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// PENSIONS

Putting a "PEPP" in the Step of European Pension Providers?

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The pan-European Personal Pension Product (**PEPP**) is a voluntary, individual, non-occupational personal pension product that offers savers a new pan-European means of saving for retirement. The first PEPPs can be established from 22 March 2022, but will this product prove popular for providers?

Before the introduction of the PEPP, there was no legal framework governing personal pensions at an EU level. It was recognised that the lack of an internal market for pensions caused difficulties with pension portability for mobile workers in the EU. As remote working becomes a more accepted practice, it is arguable this will drive an increase in workers based abroad, possibly accentuating the requirement for pension portability. (See related articles by our employment and tax team on some issues that can arise in a "long-distance" employment relationship, available here and here).

In March 2021, the European Insurance and Occupational Pensions Authority (**EIOPA**) issued a survey on PEPP to understand the potential take-up. In June, EIOPA issued Guidelines on PEPP supervisory reporting (**Guidelines**). The Guidelines set out what competent authorities should ensure is contained in the annual quantitative supervisory reporting on the PEPP business. European Pensions reported that the executive director of EIOPA has confirmed that it expects 13 PEPP providers will launch products in March 2022. The Interdepartmental Pensions Reform & Taxation Group (**Group**) noted in their 2020 Report (**Pensions Reform Report**) that PEPP providers may wish to operate in Ireland to market and sell PEPPs on a cross-border basis. The Group suggested this may introduce greater competition if European providers choose to market PEPPs to Irish savers. We consider the core features of PEPP in more detail below and how it compares to the Personal Retirement Savings Account (**PRSA**) product in the Irish market.

A. CORE FEATURES OF PEPP

Regulation (EU) 2019/1238 on a pan-European Personal Pension Product (**Regulation**) sets out uniform rules across the EU for the registration, provision, distribution, and supervision of a portable PEPP. The Regulation establishes the legal foundation for a PEPP market by standardising the core product features, such as mobility, transparency, and investment options.

1. Providers

There are six types of financial undertaking that can apply to become either a "PEPP provider" to be authorised to manufacture and distribute a PEPP, or a "PEPP distributor" to distribute PEPPs not manufactured by it and provide investment advice;

I. Investment firms;
II. Insurance undertakings engaged in direct life insurance;
III. Credit institutions;
IV. Investment companies or management companies;
V. EU alternative investment fund managers; and
VI. Institutions for occupational retirement provision.

2. Registration

Registration of a PEPP is valid in all member states. An application for registration as a PEPP is made to the provider's competent authority. The applicant will include the standard terms of the PEPP, and a list of the member states within which it intends to market the PEPP. EIOPA will maintain a central public register of PEPPs.

3. Mobility

The Regulation provides PEPP savers with certain rights, including the right to use a portability service and a switching service. The portability service entitles the saver to continue to contribute to the PEPP if they change residence to another member state and the switching service allows a PEPP saver switch between PEPP providers (after at least five years in that contract) at a maximum cost of 0.5% of the assets to be transferred.

4. Full transparency in the product, including on costs and fees

PEPP providers must draw up a Key Information Document (**KID**) for each PEPP. The Regulation specifies mandatory contents for the KID. The KID is a pre-contractual document. The Regulation also governs the content of the PEPP Benefit Statement to be provided once the PEPP is established.

5. Default investment option

The costs and fees for a "Basic PEPP" (a default investment option) must not exceed 1% of the accumulated capital of the PEPP per year.

6. Taxation of the PEPP

In a tax recommendation issued in June 2017, the Commission encouraged member states to grant PEPPs the same tax treatment as domestic personal pension products. The Commission expects member states to exchange best practices on the tax treatment of the PEPP to create a level playing field. However, this is not expressly provided for in the legal instruments.

The tax incentives for a PEPP are unlikely to be more generous than those afforded to domestic personal pension products. However, if member states have more than one type of tax regime for domestic personal pension products, they are encouraged to give PEPPs the most favourable tax treatment available to their domestic personal pension products.

7. Sustainability disclosures

Providers of PEPPs and the PEPP product itself are within the scope of the European Commission's recent sustainable finance disclosure regulation (EU) 2019/2088 (**SFDR**). SFDR requires PEPP providers to make SFDR sustainability-related information disclosures at (a) an entity level and (b) a product level (if a PEPP product is marketed as a sustainable product within the scope of SFDR Articles 8 and 9). These sustainability disclosures offer PEPP savers more information to factor into their investment decision making process and greater potential to align their investment decisions with their principles. The same disclosures must also be made by manufacturers of pension products, insurers distributing IBIPs and others. (Our insurance and pensions team have already examined SFDR related to their industries here and here).

B. PRSA v PEPP

The new product will be complementary to existing domestic personal pension products. In an Irish context, this is principally the PRSA. We have compared and contrasted some key elements of each product below.

	PEPP	PRSA
A. Potential Providers	1. Investment firms 2. Insurance undertakings engaged in direct life insurance 3. Credit institutions 4. Investment companies or management companies 5. EU alternative investment fund managers 6. Institutions for occupational retirement provision (i.e. occupational pension schemes, although not applicable in the Irish context)	1. Investment firms 2. Insurance undertakings 3. Credit institutions
B. Fee Limits	• Costs and fees for the Basic PEPP must not exceed 1% of the accumulated capital per year	• A standard PRSA charge cannot be greater than 5% of each contribution and 1% per annum of the fund value
C. Flexibility/ Mobility	• Flexible and portable • EU passport	• Flexible and portable • No EU passport (can transfer abroad in certain circumstances where pre-conditions are met)
D. Tax Benefits	• Uncertain. The Commission has encouraged member states to grant PEPPs the same tax treatment as domestic personal pension products	• The taxation treatment of PRSA products is clearly set out in legislation

Last year the Pensions Reform Report expressed an interest in potentially aligning the PEPP with a reformed PRSA or establishing it within the PRSA structure. It stated that PRSA, or contract-based pension reforms, introduced before the PEPP transposition should be cognisant of PEPP and aim to avoid anomalies or the duplication of product legislation.

CONCLUSION

Overall, it is clear that the PEPP has many advantages. In particular, the portability of the PEPP may be more enticing than ever to providers given the current prevalence of remote working with a resulting impact on worker mobility. However, its impact on the Irish market remains to be seen given the similarities it shares with the PRSA product.

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