



aba remarks on the **OPSG Discussion Paper** on Introducing the Pan-European Occupational Pension Product (PEOP)

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aba Arbeitsgemeinschaft für betriebliche Altersversorgung e.V. is the German association representing all matters concerning occupational pensions in the private and public sector. Among our members are corporate sponsors of pension schemes, IORPs, actuaries and consulting firms, employer associations and unions, as well as insurance companies, banks and investment managers. According to our statutes, our mission is to represent existing schemes as well as to expand coverage of occupational pensions independent of vehicle. We are a member of the European Association [PensionsEurope](#).

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Main points

aba supports the OPSG's plan to strengthen the dissemination of occupational pensions in the EU. However, we are not sure whether the creation of a uniform product at EU level is a target-oriented approach. The pension systems of the 27 Member States are simply too heterogeneous for this, e. g. regarding the role of the second pillar in the national pension architecture. In addition, occupational pensions are deeply embedded in a framework of primarily labour, social and tax law - areas of law for which the Member States retain the main competence. Occupational pensions anchoring in national law are also one of the main reasons why cross-border occupational pensions remain a marginal phenomenon. Last but not least, the experience with the EU third pillar pension product PEPP as well as with the pan-European pension fund RESAVER shows that both supply and demand for products developed at EU level are very limited.

In our view, the EU can best promote the Member States' pension policies by acting as a forum for the exchange of experiences and ideas: Member States should formulate common objectives at EU level and coordinate their activities within the framework of the European Semester. If a PEOP is developed, it should primarily be geared towards the needs of those Member States in which the second pillar is underdeveloped or non-existent. In any case, existing occupational pension schemes must not be damaged by a possible future PEOP.

Zusammenfassung

Die aba unterstützt das Vorhaben der OPSG, die Verbreitung der betrieblichen Altersversorgung in der EU zu stärken. Allerdings sind wir nicht sicher, ob die Schaffung eines einheitlichen Produkts auf EU Ebene ein zielführender Ansatz ist. Dafür sind die Alterssicherungssysteme der 27 Mitgliedstaaten schlichtweg zu heterogen, z. B. mit Blick auf die Rolle der zweiten Säule in der nationalen Rentenarchitektur. Außerdem sind Betriebsrenten tief in einen Rahmen aus v. a. Arbeits-, Sozial- und Steuerrecht eingebettet – also Rechtsbereiche, für die die Hauptzuständigkeit bei den Mitgliedstaaten liegt. Die tiefe Verwurzelung in nationalem Recht ist auch einer der Hauptgründe, warum grenzüberschreitende betriebliche Altersversorgung ein Randphänomen bleibt. Nicht zuletzt zeigen die Erfahrungen mit dem EU-Altersvorsorgeprodukt für die dritte Säule PEPP sowie der paneuropäischen Altersversorgungseinrichtung RESAVER, dass sowohl Angebot als auch Nachfrage für auf EU Ebene entwickelte Produkte sehr begrenzt sind.

Unserer Auffassung nach kann die EU die Alterssicherungspolitik der Mitgliedstaaten am besten dadurch fördern, indem sie als Forum für den Austausch von Erfahrungen und Ideen dient: Die Mitgliedstaaten sollen auf EU Ebene gemeinsame Ziele formulieren und ihre Aktivitäten im Rahmen des Europäischen Semesters koordinieren. Sollte ein PEOP entwickelt werden, sollte es sich primär an den Bedürfnissen derjenigen Mitgliedstaaten ausrichten, die noch keine bzw. eine unterentwickelte zweite Säule vorweisen. In jedem Fall dürfen bestehende Betriebsrentensysteme nicht von einem möglichen zukünftigen PEOP beschädigt werden.

Introduction

aba welcomes the Occupational Pensions Stakeholder Group's (OPSG) initiative to develop ideas for a stronger dissemination of second pillar pensions in the EU. Given the changing demographics of the European Union (EU) and the corresponding stress on public pay-as-you-go pension systems, funded pensions are now needed more than ever in order to prevent old-age poverty and help citizens maintaining their standard of living throughout retirement. Given their accessibility, efficient administration and the fact that many pension schemes are operated by social partners and/or sponsoring companies, occupational pensions provide broad coverage and offer a stable and reliable supplementary income stream with an efficient cost-benefit ratio. Hence, occupational pension schemes are usually the best option for those who have access to them and efforts are required in order to increase their prevalence in Member States (MS) in which they exist. Obviously, in view of the internal market's guarantee of free movement of goods, services, capital and labour, the perspective of second pillar pension entitlements that allow for a seamless transition from one MS to another is, at first glance, a desirable one. But is it realistically achievable or even needed for all employees? For the reasons stated below, we question whether the development of a Pan-European Occupational Pension Product (PEOP), on which the OPSG on its own initiative has published a discussion paper without proposing a specific form, will be helpful in this regard. A detailed commentary on the OPSG's discussion paper can be found in the annex of this document.

(Occupational) Pension Policy is a National Competence

The EU MS' systems of old-age provision have evolved over the course of their history in the context of national developments and peculiarities. As a result, the pension landscape in the EU is very heterogeneous and there is no common "pension culture" among the MS – e. g. some pension systems put a stronger emphasis on solidarity and redistribution, others on protecting individual entitlements. Furthermore, the size and role of each of the three pension pillars differs from MS to MS. National pension law, including legislation on pensions, is strongly linked to social, labour and tax law, all which rightly remain national competences. Occupational pensions are always embedded in the national pension framework and their role differs from MS to MS. Hence, we ask ourselves whether a product developed at EU level can meet the needs of 27 Member States with very different requirements.

For instance, occupational pensions in Germany are traditionally defined benefit (DB) or hybrid, while the possibility of offering defined contribution (DC) schemes has only been introduced relatively recently (in 2018). However, in order to protect the beneficiaries, the German legislator has foreseen various protection mechanisms, e.g. that these (collective) DC schemes can only be established via a collective agreement and that employer and employee representatives need to be involved in the steering of the scheme. Due to the fact that in DB and hybrid schemes, the employer is ultimately liable for the pension promise, we agree with the OPSG that an occupational pension scheme designed at EU-level can only be DC in nature. However, given the reasons stated above, the implementation of a DC scheme in Germany is different compared to MS with a stronger DC culture.

As a minimum harmonization framework, the IORP II Directive, which is currently being reviewed, respects the heterogeneous pension landscape in the EU. We are very concerned that in its [technical advice](#) on the review of the IORP II, the European Insurance and Occupational Pensions Authority (EIOPA) appears to be moving away from the principle of rule-based supervision, e.g. by trying to anchor

its Opinions in the Directive and by proposing the adoption of provisions of full harmonization directives such as Solvency II.

In its discussion paper on the PEOP, the OPSG seems to follow suit, e.g. by arguing that “[n]ational [social and labour law] should not override or circumvent European prudential law to ensure consistency and harmonization” (p. 16). Generally, we believe that there remain open questions on how the roll-out of a PEOP, which would require significant standardization of national social, labour and also tax law, would take into account the MS’ competence and supremacy in these policy domains. It is of utmost importance to us that a future PEOP does not receive preferential tax or general legal conditions than existing occupational pensions.

Cross-border occupational pension provision

EIOPA’s [report on cross-border IORPs](#) of November 2023 shows that cross-border activity of institutions of occupational retirement provisions (IORPs) is a fringe phenomenon, with cross-border IORPs representing less than 0.5% of total IORP members or assets under management. We hold the reason for this is not a lack of incentives, but because by far most IORPs are set up in a way that cross-border operations are simply not an option for them. Moreover, even multinational companies often decide on the setup of their occupational pension schemes based on the legal framework (mostly regarding labour and tax law) of the country their respective employees are located.

With RESAVER, a pan-European pension fund that caters explicitly to a highly mobile workforce (researchers) has already been created. However, the number of mobile researchers building up a second pillar pensions has not increased significantly as a result of its introduction. This is because MS with (often mandatory) occupational pension provisions due to collective agreements will not provide different products in different setups or even cannibalize their existing frameworks for pensions, whereas MS or respectively research employers without this kind of provisions still do not invest in it. We believe that the case of RESAVER shows that the creation of a pension fund whose main purpose is to facilitate cross-border activity is likely to fail, as occupational pensions are deeply embedded in a framework made up of labour, tax and social law, all of which are rightly national competences. Hence, even a cross-border pension fund that was specifically designed for a targeted group of employees with distinctive characteristics has had very limited success.

Speaking of cannibalization: We evaluate the OPSG’s proposal to put in place “streamlined and efficient procedures” that enable the “conversion of existing pension into the PEOP system” (p. 17) as critical, even if such an option should be voluntary. In most MS, social partners and/or sponsoring companies have put in place highly efficient occupational pension schemes that are tailored to the specific needs of their members and beneficiaries and have been operating successfully for decades. We believe that it is very unlikely that their conversion into an umbrella scheme, which first needs to attract a considerable amount of funds to operate cost-effectively (p. 30) and whose purpose is not only to provide adequate and stable supplementary pension income, but also to advance the Capital Markets Union (CMU) and contribute to the EU’s strategic needs (p. 15), will provide a similar level of protection for members and beneficiaries. Moreover, transferring an existing pension promise to another system with an equivalent value is everything but efficient. As a matter of fact, it would be more efficient to close the existing scheme and set it up anew.

Learning from the Pan-European Pension Product (PEPP)

We hold that PEPP's lack of success (as of July 2024, according to [EIOPA's central register](#), there is only one provider of PEPP offering this product in four MS) shows that there is very limited demand (neither from providers nor from citizens) for pension solutions developed at EU-level.

The pension systems of the EU MS (e.g. regarding size and function of the individual pillars) have grown historically and are adapted to the respective national circumstances. To stick with the example of PEPP, many (if not most) MS simply have no need for an additional personal pension product, in particular one that is tax-privileged, either because there are already sufficient adequate products on the market or because the first and/or second pillar provide for a sufficient level of retirement income. Hence, given the different pension traditions of the MS, pension policy, as part of social policy, rightly remains a national competence.

Occupational pensions, as acknowledged by the OPSG and as elaborated upon above, are deeply embedded not only in tax and prudential legislation, but also and in particular in social and labour law. Furthermore, occupational pensions, at least in Germany, are characterized by the triangular relationship between employee/beneficiary, employer and the pension provider, which is absent regarding personal pension products. This, at least in our view, makes the successful design of a PEOP even more challenging than the one of a PEPP.

Conclusion

We highly appreciate the OPSG's intention to make occupational pension schemes attractive for more EU citizens. However, for the reasons stated above, we believe that there are more targeted solutions to increase the dissemination of second pillar pensions than designing a pension scheme at EU-level. Pension policy rightly remains a competence of the MS. We believe that the European stage can serve as a forum where MS come together to exchange experiences and best practices regarding pension policy. MS should agree on common goals at EU level and coordinate their according activities as part of the European Semester. DG EMPL and DG FISMA should play a key role in coordinating this exchange. If a PEOP is established in the future, it should primarily cater to MS in which the second pillar is underdeveloped. It is of utmost importance that it does not negatively affect existing occupational pension systems that have been operating effectively for decades.

Annex: Extensive Commentary on the OPSG Discussion Paper on Introducing PEOP

Introduction (pp. 9-10)

In its „Discussion Paper on Introducing the Pan-European Occupational Pension Product (PEOP)“, the OPSG contributes to the ongoing discussion surrounding the envisioned further development of the Capital Markets Union (CMU) and the role of pensions / pension policy in this process. The general idea voiced by many of those participating in the discussion (see e.g. Letta-Report) is to kill two birds with one stone: By developing pension products at EU-level, the problem of increasing old-age poverty can be tackled while at the same time providing much-needed funds for the CMU. [aba has positioned itself in this discussion](#), arguing that pension policy rightly remains a national competence, as Member States (MS) have over time developed extensive legal frameworks encompassing in particular social, labour and tax law on funded pensions that fit the respective national context. *Hence, pension policy initiatives at EU level should primarily aim at identifying common goals (see European Pillar of Social Rights) and fostering the exchange of experience and best practices between MS instead of trying to find one-size-fits-all solutions.*

aba supports the OPSG's intention of further disseminating second pillar pensions in the EU. However, as will be outlined in detail below, we believe that the successful establishment of PEOP would need to tackle challenges that go beyond those mentioned in this discussion paper.

Protection of citizens (p. 11)

Pension policy, as part of social policy, rightly remains a national competence. The MS' national pension frameworks have developed over time as a part of the overall social protection architecture. As a result, the pension landscape in the EU is very heterogenous and there is no common “pension culture” among the MS – e. g. some pension systems put a stronger emphasis on solidarity and redistribution, others on protecting individual entitlements. Furthermore, the size and role of each of the three pension pillars differs from MS to MS. National pension law, including legislation on pensions, is strongly linked to social, labour and tax law, for all of which the MS rightly have the main competence. Occupational pensions are always embedded in the national pension framework and their role differs from MS to MS. The (social) protection of EU citizens is rightly a priority for the European Commission (EC). However, given the EU's heterogenous pension landscape, it is doubtful whether the EC fulfils this mandate by seizing responsibility for pension policy. *In our view, fostering the dialogue on pension policy between the MS is the more appropriate and target-oriented approach.*

Fostering a strong vibrant economic base (pp. 11-12)

Occupational pensions can generally play a role in promoting growth, innovation and investment opportunities. *Whether they fulfil this role, however, depends more on the overall regulatory environment than on the development of a PEOP.* The envisaged “harmonized framework for occupational pension plans” that a PEOP would require extends well beyond supervisory law, but would include e.g. tax and labour law, for which the MS have the main competence.

Promoting trust and equal treatment in the second pillar (p. 12)

It is argued that the PEOP should neither be positively nor negatively discriminated compared to existing second pillar arrangements. We strongly agree with this notion. However, we wonder how this should work in practice. *The national incentive framework (in the accumulation and decumulation*

phase) is typically subject to certain conditions, i. e. criteria that subsidized pension schemes or products have to fulfil (e. g. that pensions need to provide lifelong payments), which typically depend on national specificities. How can a harmonized PEOP framework meet the respective conditions of up to 27 MS?

Market opportunities (pp. 12-13)

We wonder whether the envisioned coexistence between PEOP and existing second pillar systems is realistically achievable. This is especially the case given that *instead of specifying how this should be achieved in practice, the paper states on various occasions that the transfer of accumulated capital from existing scheme to a PEOP should be facilitated in order to enable PEOP to work cost-effectively, which would hurt existing occupational pension systems that have been working effectively for decades.* Also, even though the discussion paper contains various references to the role of social partners, in this paragraph, the PEOP is presented as an interesting business model for commercial actors, in whose pension schemes social partners are typically not involved.

Inclusivity and support from trade unions (p. 14)

At least for Germany, we doubt that a PEOP would be embraced by trade unions. We agree with the OPSG that an occupational pensions scheme designed at EU level can only be DC in nature. That being said, occupational pensions in Germany are traditionally DB or hybrid, while the possibility of offering DC schemes has only been introduced relatively recently (in 2018). In order to protect the beneficiaries, the German legislator has foreseen various protection mechanisms, e.g. that these (collective) DC schemes can only be established via a collective agreement. However, while some trade unions have negotiated such collective agreements, others remain opposed to this idea. *We strongly doubt that German trade unions will support DC occupational pension schemes in the establishment of which they were not involved.* Furthermore, the OPSG envisions that a PEOP can also be provided by asset managers, insurance companies etc. In pension schemes set up by those actors, employee representatives are typically not involved at all. It is also doubtful that as a standardized product, the PEOP can adequately cater for the needs of employees, which differ from sector to sector.

Harmonization and standardization (p. 14) / Role of PEOP as a cross-border transfer facilitator (p. 17)

We are not aware of any evidence (e. g. BusinessEurope position papers) that a significant number of large corporations operating across the EU are actively seeking a harmonised solution for their occupational pension plans. According to our knowledge, *multinational companies often decide on the setup of their occupational pension schemes based on the legal framework (mostly regarding labour and tax law) of the country their respective employees are located. Furthermore, we do not see how a SME operating on a national basis would benefit from a PEOP.* There are certainly reasons for the below-average coverage of occupational pensions in SMEs, but the lack of a fully harmonized European framework is certainly not one of them. We also don't see a significant demand for the facilitation of cross-border transfers.

Voluntary nature and fully harmonized framework (pp. 14-15)

It is unclear to us how the idea of having a fully harmonised framework such as the PEOP is compatible with the notion that MS will not be obligated to make any modifications to their current pension system (in particular concerning labour, social and tax law) in order to give each pension provider (which is defined in a wider sense, see above) in their jurisdiction the possibility to provide a PEOP.

Clarity between prudential law and social and labour law (p. 16) / National social and labour law requirements (p. 19)

In our opinion, the discussion paper does not adequately solve the contradiction that the roll-out of a PEOP would require significant standardization of national social, labour and also tax law, while at the same time respecting the MS' competence and supremacy in these policy domains, as it is defined in the EU Treaties. *According to our understanding, a "harmonised framework for occupational pension plans" goes beyond establishing "clarity between prudential law and social and labour law", but would require subordination to EU law in areas of law for which the MS are responsible, as the discussion paper also states.*

Consistent investment solutions and communication (pp. 16-17) / Determination of a viable structure and model (p. 21) / Transparency (p. 23)

The paragraphs on "consistent investment solutions and communication", "determination of a viable structure and model" and "transparency" indicate that *PEOP is envisioned as a product with an individual approach, which is at odds with the collective nature of occupational pensions in Germany.* It also does not correspond to the statement made on p. 14 that PEOP should be incorporated within collective arrangements. Furthermore, the fact that professionally managed individual portfolios typically entail significant costs is not paid sufficient attention to.

Ease of pension conversion to PEOP (p. 17) / Insufficient volume (pp. 19-20)

We believe that in the vast majority of cases, transferring pension capital from existing occupational pension schemes, which typically cater to the specific needs of a group of employees, to a standardised product such as PEOP will not lead to benefits. Additionally, PEOP is not the only potential solution to remove inefficient system. In those cases, we hold that it would likely be more fruitful to make national regulation more target-oriented. The proof for PEOP's superior efficiency has yet to be established. *We strongly underline that the establishment of PEOP may in no way lead to a cannibalization of existing pension arrangements, especially given that PEOP should also be offered by providers with a commercial interest.* Maybe an impact analysis about the effects of transferring capital from existing pension arrangements to PEOP can be carried out in order to determine whether this would actually lead to any benefits. Generally, transferring capital from one pension scheme to another does not contribute to the envisioned increased coverage of second pillar pensions.

Continual improvement and iteration (p. 17)

Given the amount of time and resources that were invested into PEPP (not only the legislative process as such, but also from EIOPA and NCAs), it can clearly be considered as a failure given that as of August 2024, there is only one provider for it. In view of this fact *the question of whether the basic assumptions underlying the PEPP are correct arises.* Which MS need and want an EU pension product? Are the connections between supervisory law, tax and social security law (supplemented by labour and collective bargaining law in the case of occupational pension schemes) seen and the competences accepted?

Quantifying the volume and developing a business case (p. 18)

Generally, most stakeholders don't see occupational pensions as a business model. Their focus rather lies on a social policy objective (increasing the retirement income of former employees) and a broader understanding of retirement provision.

Exploring existing models (p. 18)

As far as the idea of “exploring existing models” goes, we reiterate that the pension systems of the EU MS have developed over time and national circumstances. Hence, *what works well in one MS may not necessarily also work in another*. There are no one-size-fits-all solutions when it comes to (occupational) pensions. Hence, cherry-picking aspects from occupational pension systems and combining them into a European framework will in all likelihood not work out.

Different tax treatment in MS (p. 19) / Taxation based on employee location (p. 20)

There are various reasons for different tax frameworks for second pillar pensions in the MS (e. g. due to the role of occupational pension schemes within the three-pillar system and the different economic situation of the MS). Consequently, *a harmonised tax treatment of PEOP or of occupational pensions in general across the EU is not reasonable*. Additionally, the competence for tax policy lies with the MS.

Insufficient interest of employers/employees (p. 20)

We agree with the OPSG that employers and employees might be reluctant to engage with PEOP. However, we wonder whether this problem should actually be addressed with education and communication campaigns. *The predicted lack of interest in PEOP might also indicate that the actors are satisfied with the existing occupational pension system*.

Potential resistance from existing IORPs and pension funds' representative groups (p. 20)

The discussion paper mentions several times that all existing IORPs should have the possibility to provide a PEOP. However, insufficient attention is paid to the fact that setting up an alternative pension scheme requires significant effort from the IORPs, especially given that PEOP wants and needs the transfer of capital from existing pension arrangements and that offering a PEOP does not imply that the IORP caters to a larger number of (potential) beneficiaries. *Hence, we underline that a pension fund may in no way be forced to offer a PEOP*. Again, occupational pensions are not offered on a market and most IORPs do not compete with others for “clients”: The majority of IORPs are not “open for business” nor open for interested “customers” as it is the case for most third pillar products: They are set up by social partners and/or sponsoring undertakings to implement the pension plan for an industry's / a company's employees.

Conclusions on overcoming barriers (p. 21)

Given the experience with PEPP but also e. g. DORA with its substantial amounts of Level II and III regulation, *we doubt that a harmonized legal framework designed at EU-level is actually simpler than existing national regulation*. We also do not see how PEOP can provide a pension solution for “all” EU-citizens (e. g. those who are not employed). This claim was not even made for the third-pillar product PEPP.

Defined contribution nature of PEOP (p. 22)

We agree that a PEOP can only be DC in nature. Nevertheless, it should also be mentioned that *this is not only associated with certain benefits, but also significant risks for the employees, especially if they have significant control over investment decisions*. It is also left open whether PEOP should be an actual pension plan or just a savings vehicle in which contributions are collected via the employer. Given that PEOP “could” encompass safeguards against biometric risks, it is also unclear who

decides on the design of PEOP. More specifically, the role of social partners and/or sponsoring undertakings is not clear.

Adapting PEOP to national social and labour laws (SLL) (pp. 22-23)

We also agree that *PEOP must not conflict with national labour and social law*, but we ask ourselves how this can be achieved within a harmonized EU framework.

Pension quality mark (p. 23)

Occupational pensions in Germany already enjoy a high degree of trust, which they have earned over many decades. Why should a newly established “Pension Quality Mark” lead to more trust?

Easy portability (p. 23)

Apparently, the OPSG also envisions that employees should be able to transfer their accumulated pension capital (even across borders) as they wish, irrespective of changes of employment. This, in our view, is contrary to our understanding of occupational pensions, which are always linked to an employment contract and characterized by the triangular relationship between employer, employee and pension funds. *This proposal might potentially fit third pillar pensions, but not occupational pensions.* Furthermore, the OPSG seems to ignore that differences in the underlying actuarial assumptions as to different interest rates or longevity might result in lower pension entitlements for members that make use of portability. The same holds for differences in the coverage of biometric risks.

National flexibility (p. 25)

Articles 47 and 57 of the PEPP Regulation stipulate that *conditions related to the accumulation/decumulation phase shall be determined by the MS* if the Regulation does not provide for them otherwise. This may serve as a model for a potential PEOP.

Protection of participant interests (p. 25)

Generally, *consumer protection does not apply to occupational pensions*, as members and beneficiaries of pension schemes do not shop for their “product” on a free market, but are enrolled as part of a work contract or collective agreement. Their interests are protected by labour and also prudential law.

Conducting a feasibility study (p. 27)

We agree that a comprehensive feasibility study is required to determine the viability of a PEOP. Nonetheless, we hold that *such a study would require a concrete and well thought out proposal*. In particular with regard to the experience with PEPP, such a report should also include alternative suggestions for the further dissemination of occupational pensions.

Utilizing existing structures (pp. 27-28)

We welcome the OPSG’s advice that a PEOP should be aligned with existing pension structures. Nevertheless, *the setup of a PEOP requires parallel structures that cause additional costs*. These costs are only justified if PEOP leads to added value, of which the proof still needs to be presented.

Ensuring clear communication and transparency (p. 28)

With its proposal to prohibit NCAs from imposing additional reporting requirements on PEOP beyond those agreed upon at EU-level, the OPSG clearly goes for a full harmonisation approach. This is in line with the recommendations on the treatment of PEOP regarding social, labour and tax law. We, on

the other hand, hold that *at EU level, occupational pensions should be regulated with a minimum harmonization approach*, which was also chosen for the IORP-II-Directive.

Simplicity and flexibility (p. 30)

We reject the statement that “return guarantees may not be necessary because the PEOP would be offered in the second pillar”, as it implies that DB and hybrid products do not belong to the second pillar. As a matter of fact, DB and hybrid plans make up the vast majority of occupational pensions in Germany.

Sufficient scale (pp. 30-31)

Already today, most occupational pension schemes are already efficient and benefit from economies of scale. *How can the transfer of accumulated capital from existing occupational pension schemes to PEOP be carried out without disadvantages for these schemes?* Furthermore, the envisioned “education campaign” on PEOP rather sounds like a marketing campaign with the goal of inducing members of existing pension schemes to transfer their accumulated capital to a PEOP.

Meeting national needs (p. 31)

We don't know how to interpret the paragraph on “meeting national needs” – *should PEOP be adapted to the legal framework on occupational pensions, or should the framework be adapted to accommodate a fully harmonised EU-product?* While we clearly favour the former, this would contradict other parts of the discussion paper.

Review and refinement (p. 31)

We agree that PEOP ever becoming potentially successful would require several feedback rounds and review. We wonder whether this is an efficient use of resources, given that *most MS already have occupational pension systems that are adapted to national circumstances.*

Learning from the PEPP (pp. 32-33) / Lessons from RESAVER pension fund (p. 14)

The OPSG states that lessons learned from PEPP, the third-pillar product that was designed at EU-level, will help PEOP to provide a real benefit to EU-citizens. However, given that there is only one provider of PEPP distributing the product in four MS, is there really sufficient supply and demand to justify investing further time and resources into the development of a pension product designed at EU-level?

The pension systems of the EU MS (e.g. regarding size and function of the individual pillars) have grown historically and are adapted to the respective national circumstances. *Many (if not most) MS simply have no need for an additional personal pension product*, in particular one that is tax-privileged, either because there are already sufficient adequate products on the market or because the first and/or second pillar provide for a sufficient level of retirement income.

Occupational pensions, as acknowledged by the OPSG itself, are deeply embedded not only in tax and prudential legislation, but also and in particular in social and labour law. Furthermore, occupational pensions, at least in Germany, are characterised by the triangular relationship between employee/beneficiary, employer and the pension provider, which is absent in personal pension products. This, at least in our view, makes the successful design of a PEOP even more challenging than the one of a PEPP.

With RESAVER, a pan-European pension fund that caters explicitly to a highly mobile workforce (researchers) has already been created. However, the number of mobile researchers building up a second pillar pensions has not increased significantly as a result of its introduction. This is because MS with (often mandatory) provisions due to collective agreements will not provide different products in different setups or even cannibalise their existing frameworks for pensions, whereas MS or respectively research employers without this kind of provisions still do not invest in it. We believe that the case of RESAVER shows that the creation of a pension fund whose main purpose is to facilitate cross-border activity is likely to fail, as occupational pensions are deeply embedded in a framework made up of labour, tax and social law, all of which are rightly national competences. Hence, even a cross-border pension fund that was specifically designed for a targeted group of employees with distinctive characteristics has had very limited success.

Enhancing PEOP for good pensions and increased private pension provisions: Introduction (p. 34)

As part of social policy, pension policy is a MS competence. It is not up to the EU to decide whether certain pillars of the national pension architecture in a respective MS are too strong or too weak. We don't understand why a new set of rules should lead to better pensions. We hold that *it would be more fruitful and less resource intensive to further develop the systems that already exist in the MS*. We also do not think that the MS would support the idea of sharing the costs with the EU in the form of a monetary incentive, as they would most likely have to provide the main funding.

Possible requirement for PEOP plus certification (pp. 34-35)

The required minimum contribution level does not only vary from MS to MS, but also from sector to sector (e. g. because in some sectors, people tend to retire earlier than in others). We agree with the OPSG that decisions on auto-enrollment would need to be taken at MS level – also because the EU simply does not have the competence to decide on this. Generally, *we would have welcomed if the subsidiarity principle mentioned in this context had played a stronger role in this discussion paper*. Regarding the promotion of sustainability, we wonder which potential providers of PEOP are not in scope of the SFDR anyway.

Implementation management and control (p. 36)

We would like to point out that due to grandfathering, existing contracts may not be interfered with. Nevertheless, MS always have the option of at a certain point, revoking the granted benefits for future contracts. Furthermore, we believe that *the complex supervisory structure described in this section does not contribute to making PEOP a product that is easy to manage*.

Towards a unified capital market (p. 37)

Regarding the use of pensions to enhance the CMU, *we refer to our position paper "Pension Policy in the Context of the Capital Markets Union"*. The corresponding link can be found in the first paragraph of this document.

Exploring the options for PEOP's materialization (pp. 38-39)

Regarding PEOP's materialization, it is doubtful that PEOP will actually fly if it is incorporated into the PEPP-Regulation, which has to be considered as a failure (see above). Neither does the discussed incorporation into the IORP II framework fit, since, as mentioned by the OPSG itself, the IORP II is a minimum harmonisation directive, whilst *PEOP is presented as a fully harmonised framework that*

needs to be established via a regulation. Furthermore, according to the discussion paper, PEOP is supposed to be provided by a large number of actors, not only IORPs.

Fostering dialogue and consensus (p. 39)

We appreciate that the OPSG has (re)started the discussion on PEOP. We believe, however, that *the discussion on the viability of PEOP should be held without prejudging the outcome.* If the discussion leads to the conclusion that there are more effective ways to strengthen occupational pensions in the EU than developing a pan-European product, this should also be respected.