Luxembourg newsflash

2 August 2019

Towards a single European market on private pensions – the Pan-European Personal Pension Product

Saving for retirement will soon be facilitated by a personal pension product with truly pan-European characteristics. On 25 July 2019, the Regulation on a pan-European Personal Pension Product (PEPP Regulation) was published in the Official Journal of the European Union and will enter into force on 14 August 2019. The PEPP Regulation constitutes an opportunity for Luxembourg players to position themselves on the European private pensions market with this new PEPP product that could be distributed in the entire European Union. The PEPP Regulation will only become applicable 12 months after the publication of the delegated acts referred to in the regulation. This is not expected to be the case before the end of 2021, however, it is important for possible PEPP providers to start thinking about the way in which they can tailor and market PEPP products to suit their business models.

PEPP providers, *i.e.* credit institutions, life insurance undertakings, certain institutions for occupational retirement provision (IORPs), investment firms and UCITS management companies as well as AIFMs, will be able to benefit from a single EU market for personal pensions and a facilitation of cross-border distribution, including an EU passport. Due to the standardisation of the main PEPP features, PEPP providers will only need one single product registration in order to sell PEPPs and distribute them in multiple EU Member States.

The PEPP – a voluntary contract between a PEPP saver and a PEPP provider

The personal pension product, or PEPP, is a product which is based on a contract between an individual saver and a PEPP provider on a voluntary basis and thus is complementary to any statutory, *i.e.* state provided pension product (Pillar 1) or any occupational, *i.e.* workplace pension product (Pillar 2). It provides for long-term capital accumulation with the explicit objective of providing income on retirement and with limited possibilities for early withdrawal before that time.

PEPP providers may offer up to six investment options to PEPP savers. The Basic PEPP, the only product described in more detail in the PEPP Regulation, is the saver's default investment option and aims at preserving the savers' capital. Costs and fees for the Basic PEPP will be capped at 1% of the accumulated capital per annum and integrates all administration costs, investment costs and transaction costs.

It is important to note that the capped fee amount only applies to the Basic PEPP. As mentioned, PEPP providers can offer alternative investment options for PEPP savers.

The form of capital protection will be subject to the type of Basic PEPP. A Basic PEPP with a guarantee gives rise to a legal obligation for PEPP providers to ensure that the saver receives at least the capital invested. A Basic PEPP could also be based on a risk mitigation technique (*e.g.* conservative investment strategy or life-cycle strategy) consistent with the objective to allow the PEPP saver to retrieve the capital invested, but without any legal obligation to do so. Either way, the obligation to recoup the capital solely covers the capital invested by the saver irrespective of impact fees and inflation.

Despite there being constraints imposed by both the UCITS and AIFM Directives, the PEPP Regulation allows UCITS management companies and AIFMs to offer PEPP in the form of a collective investment undertaking, but they will have to create a designated PEPP fund for this purpose. Asset managers will be allowed to offer life-cycle strategies using a combination of investment funds through which the PEPP saver account would be credited with fund units/shares proportionate to the proposed asset allocation.

The pan-European dimension of the PEPP

A European product passport shall provide PEPP providers with access to the entire Union market based upon one single product registration with a national competent authority to be granted on the basis of a single set of rules, the PEPP Regulation. After a decision for registration has been provided by the national competent authority, it must notify EIOPA accordingly to register the PEPP provider and the PEPP in a central public register, established and maintained by EIOPA.

The registration of a PEPP in the central register shall be valid in all Member States. The PEPP provider must however notify a host Member State of its intention to open a sub-account for this host Member State. A "sub-account" is defined as the national section which is opened within each PEPP account and corresponds to the legal requirements and conditions for investing in a PEPP by the Member State of the PEPP saver's residence. The PEPP account is the personal pension account held in the name of a PEPP saver (or PEPP beneficiary, as the case may be) which is used for the recording of transactions allowing the PEPP saver to contribute periodically sums towards retirement and the PEPP beneficiary to receive PEPP benefits.

However, the pan-European dimension of the PEPP can be developed not only at the level of the PEPP provider, through the possibility of its cross-border activity, but also at the level of the PEPP saver, through the portability of the PEPP and the switching service.

- **The portability**. A PEPP saver will have the right to use a portability service when changing his or her residence to another Member State that gives him/her the right to (i) open a new sub-account within his/her PEPP account, (ii) continue contributing into his/her existing PEPP account, or to (iii) switch, free of charge, to another PEPP provider in case a new sub-account is not available. Note that, within three years after the date of application of the PEPP Regulation, each PEPP provider shall offer sub-accounts for at least two Member States upon request addressed to the PEPP provider.

- **The switching service**. In order to find better conditions for their investments, PEPP savers may request to switch domestically between providers or cross-border to a PEPP provider in a different Member State. The switch may be requested during the accumulation and decumulation phase of the PEPP. Upon a request by a saver, the PEPP provider shall transfer the corresponding amounts or, where applicable assets-in-kind, from a PEPP account with the transferring PEPP provider to a new PEPP account with the same sub-accounts, opened with the receiving PEPP provider and closing the former account.

  The PEPP saver may switch after a minimum of five years from the conclusion of the contract in order to avoid excessive switching.

Contractual obligations by PEPP providers

PEPP providers will have to comply with certain pre-contractual (*i.e.* provision of a PEPP KID and mandatory advice) as well as transparency obligations under the PEPP contracts (*i.e.* provision of a PEPP benefit statement).

Overall, the PEPP Regulation gives rise to new market and investment opportunities within the European Union and establishes a new and more competitive market for personal pension products. In view of its renowned expertise, Luxembourg has the chance to take advantage of this new pension product and to become the prime location for the creation and distribution of those cross-border products.

It is also up to the Member States to decide whether the PEPP should benefit from tax incentives, it will be crucial towards its promotion and its success. The European Commission has encouraged Member States thus far to permit the same tax treatment to PEPPs as to already existing national pension products.

Related content

To read the PEPP Regulation, **click here_**

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