cost items in a form that individuals can easily understand

The costs and associated charges of the OCERP are of vital importance for prospective holders and should be fully disclosed to support an individual to make sensible decisions about OCERPs and compare different OCERPs. Information should comprise all items and arrangements whether they are (i) direct or indirect, (ii) one-off or recurring, (iii) at the time of enrolment, in the holding period, or at the end of the saving period.

The OCERP provider should formally reconfirm all costs of the OCERP to holders annually in an itemized statement in order to keep them informed throughout the different phases of the contract.

4.3.3. Standards for Governance

Standard 12: Robust internal and product governance

OCERP providers should establish a robust governance framework

While a comprehensive analysis of OCERP governance is beyond the scope of this report, it is worth highlighting some specific governance aspects that are particularly relevant to ensure that the OCERP providers offer the highest level of investor protection to the savings accumulated in OCERPs.

Identification of responsibilities

The OCERP provider should be fully responsible for all operations vis-à-vis the OCERP holders and the regulator. It should ensure an appropriate division of responsibilities between the different services providers involved in the operations of such a pension product (asset management, custody, accounting, auditing, etc).

Safety

The underlying investment products in which an OCERP invests should be protected against the provider's potential bankruptcy. In general, this could be achieved thanks to the safeguarding arrangements put in place in the regulatory rules imposed on these products, such as the principle of ownership of the assets by the saver and the requirement to outsource the safe-keeping of UCITS assets to an independent custodian. If the OCERP assets are kept on the company's balance sheet, a ring-fencing mechanism should be put in place to increase investor protection in case of the product provider's bankruptcy.

Adequate Risk Management systems

Risk management systems can be defined as the process designed to provide reasonable assurance regarding the achievement of objectives in terms of: effectiveness, efficiency and resilience of operations; reliability of financial reporting; and compliance with laws and regulations. The process should be continually operating at all levels of the organization, and involve all staff. Internal controls are one part of the overall risk system, which also incorporates a holistic philosophy of

management oversight, risk awareness, separation of functions, communication, external controls, etc. (OECD/IOPS, 2011)²¹.

OCERP providers must have systems in place that will identify, document and manage risks that are likely to have a material impact on the provider, product or outcomes for holders. These systems should be commensurate with the nature, scale and complexity of the pension fund, reflecting the scope and degree of sophistication of its activities.

Complaints handling

Providers must establish effective and transparent procedures for the handling of complaints²² and disputes between providers and OCERP holders, without prejudice for the latter to exercise the right to take legal action. Complaints procedures shall be established in an internal policy which should be defined and endorsed by the senior management, who should also be responsible for its implementation and for monitoring compliance with it. All arrangements for handling complaints and necessary contacts shall be duly mentioned in the contractual information.

4.3.4. Standards for Administration

Standard 13: Effective and efficient administration

OCERP providers should maintain effective and efficient administration systems

The list below provides a non-exhaustive list of aspects of administration arrangements that would need to be covered by OCERP standards.

Record-keeping

Good record-keeping is crucial to the success of the OCERP and the protection of the interests of OCERP holders. Poor records affect the ability of the provider to carry out properly functions like monitoring holders' contributions, investments, administration costs and holders' accounts.

Contract

When an individual subscribes to an OCERP, s/he will sign a contract. The terms of the contract shall be simple, clear and relevant (avoiding an overflow of information), using language that ordinary people can understand (non-technical language) and avoiding the use of jargon.

Information to supervisory authorities

The OCERP provider shall supply the competent authorities with the necessary information about all OCERP business matters relevant for effective supervision.

²¹ OECD, IOPS (2011): "Good Practices for Pension Funds' Risk Management Systems". Report available here: www.oecd.org/dataoecd/19/6/46864889.pdf.

²² For clarification purposes, complaint means a statement of dissatisfaction addressed to a service provider by a person relating to the contract or service he/she has been provided with. Complaints-handling should be differentiated from claims-handling as well as from simple requests for execution of the contract, information or clarification (definition adapted from EIOPA's "Guidelines on Complaints-Handling by Insurance Undertakings", 14 June 2012).

Outsourced services

Before entering into or significantly changing an outsourcing arrangement with third party services providers, OCERP providers should carry out due diligence with a view to: (i) assessing how the arrangement will fit with its organization and reporting structure, business strategy and overall risk profile; (ii) ensuring that the outsourcing agreement allows for effective monitoring and control of its operational risk exposure; and (iii) checking the third party's financial stability and expertise. Thereafter, providers should have adequate internal controls to ensure that outsourced services are managed in accordance with the contract.

Systems failures

Providers must put in place plans to manage unforeseen and significant problems to guarantee business continuity and protect assets. They should consider whether it is appropriate to insure against certain risks, taking into consideration the availability and level of insurance desired, the coverage offered and the cost.

4.3.5. Standards for Distribution

Standard 14: Consistent regulation of advice

Uniform rules on advice should be applied to OCERPs and all other personal pension products

Given that the choice of a personal pension product is one of the most important financial decisions a consumer makes, adequate advice should be provided at the point of sale, avoiding conflicts of interests. The goal is that advice should be honest and unbiased as a general principle, given that the provider always has to act in the best interest of the OCERP holder.

The rules on advice for personal pension products should be harmonized at EU level and should be aligned with the appropriateness and suitability tests established in the Markets in Financial Instruments Directive (MiFID) (Directive 2004/39/EC) and the rules set in the Insurance Mediation Directive (IMD) (Directive 2002/92/EC). As these Directives are being reviewed, EFAMA believes it is good time to ensure both Directives converge on the same rules for all personal pension products.

Standard 15: Level playing field between different kinds of providers

All financial institutions subject to EU prudential rules are potential OCERP providers

Opening the OCERP market to banks, insurance companies, pension funds and asset managers complying with the OCERP standards would foster competition, enhance consumer choice and lower cost.

In this context, it is worth noting that the authorization and supervision of OCERPs should depend on the authority responsible for the supervision of personal pension products. Ideally, the providers should be supervised by the authority competent for their respective business. If it was decided that all OCERP providers should be supervised by the supervisory authority in charge of pension products, a good cooperation between the supervisors of banks, insurance companies, pension funds and asset managers would be required.

Standard 16: Flexibility of transferability between providers

OCERPs should be transferable between providers and countries

OCERP holders should be able to transfer their accumulated capital to another provider irrespective of where the provider is based. Transferability stimulates competition between providers and the mobility of people and jobs in Europe. It must be clear, however, that the realization of these objectives will require commitment from providers and governments at taxation level. To understand this, it is useful to distinguish between two levels of transferability:

- **Level 1: transferability from one provider to another at a country level**

Providers should commit to accept the right of an OCERP holder to change provider at the national level. In principle, this would require liquidating the original OCERP and transferring the proceeds of sale of the assets towards the new one.

Whilst there could be some administrative costs associated with transfers, the administrative costs should be regulated to stop providers from introducing prohibitively excessive charges.

- **Level 2: transferability from one country to another**

Ideally, holders should be able to carry their OCERPs from one country to another. This would help to avoid the dispersion of retirement savings assets across several countries, thereby reducing administrative burden and costs.

This level of transferability will be complicated to achieve when Member States' tax arrangements are different.²³ Yet, providers may be able to offer people the possibility to continue saving into their OCERPs and to handle the taxation issues in their back-office systems. This may be a powerful argument for people to stay with the same provider when they move from one country to another.

Standard 17: EU passport

OCERP providers should be able to market OCERPs throughout the European Union

As acknowledged in the Commission's White paper on pensions, the single market *"is a key instrument to support pension adequacy and fiscal sustainability. There is untapped potential to realize further efficiency gains through scales economies, risk diversification and innovation."*

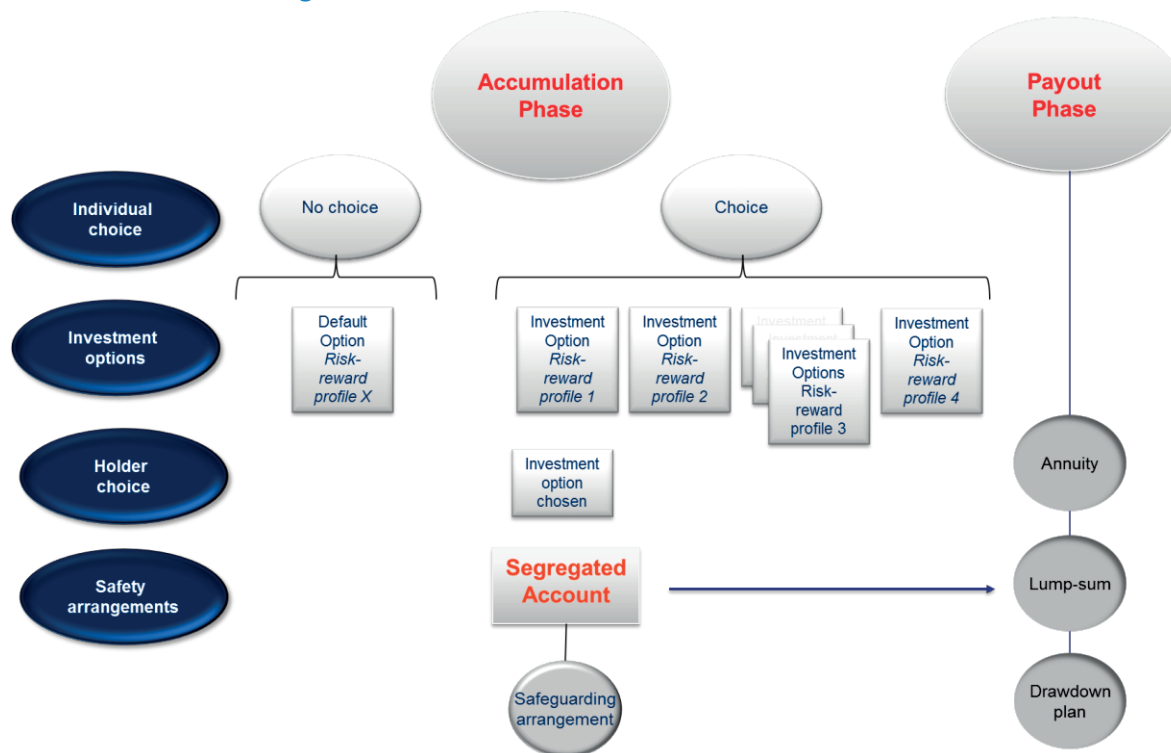
Agreeing on common EU standards for the OCERP and its providers is an important step towards an internal market for retirement provision organised on a European scale. Even if differences in Member States' tax arrangements may prevent the emergence of a true single market for OCERPs in the short term, the granting of an EU passport after a check has been made that all the standards are met, is a necessary step to allow providers market their OCERPs across borders.

²³ See section 7.3 for a discussion on potential tax obstacles.

4.4. Putting the OCERP into perspective

This section describes how an OCERP works from the point of view of an individual, a provider and a supervisor. The chart below summarizes the overall design of an OCERP which is based on the standards previously defined.

Chart 2: The OCERP design



4.4.1 The OCERP from a holder's perspective

We have described below the decision-making process an individual should follow when deciding to invest in an OCERP.

Step 1: choosing a provider

The individual can choose a bank, an insurer, an asset manager or a pension fund that is marketing/managing certified OCERPs. After choosing a provider, there are a number of decisions that a potential OCERP holder must make.

Step 2: opting for a default option or not

The individual shall first decide whether he wants to choose the “*default option*” or opt for a specific investment option.

Step 3: choosing a risk-reward profile

If the individual opts for a specific option, he shall choose the risk-profile that best fits his personal characteristics, in particular his age, risk tolerance, sources of retirement income, and wealth.

Step 4: choosing an investment option

Once the risk-reward profile is selected, the individual shall choose one of the investment options within that category, or (in case only one option is offered per category) consider accepting the single option proposed by that provider within the chosen profile.

Step 5: choosing some insurance coverage

The individual may decide whether he wants to subscribe to an insurance contract to cover some biometric risks.

Step 6: choosing a payout solution

At the beginning or at the end of the accumulation period, the OCERP holder shall choose between different types of payout solutions. In case the individual chooses a payout solution embedded in the chosen investment option, the provider will apply the contract clauses. At the end of the accumulation period, the OCERP holder may opt to search for the most competitive provider for the desired payout option.

Step 7: signing a contract

At the end of the selection process, the individual signs a contract with the provider with the understanding that his contributions will be invested in accordance with the selected investment option. The contract will clarify the legal obligations of the provider and the rights of the holder, in particular with respect to the ongoing information to be disclosed during the accumulation period, the switch between investment options, the costs and associated charges, the transfer of assets from one OCERP to another, the payout solutions, and the termination of the contract.

Step 8: switching between options and providers

During the accumulation phase, the OCERP holder can decide to change between investment options. This change is mostly important when the investment option does not take aging, as an increased aversion to risk, into account thus making the investment option inadequate for a holder that fits this profile. At retirement, the OCERP holder can also decide to remain invested rather than receiving his retirement income. In such cases, the possibility of choosing another investment option for the remaining investment period should also be permitted. During the accumulation phase, OCERP holders can also decide to choose another provider.

4.4.2 The OCERP from a provider's perspective

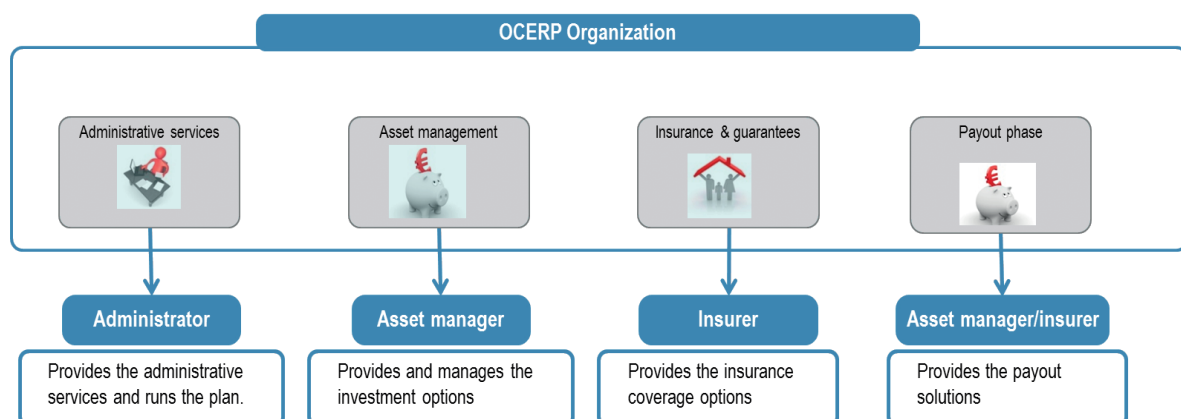
The chart below highlights the key activities around which an OCERP provider could organize its business.

The provider is accountable towards the holders and the supervisory and tax authorities. It must comply with the rules of governance established for the OCERP. Its OCERP business could be organized around four pillars:

- **Administration services** covering the administration of holders' personal accounts and the preparation of communication and reporting procedures;
- **Asset management** covering the management of investment options delegated to asset managers;
- **Insurance and guarantees** covering the provision of insurance coverage during the accumulation period delegated to insurance companies; and
- **Payout solutions** covering the provision and possibly management of the payout options offered by the OCERP.

The OCERP provider can either carry the different activities internally or outsource some of them through contractual arrangements with other parties. For instance, if the OCERP provider is an asset manager, it can outsource the insurance coverage to an insurance company and the administrative services to an administrator. Distribution can also be delegated to intermediaries (financial advisors, insurance mediators) or third parties (same-group companies or other eligible providers).

Chart 3: OCERP organizational chart



5. OCERP-like Personal Pension Products in Europe

This section suggests that the OCERP standards developed in the previous section are consistent with the features of personal pension products available in many Member States. The analysis is based on the database EIOPA published in April 2013.²⁴ From EIOPA's database, we have narrowed our analysis to personal pension plans, according to the OECD and the EIOPA definitions, taking account of DC schemes only. We have also collected data from EIOPA's Survey of EU practice on default investment options, highlighting the key findings in this section.

The goal of this section is twofold: 1) to provide a snapshot of the main features shared by DC personal pension schemes in Europe and 2) to establish a parallel with those defined for the OCERP. We have summarized the statistics collected from EIOPA in the table below.

Table 2: EIOPA Database of personal pension products in the EEA – statistical summary²⁵

Features of personal pension products in the EEA	Statistical Summary	
1. Investment options	Multiple investment options 92%	-
2. Investment risk	Full exposure to risk 84%	At least capital guarantee 16%
3. Type of product	Segregated Assets 60%	Contractual obligation 24%
4. Pay-out solution	Lump-sum 81%	Annuity 57%
5. Governance	No representation / no requirements 78%	-
6. Choice of pension provider	Yes 97%	
7. Applicable law	No EU legislation applicable 41%	Solvency II (2009/138/EC) 38%
8. Distribution channel	Internet – 'predominant' 5%	External Sales Network – 'predominant' 57%
9. Tax incentives	Yes 86%	-

²⁴ EIOPA: "Database of pension plans and products in the European Economic Area (EEA)". 24 April 2013.

²⁵ The universe under scope is only pure DC personal pension schemes, which correspond to 37 existing personal pension schemes. Personal pension schemes that can also be used as occupational schemes and that can take the form of DB, DB contribution-base and DC with guarantee are not covered in the statistical summary.

A number of conclusions can be taken from Table 2.

The first six features refer to structural features of DC personal pension products. The following points can be observed:

- Most products offer multiple investment options, and holders tend to bear investment risk.
- Most products provide a contractual legal claim on a segregated pool of assets (e.g. UCITS-like and unit-linked insurance products with an explicit retirement purpose). One quarter of the products are provided as a contract where the provider undertakes the obligation to pay a certain level of benefits (e.g. an insurance company), being obliged to acknowledge a certain minimum return.
- In the payout phase, most products can provide a lump-sum and more than half can provide annuities. Most products do not have any specific requirements in place for governance with regard to holders' representation.
- A large majority of products enables holders to choose the provider.

The last three features refer to more qualitative aspects of personal pension products. Three points are worth noting:

- A relatively large number of products fall outside the realm of EU law.
- External sales network represent the predominant distribution channel, relying on agents, intermediaries and bank tellers. Although the use of internet is considered "*important*" in 60 percent of the products, in practice, it accounts for 5% as a "*predominant*" distribution channel of the products.
- Most personal pension products benefit from tax incentives.

EIOPA has also collected evidence specifically related to current practice among Member States in the use of multiple investment options, defaults and life-styling. A number of findings are interesting to highlight:²⁶

- **Adequate choice:** DC pension products increasingly allow individual members some degree of choice about how to invest their plan contributions and a fair degree of responsibility for ensuring the optimal asset allocation.
- **Investment options:** in general, on average there are two to five investment options holders can choose from. Only in very few Member States, the number of options to choose from is significantly higher.

²⁶ EIOPA: "*Survey of EU practice on default investment options*". 25 April 2013.

- **Default option:** many DC plans have a default option. Default option is mostly provided voluntarily and only in few cases this is done on legal basis. Life-cycling is still not used in many Member States. The evaluation of the fitness of the default option for the risk/appetite of members is based on interviews at the moment of sale, surveys to evaluate members' knowledge, reasonable expectations and age.
- **Risk-reward profile:** the type of asset allocation strategy seems to be a popular instrument for differentiating between investment options, where asset types and related risks are distinguished.
- **Investment rules:** key principles such as the prudent person rule and asset diversification rules are used in most cases.
- **Providers:** personal pensions with multiple investment options can be provided by insurance companies in ten Member States, investment management companies in five Member States, and pension funds also in five Member States, while IORPs can act as providers in three Member States.

The evidence provided by EIOPA's studies leads us to note two important concluding remarks.

Firstly, there is clearly a degree of diversity of design of pension products among Member States. This highlights the need to agree on common EU rules for personal pension products as a necessary condition to create a new segment of the single market in this field.

Secondly, the key features of existing personal pension products at national level are very much in line with the standards proposed for the OCERP. This finding suggests that the OCERP standards constitute a good basis for the creation of a European personal pension product, where EU consumers would have the same high level of protection and providers would easily operate at cross-border level.

6. An EU Legislative Framework for the OCERP

6.1. Introduction

The adoption of standards for the OCERP should not aim at harmonizing all types of existing personal pension products. That would be an overly ambitious goal. Instead, the aim should be to create a new type of pension product that could be offered to EU citizens in addition to the products that are currently available at national level.

Personal pension products that meet the OCERP standards would be allowed to be marketed across Europe, once certified in one member state. The OCERP would be certified by the national regulatory body which has the competence to authorize retirement products. To allow this certification process to take place, a specific EU legislative framework would be essential to:

- provide a EU passport to the OCERP, by laying down a common framework of rules for a personal pension product to qualify as an OCERP;
- facilitate cross-border activity for the providers, by regulating the conditions under which financial institutions can provide OCERPs across Europe.

The European Commission should decide which legislative form such harmonized rules should take. We provide below some insight into the different legislative tools that could be used.

6.2. An EU passport for the OCERP Product

The rules defining the OCERP as a product could be derived from the OCERP standards outlined in Section 3 and cover in particular the standards for investment and communication.

6.2.1. A Directive

The OCERP standards could be included in a new directive.²⁷ This would ensure that the certification and distribution of the OCERP could be achieved through the principle of “*mutual recognition*”, which is at the heart of the EU passport system. Under this framework, supervisors in the host country must recognize the validity of the prudential supervision that the authorities exercise in the home country of the financial services provider²⁸.

Mutual recognition can be found in the UCITS directive.²⁹ The mutual recognition principle establishes the presumption that services that have been authorised and can be offered without restriction in one member state, should not be subject to further requirements in the other Member States. Adopting this approach for OCERPs would mean adopting a new directive establishing the rules defining the OCERP.

²⁷ Or in a regulation.

²⁸ There are certain exceptions but these must be applied restrictively.

²⁹ See Directive 2009/65/EC of 13 July 2009, in particular article 5 concerning UCITS, article 6 concerning management companies and article 27 concerning investment companies.

6.2.2. A 2nd Regime

The 2nd regime (also known as the 28th regime³⁰) could be an alternative approach to establish an EU framework for the OCERP. Introducing the OCERP in Europe following this approach would require inserting into the national laws of Member States a self-standing legal regime upon which the OCERP contracts would depend.

The 2nd regime would take the form of a regulation so as to guarantee that a set of rules is applied consistently across the EU. Yet, it would not interfere with national law as it is a neutral additional and voluntary legal framework that would co-exist in parallel to it.

In its consultation paper on an *“EU single market for personal pension products”*³¹, EIOPA identifies some advantages of this regime:

- It expands options for businesses and citizens operating in the single market;
- It provides a reference point and an incentive for the convergence of national regimes over time; and
- It enables the development of a single market in parallel with national systems, thus preserving national specificities.

Some drawbacks were also identified by EIOPA:

- The implementation of a 2nd regime might be burdensome for both providers, but especially for supervisors. It would increase administrative costs of supervision because of the need to run two regimes in parallel – a national and a European one;
- A 2nd regime would add to the complexity by introducing another regime, alongside all existing national regimes;
- The development of a 2nd regime is likely to take a long time and no guarantee that it would attract a critical mass of demand from providers and individuals.

³⁰ The 28th regime refers to a regime that would be established in parallel to the regime in place in the 27 countries which were members of the European Union before the accession of Croatia to the European Union. For further information on the 28th Regime please refer to Appendix 2.

³¹ EIOPA/13/241: *“Discussion paper on a possible EU-single market for personal pension products”*, 16 May 2013.

6.2.3. A Directive or a 2nd Regime

EFAMA considers that a directive that would regulate the OCERP would help boosting investors' confidence in the quality of the OCERP and its legal foundation. EFAMA is therefore of the opinion that EIOPA should explore this approach, drawing on the experience accumulated with the UCITS Directive. Should there not be enough support among Member States to agree on a directive to be implemented in national law, we would hope that the 2nd regime would offer a sufficiently simple and manageable framework to create a single market for personal pension products.

6.3. An EU framework for the OCERP Provider

The regulatory requirements for the OCERP providers could be derived from the OCERP standards outlined in Section 3 and cover, in particular, the standards for governance and administration.

Two approaches could be envisaged to regulate the OCERP providers:

- Introduce a specific stand-alone EU prudential regime for the OCERP providers, along the line of the IORP Directive, to ensure providers operate under the same rules.
- Allow insurance companies, asset managers, banks and IORPs to provide OCERPs under the existing EU legislation applicable to these institutions.³²

The first approach would imply that OCERP providers would need to manage OCERPs as a separate entity with a separate governance structure. This would discourage many banks and other financial institutions to become OCERP providers, because of the cost implications.

The second approach would allow insurance companies, asset managers, banks and IORPs to operate as OCERP providers under the existing rules without forcing them to create a separate entity solely dedicated to OCERP provision. This would be the most cost-efficient solution.

³² The existing legislation may need to be adapted, for instance to allow IORPs to operate in the third pillar as OCERP providers.

7. Hurdles to Cross-Border Activity

7.1. Introduction

The lack of tax harmonisation and divergence of existing pension products are frequently considered hurdles that may prevent the creation and the success of a European personal pension product. Whilst recognising that there will be obstacles along the way, this section aims to show that they should not be seen as a reason not to develop a proposal for an OCERP.

7.2. Broad legal and prudential obstacles

Member states have full responsibility for the organization of their pension systems as well as for the decision on the role of each of the “*three pillars*” of their retirement system. Reflecting this situation, most personal pension products fall outside the scope of any EU prudential legislation and tend to differ from country to country. In these circumstances, differences in legal requirements applying to personal pension products, in particular regarding the civil contract law that would have to be complied with, the determination of the competent authority, the treatment of the OCERP assets after the death of the holder, and the application of the law related to creditors’ rights, may require some good will on the part of Member States to remove these obstacles. Still, the difficulties are not insurmountable for the following reasons:

- The social and labor laws governing occupational pension schemes tend to be connected to deeper economic, social and political issues than the laws for personal pension products. This happens notably because the organization of occupational retirement savings is an integral part of the social model in place in many Member States. The discussions on the creation of a European personal pension product should therefore encounter fewer obstacles than if the initiative was extended to occupational pension schemes.
- The degree of divergence between existing personal pension products should not be exaggerated. The OCERP standards are not new to pension systems across Europe. Such standards already exist in Member States, whose personal pension products are very much similar to the OCERP, as evidenced in the following section.
- With regard to consumer protection, especially in what concerns information provision and sales requirements, a number of EU initiatives are currently under development and are expected to bring convergence in market practices. These are the EU investment (MiFID) and insurance (IMD) initiatives. PRIIPs is another important initiative confirming the willingness of Member States to progress towards harmonized practices in the area of information requirement for packaged retail investment products, including personal pension products.

Applying common EU rules that would give a European brand to personal pension products respecting a number of standards would help to overcome these obstacles. It is also likely that the

creation of a European personal pension product would contribute to greater convergence as some Member States might wish to strengthen their national products by adopting some of the standards set for the OCERP. This is what happened after the adoption of the UCITS Directive, which became the text of reference for the regulation of investment funds across Europe, even for funds that are not intended to be marketed across borders.

7.3. Tax obstacles

EIOPA has identified the following issues related to tax in its consultation document on an EU-single market for personal pension products.

- **Contributions paid to foreign personal pension products and benefits received from a foreign provider**

The success of the OCERP will be highly dependent on the tax incentives that will be offered to stimulate citizens to save in such pension products. At a minimum, Member States should grant the best available tax benefits that are applicable to local personal pension schemes at national level. Domestic tax relief should also be granted to foreign providers in order to avoid unjustified discriminatory treatment on the basis of nationality.

We also consider that discrimination of foreign providers in the context of payment of benefits would be held to violate EU primary law. Thus, we agree with EIOPA that these tax obstacles seem to be eliminated to the extent that Member States cannot discriminate against foreign providers. Indeed, a number of cases have been brought before the Court of Justice of the European Union (CJEU), who has decided that certain Member States were violating EU primary law³³.

- **Investment income paid to foreign personal pension products**

Investment income paid to foreign personal pension products may suffer a differential treatment as compared to domestic personal pension products. However, as confirmed by the CJEU³⁴, this constitutes discrimination on the basis of nationality which is inconsistent with the free movement of capital. Hence, we agree that this tax obstacle seems to be eliminated to the extent that Member States cannot discriminate against foreign providers.

- **Transfer of accumulated capital**

When a transfer of accumulated capital from a personal pension product in one Member State to one in another member state is subject to the withholding tax in the exiting member state, there is discrimination if domestic transfers are tax free.³⁵

If domestic transfers are taxed, the member state is free to levy an exit tax. Double taxation may then occur if the Member State to which the transfer is made charges an entry tax on

³³ Case C-150/04 Commission v Denmark.

³⁴ Case C-493/09 Commission v Portugal.

³⁵ Case C-522/04 Commission v Belgium.

transferred capital. In these cases, this double taxation could be a disincentive to both providers and individuals from making the transfer.

- **Differences in national tax arrangements**

In general, the differences in Member States' tax treatment of personal pension products may lead to double taxation or non-taxation. For instance, the transfer of accumulated capital from a member state with a TEE system (Taxed contributions, Exempt investment income and capital gains, Exempt benefits) to a Member State with a EET system (Exempt contributions, Exempt investment income and capital gains, Taxed benefits) can lead to double taxation. Preventing double taxation or non-taxation would require harmonization of tax treatment of personal pension products across Member States, or revision of existing tax treaties.

One important aspect to take into account when referring to the hurdles related to taxation is the fact that the Commission is currently working on them. The Commission acknowledged, in its white paper on pensions, the important role taxation plays in stimulating complementary retirement savings. In this context, the Commission has launched two initiatives on which it is currently working³⁶:

- First, it will assess and optimize the efficiency and cost-effectiveness of tax and other incentives for private pension savings, by cooperating with Member States following a best practice approach; this will include better targeting of incentives on individuals who would otherwise not build up adequate pensions.
- Second, it will investigate whether certain tax rules in the area of pensions present discriminatory tax obstacles to cross-border mobility and cross-border investments, and initiate infringement procedures, where necessary.

EFAMA strongly supports the ambition of the European Commission to eliminate the tax obstacles in the pension area. Clearly, achieving full tax harmonization would eliminate an important obstacle to the creation of an effective single market for personal pension products. The lack of tax harmonization limits, indeed, the advantages that the OCERP would bring to mobile workers in Europe. Yet, this shouldn't hold back the European authorities from proposing the creation of a single market for personal pension products, for two main reasons:

- Firstly, providers should be able to handle the taxation issues and offer people the possibility to continue saving into their OCERPs when they move between certain countries.
- Secondly, the creation of an OCERP would benefit non-mobile EU citizens as it would introduce an additional personal pension product to choose from, thereby fostering competition in national markets and reducing costs.

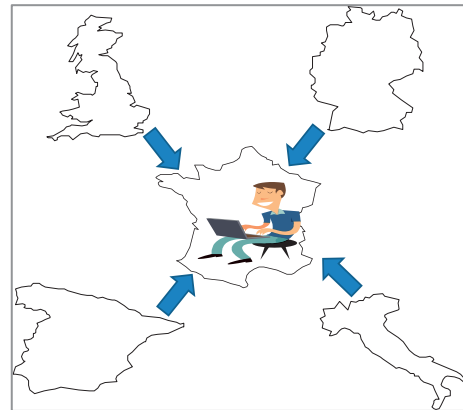
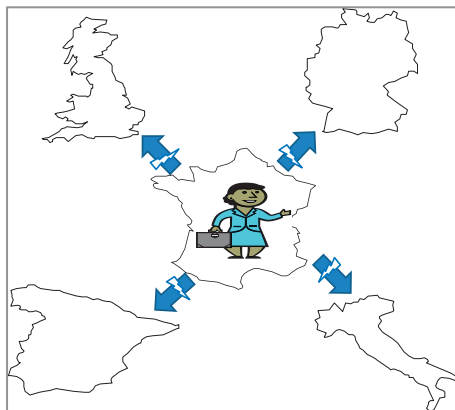
³⁶ See initiatives (9) and (18) from the White Paper.

The figures below try to highlight the last point. The left-hand-side figure tries to suggest that an OCERP holder may not be able to transfer easily its accumulated capital when moving to another country because of differences in tax regimes and double taxation.

The right-hand-side figure suggests that the agreement on common standards for the OCERP would convince financial institutions to market their OCERPs across borders, given the fact that the same OCERP could be offered in different countries.

Thus, even if tax obstacles are likely to hinder transferability of OCERPs between countries, at least in the short term, the creation of an OCERP would still allow for the development of a single market by facilitating the cross-border supply of pension products, thereby enhancing consumer choice and reducing costs.

Chart 4: Transferability of OCERPs



8. Benefits of the OCERP

8.1. Introduction

Even if the OCERP will only represent a first step to an internal market for personal pension provision organized on a European scale, EFAMA believes that its creation will bring significant benefits to the European economy, its citizens and the pension industry.

8.2. Benefits for the European economy

Financing long-term investments

In an economic and regulatory environment that hinders governments' capacity and institutional investors' incentives to invest in long-term assets, the OCERP would contribute to reduce the long-term financing gap by channeling retail investors' retirement savings towards long-term investments, thereby contributing to higher growth and job creation.

Retirement savings is an important source of patient capital in the sense that it can be invested with no expectation of turning a quick profit given the usually associated long lock-up periods (usually until the individual reaches the normal retirement age). The OCERP would stimulate the demand for ELTIFs, thereby creating the conditions for individuals to direct their savings towards the financing of small and medium enterprises (SMEs), social enterprises and startups, of course in the context of well-diversified investment options.

8.3. Benefits for EU citizens

Achieving cost-effectiveness

OCERPs cross-border selling activity would have positive implications at national level. It would increase competition among purely national personal pension savings providers and OCERP providers, which would make existing domestic pension products more attractive and less costly.

Providing an adapted retirement option

The OCERP takes into account behavioral economics findings regarding the need to provide a limited number of investment options in order to avoid choice overload and declining participation rates. And the default option offered by OCERPs would help addressing the well-known problem that many individuals are unable or unwilling to make an active investment decision.

Securing quality and transparency

The proposed high standards of transparency, consumer protection, cost-efficiency and ideally portability would associate the OCERP with a recognized high-quality EU label. This could be an important first step towards a single market for personal pensions, just like the UCITS Directive has successfully led to the creation of a single market for investment funds.

Facilitating portability

Even if an OCERP will face some obstacles that will hinder its portability and transferability between countries, it would still represent a strong benefit for all EU citizens buying pension products in their own countries, as explained above. Furthermore, the transferability of OCERP assets between providers within the same Member State and the portability of OCERPs between different Member States using the same provider could be encouraged to the fullest extent possible.

Reconnecting Europe with its citizens

The creation of the OCERP should be considered as a positive response of European leaders to overcome the current fragmentation of the European pensions market and thus facilitate job mobility and enhance cost-efficiency and product choice in this market.

8.4. Benefits for the pension industry

Cross border activity

The creation of an OCERP would allow providers to sell the same product across Europe targeting both mobile and non-mobile citizens. Considerable economies of scale could be achieved if one provider could manage from one country one product being sold in several Member States.

Empowering business

The lack of harmonization of tax rules would not hinder the possibility that a provider distribute the same OCERP in different countries. On the contrary, the creation of the OCERP would encourage many banks, insurers and asset managers to expand their product offering, building on their respective business models and taking advantage of the EU-wide passport of their OCERP and its potential scale across Europe. Also, identical rules across the EU for the OCERP and its provider will help create a level playing field for all pension market participants, thus fostering competition, innovation and cost-effectiveness.

- **Banks**

Developing a capacity to provide OCERPs is comparable to offering private banking services which incorporate financial planning, investment portfolio management and a number of aggregated financial services. However, whilst private banking tends to be offered to private individuals who invest sizable assets and demand a high level of customized services, the OCERP could be offered by retail banks as an additional customer service.

From this perspective, creating the OCERP can be seen as an initiative aimed at extending private banking services to mass-market retail banking. Private individuals would receive a level of customized services, including advice on the investment options and payout options available, assistance on the tax treatment of their contributions and regular information about performance. In principle, banks should be able to offer this level of services in a cost efficient way thanks to the degree of standardization of OCERPs.

- **Insurers**

Insurers could easily use their experience to offer life insurance and unit-linked policies as investment options under an OCERP. Insurers would have a competitive advantage in

developing OCERPs providing an integrated coverage of biometric risks and/or payout solutions, such as annuities. In this regard, it is likely that insurers would also cooperate with banks and asset managers helping them offering investment options that include insurance components.

- **Asset managers**

Given that OCERPs are retirement savings products, asset managers would have a prevailing role to the success of the OCERP by offering its providers the underlying investment products and managing the investment options.

It is likely that some asset managers would opt for a provider status whilst relying on banks, insurers and other financial intermediaries for the distribution of their OCERPs. Indeed, distributing OCERPs would require establishing a personal relation with private individuals. The most natural way of doing that is by establishing local branch offices. The fact remains, however, that not many asset managers in Europe have developed a B2C (business-to-consumer) distribution network. Furthermore, asset managers interested in distributing OCERPs would have to extend their services capability with regard to administrative and on-going reporting requirements to the OCERP holders.

9. The way forward

In July 2012, the European Commission asked EIOPA to deliver an advice on which legislative changes are needed in the areas of prudential law and the protection of personal pension products in order to create a single market for these products. In parallel, the Commission has launched an initiative on improving consumer protection in the area of third-pillar retirement products through voluntary codes coordinated at the EU level and possibly an EU certification scheme.

In response to the Commission's request, EIOPA has launched a Task Force to provide an advice on how to create a single market for personal pension products. EIOPA is expected to deliver later this year a preliminary report outlining issues and options in order to receive a more specific request from the Commission.

EFAMA strongly supports the Commission's initiatives in the field of personal pensions and hopes this report will provide useful input to both EIOPA and the Commission in assessing the best approach to create a new segment in the single market.

Whilst Member States should retain full responsibility for the organisation of their pension systems, it should be possible for Member States to endorse the goal of creating a European personal pension product to contribute to the overall goal of securing the future adequacy and sustainability of pensions in Europe. EIOPA and the Commission have a crucial role to play in leading this project. The success of UCITS as a savings product with a worldwide reputation confirms that Europe can be at the leading edge in the creation of retail savings products with robust protection standards.

The long-term nature of retirement savings – both in terms of investment period and limited liquidity – should constitute a strong motivation to ensure that the creation of an EU framework for personal pension products would indeed contribute to channel retail investors' savings towards long-term investment and the proposed European Long-Term Investment Funds. It would therefore be useful if EIOPA and the Commission could take account of this objective in their assessment of the different policy options being considered for the creation of a European Personal Pension Product.

APPENDIX 1: Terminology³⁷

Accumulation phase – Period during which contributions are made and invested in a retirement savings product.

AIF – 'Alternative investment fund' means any collective investment undertaking, including investment compartments thereof whose object is the collective investment in assets and which does not require authorisation pursuant to Article 5 of Directive 2009/65/EC.

Annuity – A form of financial contract mostly sold by life insurance companies that guarantees a fixed or variable payment of income benefit (monthly, quarterly, half-yearly, or yearly) for the life of a person(s) (the annuitant) or for a specified period of time. It is different than a life insurance contract which provides income to the beneficiary after the death of the insured. An annuity may be bought through installments or as a single lump sum. Benefits may start immediately or at a pre-defined time in the future or at a specific age.

Asset management – The act of investing the pension fund's assets following its investment strategy.

Biometric risks – Risks linked to death, disability and longevity.

Custodian – The entity responsible, as a minimum, for holding the pension fund assets and for ensuring their safekeeping.

Decumulation phase – Refer to **Payout phase**.

Defined Benefit (DB) pension scheme – Pension schemes where the benefits accrued are linked to earnings and the employment career (the future pension benefit is pre-defined and promised to the holder). It is normally the scheme sponsor who bears the investment risk and often also the longevity risk: if assumptions about rates of return or life expectancy are not met, the sponsor must increase its contributions to pay the promised pension benefit. DB pension schemes tend to be occupational schemes.

Defined Contribution (DC) pension scheme – Pension schemes where the level of contributions, and not the final benefit, is pre-defined: no final pension promise is made. DC schemes can be statutory, occupational or individual/personal: contributions can be made by the individual, the employer and/or the state, depending on scheme rules. The pension level will depend on the performance of the chosen investment strategy and the level of contributions. The individual therefore bears the investment risk and often makes decisions about how to mitigate this risk.

EET system – A form of taxation of pension products, whereby contributions are exempt, investment income and capital gains of the pension fund are also exempt and benefits are taxed from personal income taxation (TEE system and ETE system revert the order of exemption and taxation).

³⁷ Terminology adapted from the IORP Directive (2003/41/EC), the European Commission Green Paper "Towards adequate, sustainable and safe European pension systems" (COM (2010)365), the Council Directive 98/49/EC, Viceira (2007), WEF (2011) and OECD (2005): "Private pensions: OECD classification and glossary", "The 2012 Ageing Report", European Commission.

European Long-Term Investment Funds (ELTIF) – A new investment fund framework proposed by the European Commission (COM(2013) 462 final) designed for investors who want to put money into companies and projects for the long-term.

First-pillar pension – Refer to **Statutory pension scheme**.

Institution for Occupational Retirement Provision (IORP) – An institution, irrespective of its legal form, operating on a funded basis, established for the purpose of providing retirement benefits in the context of an occupational activity, in compliance with the rules set in the IORP Directive.

Institutional investor – Generally refers to a group of investors such as pension funds, insurance companies, investment funds and banks.

Investment risk – Is the degree of uncertainty as to the realization of expected returns of investment in financial or non-financial assets.

IORP Directive – Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision.

Life-cycling – Life-cycle funds are funds built on the idea of “*age-based investing*” or the notion that investors should allocate a larger share of their long-term savings to equity when they are young and have long retirement horizons, and decrease this allocation as they approach retirement.

Long-term savings products – Savings products which can be aimed at financing future consumption and expenses. Long-term savings is distinguished from retirement savings in the sense that the latter benefits from tax incentives and is aimed at building a retirement income.

Minimum return guarantees – Minimum level of pension benefit paid out regardless of investment performance in a DC scheme.

OCERP – An “*Officially Certified European Retirement Plan*”, or “OCERP”, is a personal pension product that meets a set of uniform certification standards and can be distributed throughout the European Union once certified in one member state.

OCERP certification standards – Specific common standards for personal pension products to qualify as OCERPs.

Occupational pension scheme – A pension scheme where access is linked to an employment or professional relationship between the scheme member and the entity that sets up the scheme (the scheme sponsor). Occupational pension schemes may be established by employers or groups of employers (e.g. industry associations) or labor or professional associations, jointly or separately, or by self-employed persons. The scheme may be administered directly by the sponsor or by an independent entity (a pension fund or a financial institution acting as pension provider). In the latter case, the sponsor may still have responsibility for overseeing the operation of the scheme.

Pay-As-You-Go (PAYG) scheme – Pension schemes where current contributions finance current pension expenditure.

Payout phase – Period during which assets accrued in the accumulation phase are paid out to the pension scheme member in a funded scheme. An example of a payout phase is a period in which regular retirement income is received through the purchase of an annuity.

Pension pillars – Different types of pension schemes are usually grouped into two, three, four or more pillars of the pension system. There is however no universally agreed classification. Many pension systems distinguish between statutory, occupational and personal/individual pension schemes, or between mandatory and voluntary pension schemes. Participation in occupational and personal pension schemes can be mandatory or voluntary. In 1994, the World Bank described its “*multi-pillar*” pension model as having three pillars: a public unfunded system; privately managed mandatory saving accounts; and voluntary retirement saving. As such, the statutory pension system is commonly referred to as first pillar pension, occupational pension schemes as second pillar pension and personal pension schemes as third pillar pension.

Personal pension products – Pension products which, in general, are not linked to an employment relationship. The plans are established and administered directly by a pension fund or a financial institution acting as pension provider without any intervention of employers. Individuals independently purchase and select material aspects of the arrangements. The employer may nonetheless make contributions to personal pension plans. Some personal plans may have restricted membership. Personal Pension Products can be either mandatory or voluntary.

Replacement Rate (at retirement) – The average first pension as a share of the economy-wide average wage at retirement.

Retirement benefits – Benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis, in the form of payments on death, disability, or cessation of employment or in the form of support payments or services in case of sickness, indigence or death. In order to facilitate financial security in retirement, these benefits usually take the form of payments for life. They may, however, also be payments made for a temporary period or as a lump sum.

Second-pillar pension – Refer to **Occupational pension scheme**.

Social and Labour Law – The body of laws, administrative rulings and precedents which addresses the legal rights of, and restrictions on, working people and their organizations.

Statutory pension scheme – Social security and similar statutory pension programmes administered by the general government (that is central, state, and local governments, plus other public sector bodies such as social security institutions). Public pension schemes have traditionally been of the PAYG type.

Supplementary pension schemes – Any occupational pension scheme established in conformity with national legislation and practice such as a group insurance contract or pay-as-you-go scheme agreed by one or more branches or sectors, funded scheme or pension promise backed by book reserves, or any collective or other comparable arrangement intended to provide a supplementary pension for employed or self-employed persons.

Third-pillar pension – Refer to **Personal pension products**.

Transferability – The possibility to transfer accrued benefits in the form of accumulated capital from one pension scheme to another. In the case of the OCERP this suggests that the holder would change from one provider to another and thus, changing to another OCERP.

UCITS – Undertakings for collective investment in transferable securities, as defined in article 1 of Directive 2009/65/EC.

APPENDIX 2: EU initiatives using the 28th regime

The debate on the use of optional instruments in European private law has had its first results in company law. The *Societas Europaea* (SE) Statute and the *Societas cooperativa Europaea* (SCE) Statute established a second regime for public companies and cooperatives which the founders can choose instead of the existing national regimes. This EU regime presents certain advantages in doing business all over the EU as these types of companies don't need to re-register or to found subsidiaries.

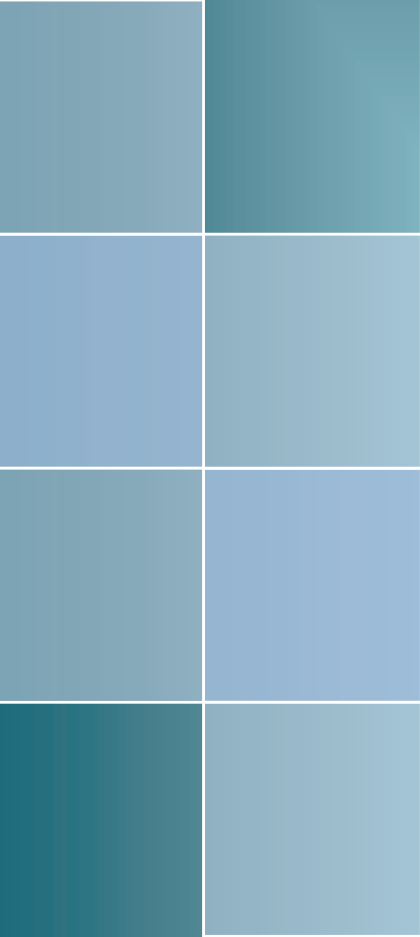
However, these initiatives have not been successfully implemented. The SE Statute does not provide for a uniform SE form across the European Union, but 27 different types of SEs. The Statute contains many references to national law and there is uncertainty about the legal effect of directly applicable law and its interface with national law. Furthermore, the uneven distribution of SEs across the European Union shows that the Statute is not adapted to the situation of companies in all Member States. The Commission is currently reflecting on potential amendments to the SE Statute, if appropriate. As for the SCE Statute, it has been relatively unsuccessful not only because it is complex but also mainly because firms that choose to operate as a cooperative tend to be well anchored in their local territory.

A more ambitious proposal has been launched by the European Commission in 2011, concerning a Proposal for a regulation on European Sales Law COM(2011) 635.

This Proposal for a Regulation harmonises the contract laws of the Member States by creating within each Member State's national law a second contract law regime for contracts within its scope. This second regime should be identical throughout the Union and exist alongside the pre-existing rules of national contract law. The Common European Sales Law should apply on a voluntary basis, upon an express agreement of the parties, to a cross-border contract.

Also related to EU contract law (which for the time being excludes financial services), is the Commission's current dialogue with the insurance sector about the possible added value of an optional European Insurance Contract Law. The Commission's aim is to tackle differences in contract law that may hinder cross-border trade for both small- and medium-sized companies (SMEs) and consumers buying across borders as well as for some insurance companies (MEMO/11/624).

In this context, the European Commission has established an "*Expert Group on a European insurance contract law*" to explore whether differences in insurance contract law pose an obstacle to cross-border trade in insurance products. Such an initiative is also deeply related to point (19) of the White Paper on pensions where the Commission affirms it will explore the need for removing contract law-related obstacles to the design and distribution of life insurance products.



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