Benefits Passport Webinar
Pan-European and Cross-Border Pensions
Joint Webinar with Cross Border Benefits Alliance-Europe

November 17, 2020, 10:30 a.m. ET
Today’s Speakers

Moderator:
Lynn Dudley
Senior Vice President, Global Retirement and Compensation Policy
American Benefits Council

Guest Speakers:
Carine Pilot-Osborn
Principal Expert on Pensions
European Insurance and Occupational Pensions Authority (EIOPA)/European Institutions

Christian Lemaire
Global Head of Retirement Solutions
Amundi
Member
EIOPA Advisory Expert Group on the PEPP

Theirry Verkest
Partner
Aon

Slaven Misljencevic
Policy Officer
European Commission

Francesco Briganti
Secretary General
Cross Border Benefits Alliance-Europe (CBBA)

David Powell
Principal
Groom Law Group
Introduction to cross-border pensions in Europe

Joint webinar American Benefits Council (ABC)/Cross Border Benefits Alliance-Europe (CBBA-Europe) on pan-European and cross-border pensions
17 November 2020
Overview of EU frameworks for cross-border pensions

Occupational pensions

- Directive (EU) 2016/2341 on the activities and supervision of institutions for occupational retirement provision (IORPs)

Personal pensions

- Regulation (EU) 2019/1238 on a pan-European Personal Pension Product (PEPP)
- Implementing measures specifying the PEPP Regulation: https://www.eiopa.europa.eu/content/eiopa-finalises-regulation-pan-european-personal-pension-product_en
Pan-European Personal Pension Product (PEPP)

Creation of a default pension product for the European citizen

- Complementing 1st and 2nd pillar pension
- Voluntary and portable
- Flexible enough to maintain PEPP throughout the working life: mobile workers, new forms of labour, self-employed etc.

Valuable pension savings option

- Tailored to the pension objective: reliable, stable and appropriate retirement income, protected against inflation risks
- Cost efficient, also for low income earners
- Transparency on risks, costs and product features
- Participation in EU Capital Markets Union, mitigating the financial risks to the individual saver

→ Safe, transparent and cost-efficient personal pension product
Cross-border pensions

Legal framework introduced in 2003 to create an internal market for occupational pensions

- Centralised management of occupational pensions in different EU Member States (MS) under one pension fund i.e. ‘IORP’ for efficiency gains

Split of supervisory competence

- Prudential supervision conducted by the national authority of the MS where the IORP is located (‘home MS’)
- Supervision of the Social and Labour Law (SLL) conducted by the national authority of the MS where employees work (‘host MS’)

Revised Directive ‘IORP II’ since January 2019

- Clarify the procedures and timeframe when an IORP notifies the authority of the home MS of its intention to operate a new pension scheme across borders (‘cross-border activity’)
- Include new procedure for the authorisation of cross-border transfers
Cross-border pensions: market trends

Slow pace of growth has stalled since 2010

- Cross-border activities remain geographically clustered
- Diverse sectors in which sponsors of cross-border IORPs operate
- Once established cross-border IORPs successfully expand their activities over time
- Service providers offering cross-border pension solutions

Appetite from sponsors and pension providers for cross-border pension, however

- Lack of awareness of EU framework
- Process for building business case e.g. potential for critical mass and economies of scale, local acceptance
- Extent of differences in Social and Labour Law

Review of IORP II Directive by January 2023

- Extent current framework meets demand for pan-European occupational pensions or need for alternative framework?
Thank you

Carine Pilot Osborn
Principal Expert on Pensions
INTRODUCTION

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For professional investors only

Amundi
Pensions are facing 4 main challenges for retirement income

1) Longer longevity

2) Low interest rates and economic growth

3) Good value for money and appropriate advise

4) Low level of engagement from people to save for their pension

The PEPP is a positive initiative to address these challenges
PEPP allows Life Cycle Strategies
Propose personalized glide path to accompany each saver over his/her entire savings & pension journey

- High risk funds (predominantly equities)
- Intermediate risk funds (predominantly fixed income)
- Low Risk funds (predominantly money market)

- Quarterly rebalancing matching each investor profile
- Desensitization: Integrating the decumulation phase into the accumulation phase

- Years to after retirement date

- Accumulation
- Decumulation

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PEPP allows appropriate solutions for the decumulation phase
Offer flexible payout options

Lump sum withdrawals
Primary focus on capital preservation

Annuities
(fixed, variable, deferred)
Primary focus is matching annuity sensitivity

Income drawdowns
Primary focus is matching appropriate income generation level

Possibility to mix the options to meet different needs

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## Personalized life cycle strategies with flexible payout options

**An efficient investment solution in current low yield environment**

**A real alternative to capital guaranteed solutions**

<table>
<thead>
<tr>
<th>Individual</th>
<th>Personalized glide path based on age, retirement date, risk profile, income objectives (1), etc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flexible</td>
<td>Possibility to modify parameters at any time</td>
</tr>
<tr>
<td>Customized</td>
<td>Targeting the appropriate investments</td>
</tr>
<tr>
<td></td>
<td>Taking into account local constraints &amp; investment cultures</td>
</tr>
<tr>
<td>Worthwhile</td>
<td>LT expected return &gt; inflation &amp; &gt; capital guaranteed products</td>
</tr>
<tr>
<td></td>
<td>99% probability of capital preservation (2)</td>
</tr>
<tr>
<td>Robust</td>
<td>Automated and predetermined rebalancing to avoid behavioral biases</td>
</tr>
<tr>
<td>Cost efficient</td>
<td>No additional fees in spite of the multiple parameters and periodic rebalancing</td>
</tr>
</tbody>
</table>

(1) Lump sum withdrawals and/or income generation and/or variable/deferred annuities
(2) Source: "Consumer protection and the design of the default option of a pan-European pension product" published by the Bocconi University and dated February 1, 2018

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PEPP

How to offer good value for money with the appropriate advise and enhance people engagement to save more and earlier for their pension?

✓ PEPP is a much-needed new retirement saving product for EU citizens

✓ Initially, the mandatory personalized advice was rightly not considered for the Basic PEPP but the other categories of PEPP because the Basic PEPP has been designed as a “safe” retirement product / default option either with a guaranteed capital or strong risk mitigation technics aiming at capital preservation at retirement.

✓ Most consumers are not aware or willing to save early for retirement. The PEPP is a new product which will compete with current local pension saving products
   → pure digital distribution has shown not to be efficient enough to recruit new savers
   → the PEPP will require a strong marketing effort based mostly on face-to-face meetings or individual calls by competent and well-trained professionals.

✓ Account the costs of the initial advice within the 1% fee cap could be challenging for most providers

⇒ Find the best solution to make the PEPP successful

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Joint webinar ABC and CBBA-Europe on pan-European and cross-border pensions

Case study from RESAVER, occupational pension fund for research performing organisations

Slaven MISLJENCEVIC
Directorate-General for Research and Innovation
European Commission
EU's politically independent executive arm. It is responsible for drawing up proposals for new European legislation, and it implements the decisions of the European Parliament and the Council of the EU.

Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) drafted IORP I&II directives, Directorate-General for Research and Innovation (DG R&I) is using the legal framework for RESAVER project.

DG R&I supports RESAVER in order to:

- consolidate the fragmented R&I landscape;
- facilitate mobility of researchers as a cornerstone in establishing an European Research Area (ERA) and a driver for scientific excellence;
- improve the attractiveness of research careers.
RESAVER – in a nutshell

- Multi-country, multi-employer fund, domiciled in Belgium
- Defined Contribution occupational fund
- Based on IORP I and IORP II directives
- Respects national labour, social and tax laws
- Not-for-profit organization
- Exclusively for research performing organisations in European Economic Area
- Operational in 6 member states
RESAVER – challenges and opportunities (3)

- Local perception on pan-European pension solutions.

- Limited number of service providers in the market offering services on multi-country basis.

- Complying with local social, tax and labor laws and reporting requirements can be cumbersome. Need the support of local pension experts.

+ Convenient for mobile employees and multinationals.

+ Exchange of best practices among research performing organisations

+ Economies of scale on long term
Questions?

+32 229 52311

slaven.misljencevic@ec.europa.eu
The potential of a new pan-European Occupational Pension (PEOP) as the corresponding occupational vehicle to the PEPP

Joint CBBA-Europe/ABC webinar

13 November 2020
Cross-Border Pensions in Europe are currently regulated as follows:

1) (Cross-Border) Personal Pensions: PEPP Regulation

1) PEPPs are EU (Federal) pension tools mainly acting under the same conditions across the different EU member states and fully portable;

2) Workplace/Occupational Pension Funds (IORPs) are national pension vehicles:

Cross-border activities of workplace/IORPs require the simultaneous compliance with at least 2 (or more) national legislations:
- Of the home state of the pension fund (prudential law);
- Of the state(s) where the pension fund will operate (social and labour law + taxation law);

And no portability assured across the different EU member states.

The obligation to comply with several national jurisdictions might result complicated for cross-border activities of IORPs!
A new pan-European DC Occupational Pension (PEOP) might represent a good solution:

1) Like the PEPP, also the PEOP would be a EU (Federal) pension tool (no national, like the IORPs);

2) It would work on a DC basis;

3) It would be fully portable across Europe;

4) It would mainly act under the same conditions across the different EU member states (no more compliance with every national jurisdiction);

5) PEOPs could be set up by:
   - Large multinationals employing workers in several EU Countries;
   - Pension providers in the form of multi-employer/master trust which might enrol small companies located in different EU states;
New pan-European DC Occupational Pension (PEOP): the way to make it happen

- CBBA-Europe Reflection Paper (a first legal study) on PEOP is ready to be delivered to EU decision makers (and a media campaign is going to start, too)

- The EU is already aware of the overall idea of a new EU legal framework for a DC pan-European Occupational Pension;

- The EU might start working on this initiative, but on the condition that stakeholders will show their interest/support for the project.

  The proof of the market appetite will be the key!

A coalition of large American employers and providers advocating for the PEOP might make the difference.

ABC will inform its members on how to help supporting the PEOP initiative.
THANK YOU FOR YOUR ATTENTION!

francesco.briganti@cbba-europe.eu

info@cbba-europe.eu

www.cbba-europe.eu
Pan-European and Cross-Border Pensions

Questions of Taxation

David Powell, Principal, Groom Law Group
Washington, DC
Basics of pension taxation

• Every country has a different set of rules for taxation (or exemption) of contributions to, earnings on, and distributions from, pensions
• Most countries apply their tax rules for pensions on residents, or for nonresidents, on income derived from that country
• Different forms of pension taxation: EET, ETT, TEE
• Systems are generally based on all three occurring in one country
  • Though some cross-border pension taxation is addressed in treaties
Questions raised by cross-border pensions

- Under current taxation laws and tax treaties – *generally* -
  - Contributions taxed like a local plan where services performed – including limits
  - Earnings taxed like a local plan where fund is organized
  - Distributions –taxed like a local plan distribution or by treaty where payee is resident

- Some cross-border concerns:
  - Complexity when each is in a different state
  - Tax equity for state where services performed versus state of retirement
  - Tax reporting
  - Country laws regarding mobile worker pensions and tax treaties
Possible solutions

- Separate DC accounts by country, taxed as any other country tax qualified plan contribution or distribution at the account level; plan provider administers reporting

- TEE (like the US Roth 401(k))

- Legal action: e.g., EC has referred the Netherlands to the ECJ that its rules on the cross-border provision of pensions
  - Argues against Dutch requirements that foreign service providers (FSP) are required to provide guarantees to the Dutch authorities, employees must provide guarantees if pension capital is transferred to an FSP, and transfers to FSPs by mobile workers are tax-exempt only if the FSP assumes the responsibility for tax claims, or the taxpayer provides a guarantee
  - The EC believes that these conditions are restrictions to the free movement of citizens and workers, the freedom of establishment, the freedom to provide services and the free movement of capital under the TFEU

- Example from US State tax practice: Pension Source Tax Act of 1996 – taxed only in state where resident – but states have access to federal tax filings on distributions
Treaty treatment

• Common tax treaty treatment – US and OECD models
  • Participation
    • Plan may have to be a designated a corresponding pension plan for participation by a resident of one country in a plan in another to be tax favored
  • Distributions
    • Plan has to be a plan of one of the contracting states for distributions to be taxed only in state of residence at time of distribution (and often subject to additional rules)
  • Investments
    • Common US Limitation of Benefits (LOB) (interest and dividend withholding reduction) if less than 50% of fund participants are residents of one of the contracting states – not in OECD model