

**Comments Template for  
Discussion paper on a possible EU-single market for personal pension  
products**

**Deadline  
16 August 2013  
18:00 CET**

Name of Company:

Disclosure of comments:

EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.

*Please indicate if your comments on this CP should be treated as confidential, by deleting the word **Public** in the column to the right and by inserting the word **Confidential**.*

**Public**

Please follow the following instructions for filling in the template:

- ⇒ Do not change the numbering in the column "question"; if you change numbering, your comments cannot be processed by our IT tool.
- ⇒ Leave the last column empty.
- ⇒ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty.
- ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.
  - If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies.
  - If your comment refers to parts of a question, please indicate this in the comment itself.

**Please send the completed template, in Word Format, to [personalpensions@eiopa.europa.eu](mailto:personalpensions@eiopa.europa.eu). Our IT tool does not allow processing of any other formats.**

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<b>Question</b>	<b>Comment</b>	
General Comment	<p><b>Summary of main points</b></p> <ul style="list-style-type: none"> <li>• NFU supports the aim of having multi-pillar pension systems in the EU. It is indeed important to ensure that workers have a sustainable income when they retire. But it must be ensured that well functioning national pension systems, like those in the Nordic countries, are safeguarded. The design and structure of the multi-pillar pension system must be decided by each Member State and/or where relevant the national social partners .</li> <li>• It must be ensured that employees are given adequate time and resources to be able to provide all relevant information to clients.</li> <li>• Companies should ensure that employees possess an appropriate level of knowledge and competence in relation to the products offered. It is the responsibility of the company to ensure that employees gets the necessary training ,time and resources to be able to fulfil its task.</li> <li>• Rules on distribution and selling practices should not increase the administrative burden of individual employees. Administration already weighs heavily on the shoulders of many finance employees and new administrative requirements risk decreasing the quality of advice and service to customers.</li> </ul> <p><b>General comments</b></p> <p>NFU welcomes the possibility to reply to the EIOPA discussion paper for personal pension products. NFU supports the aim of developing an EU multi-pillar pension system which is subject to the same rules of transparency and control, however the design and structure of the pension systems should remain a national issue. NFU believes that EU Member States would benefit from having multi-pillar pension systems, i.e. public pension (pillar 1), occupational pension (pillar 2) and personal pension products (pillar 3). These have the advantage of spreading the financial risks</p>	

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inherent in the pension systems.

However, NFU would strongly like to stress the need for safeguarding national systems. The same pension systems or products should not be promoted all over the EU. Pension systems are very much linked to national tax and labour market systems, which is not an issue for the EU to deal with. For instance, the Danish pension model with occupational pensions, where employers and employees together take responsibility for workers pension by contributing jointly throughout the working life of an employee, is working very well. This autonomy of the social partners has many advantages, which have been proven for decades in the Nordic countries, and it must be ensured that any new rules on private pension products do not become an obstacle to well functioning pension systems rooted in collective bargaining agreements. The three pillars should co-exist, and there should be similar demands to pension providers, such as rules on transparency, but the design and structure should be left to the Member States and/or the national social partners to decide upon.

NFU would also like to draw attention to the complexity of the European pension issue. Since there are many different pension system models throughout Europe, there is a need to make a comprehensive mapping of the different national systems as well as a thorough impact assessments. This must be done before any possible legislations on PPPs are proposed and implemented. It is furthermore important that these analyses takes the employee perspective into account.

After these general comments NFU will limit the consultation reply to the distribution and selling practices and the professional requirements.

Relating to distribution and selling practices NFU believes that a sound, trusting and sustainable relationship between employees and consumers in the financial sectors is absolutely vital to the well-functioning of the financial market at all levels. Aggressive sales targets and merit rating systems that are counterproductive to customer protection and qualified advice must be avoided in the financial sectors. If not, the objectivity of employees stands the risk of being questioned,

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which will lead to a very unsatisfying work situation and have adverse effects on the reliability and image of the sectors.

NFU is thus in favour of sound and reliable rules for the distribution and selling of financial products. But any new rules in this area must not increase the administrative burden of individual employees, who in many cases are already under severe strain from administrative task connected to their role as advisors and sellers. In order to ensure that customers get the right products that are suited to their needs, finance employees must have adequate time and resources to provide qualified advice. On an aggregate level this also of course has an impact on systemic financial stability.

With regard to professional requirements NFU believes it is of utmost importance that employees have an appropriate level of knowledge and competence in relation to the products offered. NFU would like to stress that this must be ensured by the company by providing continuous training and professional development. It is furthermore necessary that staff is given adequate time and resources to be able to provide all relevant information to clients.

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Q10

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Q56	<p>NFU believes that conflicts of interests can be avoided through the introduction of transparency with regard to products and prices. It must be apparent to customers which agreements the financial institution has reached regarding product sales including for example commission.</p> <p>The level of protection stated must consider the exposed situation of the employees who have to act in the best interest of the customers while at the same time following company policies.. To avoid conflicts of interest the company must ensure the right framework for providing quality advice, i.e. employees need adequate time and resources to be able to provide all relevant information to customers.</p>	

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Q57	<p>In general, distribution rules for different products should as far as possible be harmonized to ensure a level playing field and avoid regulatory arbitrage. That being said, the differences between products and areas within the financial sector might require varying degrees of protection. It is NFUs opinion that the MiFID II distribution rules are adequate and should serve as a benchmark for any new rules in the area of personal pensions.</p> <p>The IMD2 proposal lays out mis-leading transparency requirements in article 17.3 of the original proposal. Consumer protection is best achieved through personal advice and transparency in products and prices, not on the exact amount of remuneration that the employee receives. A sole focus on the remuneration of employees risk drawing focus away from the core consumer issue – the suitability of the product including its content and cost. Requirements for complete transparency on the level of individual employees are also highly problematic from a perspective of personal integrity.</p>	
Q58	<p>NFU believes that rules on distribution and selling practices should be regulated at the same level as MiFID2 and IMD2 to avoid legal uncertainty and ensure a level playing field minimising the risk of regulatory arbitrage.</p>	
Q59	<p>Yes, the suitability concept in the MiFID rules would be relevant also for personal pension products, taking into account the differences between categories of investment products in terms of risk, investment horizon, etc.</p>	
Q60	<p>NFU believes that transparency in products and prices is key with the aim to avoid conflicts of interest.</p> <p>However, NFU would like to remind EIOPA that remuneration issues are an area that is not for the EU to deal with. As stated in article 153.5 TFEU, pay is outside the scope of the EU legislative</p>	

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competence. This has also been acknowledged several times in recent years' financial legislation, most recently in the CRDIV, recital 50, that states:

*(50) The provisions on remuneration should be without prejudice to the full exercise of fundamental rights guaranteed by Article 153(5) of the TFEU, general principles of national contract and labour law, legislation regarding shareholders' rights and involvement and the general responsibilities of the management bodies of the institution concerned, as well as the rights, where applicable, of the social partners to conclude and enforce collective agreements, in accordance with national law and customs.*

Moreover, as stated above, NFU is convinced that the disclosure rules in IMD2 are too far-reaching not contributing to increased consumer protection, but instead obscuring it, whilst at the same time breaching the integrity of individual employees.

NFU would furthermore like to stress that no sanctions shall be applied to employees who have followed internal rules, instructions and/or practices, be they official or unofficial, within the institution. Individual employees should not be held responsible for a violation, which is encouraged by a tacit policy or practice in the institution.

Q61

A trustworthy relationship between the customer and the advisor is needed to sustain credible and sustainable financial sectors. Against this background NFU believes that, as the wordings in IMD II recital 37 says, « Prior to the conclusion of a contract, including in the case of non-advised sales, the customer should be given the relevant information about the insurance product to allow the customer to make an informed decision. The insurance intermediary should be able to explain to the customer the key features of the insurance products it sells. »

However, NFU would like to highlight that staff must also be given adequate time and resources to be able to provide all relevant information to clients.

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Q62	<p>With regard to complaints management policies or the like, it must be made crystal clear that it is the responsibility of the insurance undertaking or insurance intermediary to provide its staff with adequate time and resources to fulfil any training requirements set up.</p> <p>When it comes to internal information flows in relation to the organisation of internal complaints management functions, existing trade union structures for sharing and disseminating information from management to staff within the undertaking or intermediary must be respected. Where applicable, such trade union structures can be an important tool to ensure the necessary internal flows of information and reporting.</p>	
Q63		
Q64	<p>Staff of firms must possess an appropriate level of knowledge and competence in relation to the products offered. This is particularly important given the increased complexity and the continuous innovation in the design of financial products. Buying a product implies a certain risk and investors must be able to rely on the information and quality of assessments provided. It is, as stated above, furthermore necessary that staff is given adequate time and resources to be able to provide all relevant information to clients.</p> <p>The above text has been adopted in the European Parliament's plenary text on MiFID2, voted through in October 26 2012. the text can be found in Recital 52a and Recital 52b. NFU welcomes this support and understanding of the employees' value and importance for consumer protection. We would therefore like to stress that the spririt of this paragraph should be carried forward also in any possible legislation for personal pension products..</p> <p>Professional requirements should be regulated through high-level principles and not specific</p>	

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	details, thereby ensuring a level playing field and adequate flexibility to be able to maintain different national systems for professional requirements and development. NFU would like to highlight that it can be the task of the labour market parties to negotiate on a detailed level.	
Q65	High level principles on professional requirements should apply on community-wide level to ensure a level playing field and sound competition. The professional requirements set out in the IMD2 could serve as a benchmark. Continuous application is desirable as long as any new rules incorporate review clauses to adjust for changing circumstances. The social partners must be given a role in these reviews to maximise their quality.	
Q66	<p>As stated above, any new legislation on personal pension products should specify that it is the responsibility of the company to ensure that employees get the necessary training ,time and resources to be able to fulfil their tasks in a such way as to guarantee consumer protection and systemic financial stability.</p> <p>The IMD II proposal contains good wordings on the level of professionalism and competence needed, but more importantly it explicitly mentions that continuing education related to these requirements should be ensured. Again, we would like to stress that this is not enough - it should also be explicitly stated that continuous training and competence development must be the responsibility of the company.</p>	
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