BUND DER VERSICHERTEN
Offensiv für Versicherte

PEPP Proposal by COM and amendments
by Council and EP Committees (ECON, IMCO and EMPL):
Support and criticism from consumer's perspective
(by Christian Gülich, deadline: 24 April 2018)

Main selected issues:

1. Legal instrument on EU level:

- *Regulation* as legal instrument (not a Directive): *support* for EP-ECON amendment 9 related to Recital 13.

2. Change of providers by savers:

- Possibility of change of providers not only during the accumulation phase and at the end of contribution phase / start of the pay-out phase, but also during the decumulation phase with the exception of lifetime annuities as chosen pay-out option: *support* for Council amendment related to article 45 (1a new) and recital 47 and for EP-ECON amendment 149.
- Providers may allow savers to switch providers more frequently after a minimum of five years after contract conclusion: *support* for Council amendment related to article 45 (2) and for EP-IMCO amendment 129.
- Fees and charges connected with the switching service (article 48): the various proposals for a limitation of these charges by the transferring provider must be *criticized* or even rejected, because they are too burdensome for the savers (COM: 1,5% on the positive balance, Council: 1%, EP-ECON: 0,5% (amendment 152), EP-IMCO: 1,5% (only no additional fees; amendment 133)). There must be a strict upper limitation in absolute figures, not only a percentage of the positive balance, because switching is a unique administrative process. We may *support* 0,5% of positive balance (cf. EP-ECON amendment 152), but only with an additional absolute limitation of *100 Euro* as maximum unique charge by the transferring provider (cf. in Germany switching the Riester provider is limited to 150 Euro fees maximum by transferring provider).

3. Change of investment strategies:

- Five years after contract conclusion, the PEPP provider may allow the saver to modify the chosen investment option not only every five years but more frequently. We *support* Council amendments for article 36 (1) and recital 38 as well as EP-ECON amendment 127 and EP-IMCO amendment 129.
- We *propose* clarifying these amendments by adding the following sentence: The permission of change of investment strategies must not be limited to the accumulation phase (with the exception of lifetime annuities as chosen pay-out option).
- We *criticize* EP-ECON amendment 128 for fully deleting article 36 (2), which stipulates that "the modification of the investment option shall be free of charge for the PEPP saver". It should be free of charge at least, if the saver does not change it more frequently than every five years.

4. Coverage of biometric risks:

- We *support* the proposals for the definition of "biometric risks" (longevity, disability and death following to COM proposal article 42; cf. Council amendment for article 2 (25a new), EP-ECON amendment 41).
- Long-term care: The proposal by EP-EMPL amendment 23 for the additional coverage of this biometric risk must be *criticized*, because it is not precise enough. Following to the German experience there are very different products of possible coverage of long-term care offered by the insurance industry (fixed insured sum per day, pay-outs only following to actual receipts or even annuities). In the context of PEPP it must excluded that the additional coverage for long-term care includes again an investment part for an annuity (following to "Pflege-Rentenversicherung"). This would entail a double coverage of pensions and – as inevitable consequence – inappropriately high total premiums for the saver. Only pure risk coverage must be allowed as additional coverage (like "Pflegetagegeld" or "Pflegekosten").

5. Key Information Document:

- We fully *support* the EP-ECON amendments 64 and 65 (related to article 23 (2) and (3)) and amendment 84 related to article 23 b new, because they strongly correspond to the KID for PRIIPs Regulation. The new PEPP KID should be aligned as much as possible with the PRIIPs KID.
- Information on past performance: we fully *support* the EP-ECON amendment 78 and the EP-EMPL amendment 17, both related to article 23 (5).
- Performance Scenarios: Council amendment related to recital 22 (page 8) only states "that information should also include an unfavourable scenario, which should be extreme but realistic." We *criticize* this amendment, because it is not sufficiently precise enough. We *propose* to align the performance scenarios of PEPP with those of PRIIPs following to COM Delegated Regulation (EU) 2017/653 of 8 March 2017, Annex V: Methodology for the presentation of performance scenarios (including four scenarios: stress, unfavourable, moderate and favourable performances).

6. Distribution requirements:

- Disclosure of information related to distribution: we *support* EP-ECON amendments 90 and 91 related to articles 23h new and 24, because they highly correspond to articles 19 and 29 (1) IDD.
- Specification of demands and needs and assessment of suitability (COM articles 25 and 26): we *support* EP-ECON amendments 92 and 96, because they strongly correspond to articles 30 (1) and 20 (3) IDD.
- Sales without advice: we particularly *support* EP-IMCO amendment 99 related to a new article 25a proposing the introduction of a "standardized decision tree" ("standardisierter Entscheidungsbaum") in case of a sale without advice. Additionally it should be clarified that this "standardized decision tree" must not replace the mandatory test of demands and needs by the distributor.
- Product oversight and governance requirements (COM article 22): we strongly *criticize* EP-IMCO amendments 73 and 74 aimed at completely deleting the definition and the monitoring of target markets for PEPP providers. Future PEPP savers must be guaranteed the same level of consumer protection as policyholders now established by article 25 IDD and COM Delegated Regulation (EU) 2017/2358 of 21 September 2017, both on POG.

7. Benefit Statements:

- Breakdown of costs: we *criticize* EP-ECON amendment 110 related to article 28 (1) (point e), because it does not include any innovation or deeper precision. The reference parameter for the impact of the costs should not be the estimated final benefits (cf. EP-EMPL amendment 15: "share of the estimated pension"), but the total sum of premiums actually paid by the saver. If the latter is taken as reference parameter the return on investment will immediately be obvious for any saver: premiums are fixed, future benefits are only probable.
- Development of ITS by EIOPA: we fully *support* EP-ECON amendment 119 related to article 29 (3) (1) that consumer organizations shall explicitly be included in this consultation process.

8. Decumulation phase / pay-out options:

- Choice of form of out-payments upon contract conclusion: we *criticize* EP-ECON amendment 160 related to article 52 (2), because it does not clarify that this choice can only be a *preliminary* choice (cf. recital 53: revision of the initial choice). The clarification can easily be made by adding this word to the amendment: "PEPP savers shall *preliminarily* choose the form of out-payments…"
- Standard investment option / Basic PEPP: we strongly *criticize* any amendments aiming at a severe restriction of the choice of out-payments for the saver, if he chooses the standard investment option or the Basic PEPP. EP-ECON amendment 159 points out that "for the basic PEPP a minimum of 35% of out-payments in the form of annuities shall be mandatory." EP-IMCO amendments 18 and 137 even stipulate that for standard investment option the mandatory pay-out option must be an annuity. Only as an exception maximum 30% of the accumulated savings may be paid out as lump sum.

  We clearly reject these strong restrictions of choice of the saver, because these proposals show that they do not consider the savers as self-responsible consumers. All the various pay-out options must be offered on a purely voluntary basis in order to make grow the fundamental trust of savers.

  The EP-IMCO amendments are closely aligned with the German legislation of Riester pensions. But even for Riester pensions there is the possibility that, if at the end of the contribution phase the lifelong annuity would not be higher than 29,75 per month (in 2017), the accumulated savings may be paid-out as lump sum ("Kleinbetragsrentenabfindung").

- If the PEPP is an annuity insurance, the reference parameter for all costs and charges should be the gross premium. Related to the pay-out phase, the cap of biometric costs for longevity and death risk should be fixed at 1,5% of the actual amount of the pension being paid out monthly, quaterly, annually etc. The calculation of biometric costs depends on mortality tables. In order to prevent life insurers from using unappriopriate assumptions of longevity and of death risk, there should be introduced a mandatory regime for the use of mortality tables established by EIOPA. This regime should lead to the reasonable and appriopriate assessment of mortality tables in cooperation with the NCAs, with professional associations of actuaries and with consumer organisations. Of course, within this regime the statistical differences among the Member States (as well as age, gender, social status etc.) should be taken into account. This single reference for mortality tables would also improve the comparability between PEPPs for the consumer.

9. Default investment option / Basic PEPP

- We *support* EP-ECON amendment 124 related to Article 34 (1): PEPP providers and PEPP distributors shall in any case offer a Basic PEPP and may offer alternative investment options.
- Inflation indexation mechanism: we *criticize* EP-ECON amendment 21 for deleting the inclusion of the inflation indexation mechanism following to recital 39. Especially in the long-term perspective the impact of inflation on the real return on investment/pension savings is tremendous.
- Switch of providers: we *criticize* EP-IMCO amendment 128 aiming at allowing the switch of providers only during the accumulation phase (for the Basic PEPP). There may occur relevant differences of the actual amounts of out-payments among the providers depending on their capacities to deal with volatile capital markets as well in the short as in the long run. The switch of providers may only be excluded, if the chosen pay-out option is a lifelong annuity with a guaranteed minimum amount.

- Risk mitigation technique / capital protection: we *support* EP-ECON amendment 131 (related to article 37 (2a new) stipulating that “the risk mitigation technique applied to Basic PEPP shall be consistent with the objective to preserve the capital invested.” This amendment enables the providers to be much more flexible with regard to their investment strategies than EP-IMCO amendment 112 introducing a mandatory 0% minimum return guarantee (related to the contributions or premiums by the PEPP saver). The Riester experience in Germany shows this dilemma especially due to the ongoing low interest rate phase, because the 0% minimum guarantee is obligatory. It may be introduced only for contracts, if the accumulation phase is less than 10 years.
- Cap of total costs: we *support* EP-IMCO amendment 115 introducing a cap of total costs and fees of 0,75% of the accumulated capital. But we urge to add some clarifications: The proposed cap of total costs and fees must be valid not only for the accumulation phase but for the decumulation phase as well. Acquisition or distribution costs must be forbidden, distributors shall only receive a constant/ongoing administration remuneration duration the entire duration of the contract. This would prevent from commission-driven distribution strategies and support pure online distributors (even without advice) and especially those classical distributors or "advisors" who offer advice exclusively via a fee-based remuneration during the entire duration of the contract (in Germany known as "Honorarberater" or "Versicherungsberater"). Additionally it must be fixed that PEPP savers will share a guaranteed participation in benefits from capital assets or from risk calculations for the decumulation/pay-out phase as well.

10. PEPP evaluation and report

- We strongly *support* EP-ECON amendment 175 related to article 63 aiming at an obligatory participation of relevant stakeholders and of consumer representatives for the ongoing evaluation of PEPP offers.