Response of :

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Public Consultation on

Consumer protection in third-pillar retirement products

European Commission
DG SANCO

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ETUC reply to the Consultative Document on Consumer protection in third-pillar retirement products

Question 1) Is the following definition, used in the 2012 questionnaire, effective for identifying third-pillar retirement products? "Third-pillar retirement products are defined as any type of private retirement product subscribed to by consumers on an individual basis (as opposed to occupational), either voluntary or mandatory"

Answer: Since the design of all pillars; state, occupational and private pensions, varies between countries it is very hard to find a suitable definition of the third pillar that covers the right schemes in all member states. In general the proposed definition seems appropriate. One remark could be to question the inclusion of mandatory retirement savings products, since they might better be considered as parts of either the first or the second-pillar pensions.

In addition not all third pillar products are pure pension schemes, aiming to ensure an income to retired people. Some schemes can be paid out as a lump sum or as an annuity only for a limited time. This makes the schemes pure individual financial savings, not of much help for covering monthly costs of living in old age.

Question 2) If not, what would be the most appropriate common EU definition for third-pillar retirement products?

Answer: The definition might be the one proposed above, but full stop after "(as opposed to occupational)". Mandatory retirement savings should by definition either be classified as pillar one (based on legislation) or pillar two (based on an employment contract), otherwise it is hard to see how they could be mandatory.

Question 3) What are the main risks for consumers when purchasing a third-pillar retirement product?

Answer: Retirement products often represent a considerable financial value for the consumer, and these are long-term investments. The result of a decision to purchase a retirement product will show only after a long time, which makes it difficult to assess the real value of the product and if there would be other alternatives that could be better for the consumer. The design of such products is often complex. Normally it can be difficult to get a clear view beforehand of differences in content and conditions and to evaluate these. Consumer protection is therefore a much more important issue for this category of financial products than with more straightforward products, which have less far-reaching financial implications.

Difficulties in assessment of risks, future return and the fees in relation to return or accumulated capital sum are main consumer concerns. In addition there are costs linked with changing your mind concerning a purchase of a retirement product.

The consumer is often totally relying on an intermediary, who in some cases might give advice, but always has the mission to sell products. It is very difficult for the consumer to assess their own needs for a third-pillar retirement product, in case he or she has weak knowledge about his or her actual pension rights according to the first and second pillars.

Furthermore some third pillar products are either tax subsidised through deduction when paying the contributions, or subsidised through additional contributions from either the state or the employer. This makes consumers believe that this kind of savings is more favourable, and therefore sometimes chosen instead of another kind of savings product, although it might not be the best alternative all ain all.

Question 4) How problematic do you consider the asymmetry between the consumer and the provider in terms of information about and knowledge of third-pillar retirement products?

Answer: Lack of basic knowledge about pension rights is a major problem. More information about first and second-pillar pensions to all is the first solution, so that more people can make an informed choice regarding whether to buy a third-pillar product, and in that case which one.

Well-informed sales persons are helpful for consumers. As part of consumer protection, we suggest that all who sell retirement products have relevant training and knowledge on the subject-matter, and not mainly on selling.

The next thing to claim is transparency regarding what mission the sales person has, whether he or she works for a single pension provider or as an intermediary on a more independent basis, who can provide products from several providers. In addition it is also important that the consumer gets information about how remuneration for the sales of the product is given to the intermediary.

Question 5)Are there specific needs of consumers purchasing third-pillar retirement products that have to be better taken into account, for example via EU voluntary codes or certification schemes on consumer information (transparency) and protection standards? If so, how could consumer information be improved? Please cover precontractual and contractual information If so, how could protection standards be improved? Please cover marketing, sales practices, inducements, advice and other aspects

Answer: Reliable, comparable and understandable information is crucial to enable consumers make an informed and correct choice when purchasing retirement products. The need for information covers existing pension rights from the first and second pillars, as well as information about the product which is for sale.

Consumers should also be properly informed about all costs and conditions of the product, including conditions in case the consumer at a later state needs or wants to change his savings, like for instance make a pause from additional savings during a period of lower income or in case he moves to another country.

Marketing measures regarding retirement products must be clear and not misleading. It should be clear from the material provided whether this is promotional or another type of information. Intermediaries must tell customers to what extent the information represents advice about the products they provide, and whether he or she works on behalf of one provider or several providers on a more independent basis. If the intermediary informs the customer that advice is given on an independent basis, the intermediary should not receive fees, commissions or other remuneration from third parties.

6) Would a self-regulatory code be the best tool for improving the quality of third-pillar retirement products?

Answer: There is in general a problem with voluntary self-regulatory codes: they are not binding. To achieve consumer protection binding rules are required. The finance industry is inventive when it comes to new products and labelling of those. The actors are private companies who aim at making profit, and therefore self-regulation cannot be considered enough to ensure adequate consumer protection.

7) For which objectives would it be the best way of doing so? (e.g. improving consumer confidence, providing a guarantee of quality, or others)

Answer: The ETUC is doubtful about the use of self-regulation for consumer protection purposes.

8) What outstanding pension-specific consumer protection issues could a self-regulatory approach help deal with?

- no answer

9) How and by whom should the effective application of the code be monitored?

- no answer

10) Would an EU certification scheme be the best way of improving consumer protection for third-pillar retirement products?

Answer: Where there is need for consumer protection, binding rules should be put in place and compliance should be monitored by relevant authorities.

11) For which objectives would it be the best way of doing so? (e.g. improving consumer confidence, providing a guarantee of quality, or others)

- no answer

12) What outstanding pensions-specific consumer protection issues could an EU certification scheme help deal with?

Answer: It is difficult to cover all relevant schemes in all member states since the design of the pension system varies significantly. The ETUC is in favour of binding regulation where appropriate. Certification and labels might give consumers a false feeling of security.

Third pillar products can never compensate for insufficient pension benefits from the first pillar. Third pillar products cannot prevent people from poverty in old age. The groups that have the largest needs for more pensions, often also have the largest difficulties in creating space for private savings, since they do not earn enough.

Individual decisions to buy a third pillar product must not be made more or less mandatory nor necessary to prevent from old-age poverty. On the contrary these products can only be an additional choice for people who have the possibility to postpone space for consumption to a later stage of life.

The general aim of adequate pensions for all should be fulfilled by strengthening first pillar pensions, and in addition promoting occupational schemes, so there is no need for private savings to ensure an adequate income in old age for the majority of people.