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► **B** REGULATION (EU) 2019/1238 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 20 June 2019  
on a pan-European Personal Pension Product (PEPP)  
(Text with EEA relevance)  
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**REGULATION (EU) 2019/1238 OF THE EUROPEAN  
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**of 20 June 2019**

**on a pan-European Personal Pension Product (PEPP)**

**(Text with EEA relevance)**

**CHAPTER I**

**GENERAL PROVISIONS**

*Article 1*

**Subject matter**

This Regulation lays down uniform rules on the registration, manufacturing, distribution and supervision of personal pension products that are distributed in the Union under the designation ‘pan-European Personal Pension product’ or ‘PEPP’.

*Article 2*

**Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) ‘personal pension product’ means a product which:
  - (a) is based on a contract between an individual saver and an entity on a voluntary basis and is complementary to any statutory or occupational pension product;
  - (b) provides for long-term capital accumulation with the explicit objective of providing income on retirement and with limited possibilities for early withdrawal before that time;
  - (c) is neither a statutory nor an occupational pension product;
- (2) ‘pan-European Personal Pension Product’ or ‘PEPP’ means a long-term savings personal pension product, which is provided by a financial undertaking eligible according to Article 6(1) under a PEPP contract, and subscribed to by a PEPP saver, or by an independent PEPP savers association on behalf of its members, in view of retirement, and which has no or strictly limited possibility for early redemption and is registered in accordance with this Regulation;
- (3) ‘PEPP saver’ means a natural person who has concluded a PEPP contract with a PEPP provider;
- (4) ‘PEPP contract’ means a contract between a PEPP saver and a PEPP provider which fulfils the conditions laid down in Article 4;
- (5) ‘PEPP account’ means a personal pension account held in the name of a PEPP saver or a PEPP beneficiary which is used for the recording of transactions allowing the PEPP saver to contribute periodically sums towards retirement and the PEPP beneficiary to receive PEPP benefits;

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- (6) ‘PEPP beneficiary’ means a natural person receiving PEPP benefits;
- (7) ‘PEPP customer’ means a PEPP saver, a prospective PEPP saver or a PEPP beneficiary;
- (8) ‘PEPP distribution’ means advising on, proposing, or carrying out other work preparatory to the conclusion of contracts for providing a PEPP, concluding such contracts, or assisting in the administration and performance of such contracts, including the provision of information concerning one or more PEPP contracts in accordance with criteria selected by PEPP customers through a website or other media and the compilation of a PEPP ranking list, including price and product comparison, or a discount on the price of a PEPP, when the PEPP customer is able to directly or indirectly conclude a PEPP contract using a website or other media;
- (9) ‘PEPP retirement benefits’ means benefits paid by reference to reaching, or the expectation of reaching, retirement in one of the forms referred to in Article 58(1);
- (10) ‘PEPP benefits’ means PEPP retirement benefits and other additional benefits to which a PEPP beneficiary is entitled in accordance with the PEPP contract, in particular for the strictly limited cases of early redemption or if the PEPP contract provides a coverage of biometric risks;
- (11) ‘accumulation phase’ means the period during which assets are accumulated in a PEPP account and ordinarily runs until the decumulation phase starts;
- (12) ‘decumulation phase’ means the period during which assets accumulated in a PEPP account may be drawn upon to fund retirement or other income requirements;
- (13) ‘annuity’ means a sum payable at specific intervals over a period, such as the PEPP beneficiary’s life or a certain number of years, in return for an investment;
- (14) ‘drawdown payments’ means discretionary amounts which PEPP beneficiaries may draw up to a certain limit on a periodic basis;
- (15) ‘PEPP provider’ means a financial undertaking as referred to in Article 6(1) authorised to manufacture a PEPP and to distribute that PEPP;
- (16) ‘PEPP distributor’ means a financial undertaking as referred to in Article 6(1) authorised to distribute PEPPs not manufactured by it, an investment firm providing investment advice, or an insurance intermediary as defined in point (3) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council <sup>(1)</sup>;

<sup>(1)</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

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- (17) ‘durable medium’ means any instrument which:
- (a) enables a PEPP customer to store information addressed personally to that customer in a way accessible for future reference and for a period of time adequate for the purposes of the information; and
  - (b) allows the unchanged reproduction of the information stored;
- (18) ‘competent authorities’ means the national authorities designated by a Member State to supervise PEPP providers or PEPP distributors, as the case may be or to carry out the duties provided for in this Regulation;
- (19) ‘home Member State of the PEPP provider’ means home Member State as defined in the relevant legislative act referred to in Article 6(1);
- (20) ‘home Member State of the PEPP distributor’ means:
- (a) where the distributor is a natural person, the Member State in which his or her residence is situated;
  - (b) where the distributor is a legal person, the Member State in which its registered office is situated or, where the distributor under its national law has no registered office, the Member State in which its head office is situated;
- (21) ‘host Member State of the PEPP provider’ means a Member State, other than the home Member State of the PEPP provider, in which the PEPP provider provides PEPPs under the freedom to provide services or the freedom of establishment or for which the PEPP provider has opened a sub-account;
- (22) ‘host Member State of the PEPP distributor’ means a Member State, other than the home Member State of the PEPP distributor, in which the PEPP distributor distributes PEPPs under the freedom to provide services or the freedom of establishment;
- (23) ‘sub-account’ means a national section which is opened within each PEPP account and which corresponds to the legal requirements and conditions for using possible incentives fixed at national level for investing in a PEPP by the Member State of the PEPP saver’s residence; accordingly, an individual may be a PEPP saver or a PEPP beneficiary in each sub-account, depending on the respective legal requirements for the accumulation phase and decumulation phase;
- (24) ‘capital’ means aggregate capital contributions, calculated on the basis of amounts investible after deduction of all fees, charges and expenses that are directly or indirectly borne by PEPP savers;
- (25) ‘financial instruments’ means those instruments specified in Section C of Annex I to Directive 2014/65/EU of the European Parliament and of the Council <sup>(1)</sup>;

<sup>(1)</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

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- (26) ‘depository’ means an institution charged with the safekeeping of assets and oversight of compliance with the fund rules and applicable law;
- (27) ‘Basic PEPP’ means an investment option as laid down in Article 45;
- (28) ‘risk mitigation techniques’ means techniques for a systematic reduction in the extent of exposure to a risk and/or the likelihood of its occurrence;
- (29) ‘biometric risks’ means risks linked to death, disability and/or longevity;
- (30) ‘switching provider’ means, upon a PEPP saver’s request, transferring from one PEPP provider to another the corresponding amounts, or where applicable assets-in-kind in accordance with Article 52(4), from one PEPP account to the other, with closing the former PEPP account without prejudice to point (e) of Article 53(4);
- (31) ‘advice’ means a personal recommendation provided by the PEPP provider or PEPP distributor to a PEPP customer in respect of one or more PEPP contracts;
- (32) ‘partnership’ means cooperation between PEPP providers to offer sub-accounts for different Member States in the context of the portability service, as referred to in Article 19(2);
- (33) ‘environmental, social and governance factors’ or ‘ESG factors’ means environmental, social and governance matters such as those referred to in the Paris Agreement, the United Nations Sustainable Development Goals, the United Nations Guiding Principles on Business and Human Rights and the United Nations-supported Principles for Responsible Investment.

*Article 3***Applicable rules**

The registration, manufacturing, distribution and supervision of PEPPs shall be subject to:

- (a) this Regulation; and
- (b) in the case of matters not regulated by this Regulation:
  - (i) relevant sectorial Union law including the corresponding delegated and implementing acts;
  - (ii) the laws adopted by Member States in implementation of relevant sectorial Union law and implementation of measures relating specifically to PEPPs;
  - (iii) other national laws which apply to PEPPs.

*Article 4***PEPP contract**

1. The PEPP contract shall lay down the specific provisions for the PEPP in accordance with the applicable rules referred to in Article 3.

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2. The PEPP contract shall in particular include the following:
- (a) a description of the Basic PEPP, as referred to in Article 45, including information on the guarantee on the capital invested or the investment strategy directed at ensuring the capital protection;
  - (b) a description of the alternative investment options, as referred to in Article 42(2), where applicable;
  - (c) the conditions related to the modification of the investment option referred to in Article 44;
  - (d) where the PEPP offers biometric risk coverage, details of that coverage, including the circumstances that would trigger it;
  - (e) a description of the PEPP retirement benefits, in particular the possible forms of out-payments and the right to change the form of out-payment referred to in Article 59;
  - (f) the conditions related to the portability service referred to in Articles 17 to 20 including information on the Member States for which a sub-account is available;
  - (g) the conditions related to the switching service referred to in Articles 52 to 55;
  - (h) the categories of costs and total aggregate costs expressed in percentage terms and in monetary terms, where applicable;
  - (i) the conditions related to the accumulation phase for the sub-account corresponding to the Member State of residence of the PEPP saver referred to in Article 47;
  - (j) the conditions related to the decumulation phase for the sub-account corresponding to the Member State of residence of the PEPP saver referred to in Article 57;
  - (k) where applicable, the conditions under which advantages or incentives granted are to be repaid to the Member State of residence of the PEPP saver.

## CHAPTER II

**REGISTRATION***Article 5***Registration**

1. A PEPP may only be provided and distributed in the Union where it has been registered in the central public register kept by EIOPA in accordance with Article 13.
2. Registration of a PEPP shall be valid in all Member States. It entitles the PEPP provider to provide the PEPP and PEPP distributor to distribute the PEPP registered in the central public register referred to in Article 13.

Supervision of compliance with this Regulation on an ongoing basis shall be carried out in accordance with Chapter IX.

**▼B***Article 6***Application for registration of a PEPP**

1. Only the following financial undertakings authorised or registered under Union law may apply for registration of a PEPP:

- (a) credit institutions authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council <sup>(1)</sup>;
- (b) insurance undertakings authorised in accordance with Directive 2009/138/EC of the European Parliament and of the Council <sup>(2)</sup>, engaged in direct life insurance according to Article 2(3) of Directive 2009/138/EC and Annex II to that Directive;
- (c) institutions for occupational retirement provision (IORPs) authorised or registered in accordance with Directive (EU) 2016/2341 which, pursuant to national law, are authorised and supervised to provide also personal pension products. In that case, all assets and liabilities corresponding to PEPP provision business shall be ring-fenced, without any possibility to transfer them to the other retirement provision business of the institution;
- (d) investment firms authorised in accordance with Directive 2014/65/EU, providing portfolio management;
- (e) investment companies or management companies authorised in accordance with Directive 2009/65/EC;
- (f) EU alternative investment fund managers (EU AIFM) authorised in accordance with Directive 2011/61/EU.

2. Financial undertakings listed in paragraph 1 of this Article shall submit the application for registration of a PEPP to their competent authorities. The application shall include the following:

- (a) the standard contract terms of the PEPP contract to be proposed to PEPP savers, as referred to in Article 4;
- (b) information on the identity of the applicant;
- (c) information on arrangements regarding portfolio and risk management and administration with regard to the PEPP, including arrangements as referred to in Articles 19(2), 42(5) and 49(3);
- (d) a list of Member States where the applicant PEPP provider intends to market the PEPP, where applicable;

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<sup>(1)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>(2)</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

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- (e) information on the identity of the depositary, where applicable;
- (f) PEPP key information as referred to in Article 26;
- (g) a list of Member States for which the applicant PEPP provider will be able to ensure the immediate opening of a sub-account.

3. The competent authorities shall assess whether the application referred to in paragraph 2 is complete within 15 working days of receipt of the application.

The competent authorities shall set a time limit by which the applicant is to provide additional information, if the application is not complete. After the application is considered to be complete, the competent authorities shall notify the applicant accordingly.

4. Within three months of the date of the submission of the complete application under paragraph 3, the competent authorities shall take a decision for registration of a PEPP only if the applicant is eligible to provide PEPPs according to paragraph 1 and if the information and documents submitted in the application for registration referred to in paragraph 2 comply with this Regulation.

5. Within five working days of taking a decision for registration of the PEPP, competent authorities shall communicate to EIOPA the decision as well as the information and documents referred to in points (a), (b), (d), (f) and (g) of paragraph 2 and shall inform the applicant PEPP provider accordingly.

EIOPA shall not be responsible or be held liable for a decision for registration taken by competent authorities.

Where the competent authorities refuse to grant registration, they shall issue a reasoned decision which shall be subject to a right to appeal.

6. In the event that there is more than one competent authority in a Member State for a specific type of financial undertaking as referred to in paragraph 1, that Member State shall designate a single competent authority for each type of financial undertaking referred to in paragraph 1 to be responsible for the registration procedure and for the communication with EIOPA.

Any subsequent modifications to the information and documents provided in the application referred to in paragraph 2 shall be immediately notified to the competent authorities. Where modifications are in relation to the information and documents referred to in points (a), (b), (d), (f) and (g) of paragraph 2, the competent authorities shall communicate those modifications to EIOPA without undue delay.

*Article 7***Registration of a PEPP**

1. Within five working days from the date of communication of the decision for registration as well as the information and documents in accordance with Article 6(5), EIOPA shall register the PEPP in the central public register referred to in Article 13 and shall notify the competent authorities accordingly without undue delay.



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2. Within five working days after receiving the notification for the registration of the PEPP referred to in paragraph 1, competent authorities shall inform the applicant PEPP provider accordingly.

3. The PEPP provider may provide the PEPP and the PEPP distributor may distribute the PEPP as from the date of the registration of the PEPP in the central public register referred to in Article 13.

*Article 8***Conditions for deregistration of a PEPP**

1. The competent authorities shall issue a decision for deregistration of the PEPP when:

- (a) the PEPP provider expressly renounces the registration;
- (b) the PEPP provider has obtained the registration by making false statements or by any other irregular means;
- (c) the PEPP provider has seriously or systematically infringed this Regulation; or
- (d) the PEPP provider or the PEPP no longer meets the conditions under which registration was granted.

2. Within five working days after taking a decision for deregistration of the PEPP, the competent authorities shall communicate it to EIOPA and shall inform the PEPP provider accordingly.

3. Within five working days after receiving the notification of the decision for deregistration referred to in paragraph 2, EIOPA shall deregister the PEPP and shall notify the competent authorities accordingly.

4. Within five working days after receiving the notification for the deregistration of the PEPP referred to in paragraph 3, including the date of the deregistration, competent authorities shall notify the PEPP provider accordingly.

5. The PEPP provider shall no longer provide the PEPP and the PEPP distributor shall no longer distribute the PEPP as from the date of the deregistration of the PEPP in the central public register referred to in Article 13.

6. Where EIOPA has received information regarding the existence of one of the circumstances referred to in point (b) or (c) of paragraph 1 of this Article, in accordance with the duty of cooperation between competent authorities and EIOPA referred to in Article 66, EIOPA shall request the competent authorities of the PEPP provider to verify the existence of such circumstances and the competent authorities shall submit to EIOPA their findings and the corresponding information.

7. Before taking a decision for deregistration of the PEPP, the competent authorities and EIOPA shall give their best efforts to ensure that the PEPP savers interests are safeguarded.

*Article 9***Designation**

The designation ‘pan-European Personal Pension Product’ or ‘PEPP’ in relation to a personal pension product may only be used where the personal pension product has been registered by EIOPA to be distributed under the designation ‘PEPP’ in accordance with this Regulation.

**▼B***Article 10***Distribution of PEPPs**

1. Financial undertakings referred to in Article 6(1) may distribute PEPPs which they have manufactured. They may also distribute PEPPs which they have not manufactured provided they comply with the relevant sectorial law in accordance with which they may distribute products which they have not manufactured.

2. Insurance intermediaries registered in accordance with Directive (EU) 2016/97 and investment firms authorised in accordance with Directive 2014/65/EU for the provision of investment advice as defined in point 4 of Article 4(1) of Directive 2014/65/EU may distribute PEPPs which they have not manufactured.

*Article 11***Prudential regime applicable to different types of providers**

PEPP providers and PEPP distributors shall comply with this Regulation, as well as with the relevant prudential regime applicable to them in accordance with the legislative acts referred to in Articles 6(1) and 10(2).

*Article 12***Publication of national provisions**

1. The texts of the national laws, regulations and administrative provisions governing the conditions related to the accumulation phase referred to in Article 47 and the conditions related to the decumulation phase referred to in Article 57, including information about additional national procedures put in place for applying for advantages and incentives set at national level, where applicable, shall be made public and kept up to date by the relevant national authority.

2. All competent authorities in a Member State shall maintain and keep up to date on their website a link to the texts referred to in paragraph 1.

3. The publication of the texts referred to in paragraph 1 shall only be for informational purposes and shall not create legal obligations or liabilities for the relevant national authorities.

*Article 13***Central public register**

1. EIOPA shall keep a central public register identifying each PEPP registered under this Regulation, the registration number of the PEPP, the PEPP provider of this PEPP, the competent authorities of the PEPP provider, the date of the registration of the PEPP, a complete list of Member States in which this PEPP is offered and a complete list of Member States for which the PEPP provider offers a sub-account. The register shall be publicly available in electronic format and shall be kept up to date.

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2. Competent authorities shall inform EIOPA of the links referred to in Article 12(2) and shall keep this information up to date.
  
3. EIOPA shall publish and keep up to date the links referred to in paragraph 2 in the central public register referred to in paragraph 1.

## CHAPTER III

**CROSS-BORDER PROVISION AND PORTABILITY OF PEPP**

## SECTION I

***Freedom to provide services and freedom of establishment****Article 14***Exercise of the freedom to provide services and freedom of establishment by PEPP providers and PEPP distributors**

1. PEPP providers may provide and PEPP distributors may distribute PEPPs within the territory of a host Member State under the freedom to provide services or the freedom of establishment, provided they do so in compliance with the relevant rules and procedures established by or under the Union law applicable to them referred to in points (a), (b), (d) and (e) of Article 6(1) or in Article 10(2) and after notifying their intention to open a sub-account for this host Member State in accordance with Article 21.
  
2. PEPP providers as referred to in points (c) and (f) of Article 6(1) shall comply with the rules set out in Article 15.

*Article 15***Exercise of the freedom to provide services by IORPs and EU AIFM**

1. PEPP providers as referred to in points (c) and (f) of Article 6(1) which intend to provide PEPPs to PEPP savers within the territory of a host Member State for the first time under the freedom to provide services and after notifying their intention to open a sub-account for this host Member State in accordance with Article 21, shall communicate the following information to the competent authorities of their home Member State:
  - (a) the name and address of the PEPP provider;
  
  - (b) the Member State in which the PEPP provider intends to provide or distribute PEPPs to PEPP savers.

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2. The competent authorities of the home Member State shall transmit the information within 10 working days of the date of receipt to the host Member State together with a confirmation that the PEPP provider referred to in paragraph 1 of this Article complies with the requirements set out in Article 6(1). The information is communicated to the competent authorities of the host Member State unless the competent authorities of the home Member State have reason to doubt the adequacy of the administrative structure in relation to the provision of PEPP or the financial situation of the PEPP provider as referred to in points (c) and (f) of Article 6(1).

Where the competent authorities of the home Member State refuse to communicate the information to the competent authorities of the host Member State, they shall give reasons for such refusal to the PEPP provider concerned within one month of receiving all the information and documents. The refusal or any failure to reply shall be subject to the right to appeal to the courts in the PEPP provider's home Member State.

3. The competent authorities of the host Member State shall within 10 working days acknowledge receipt of the information referred to in paragraph 1. The competent authorities of the home Member State shall then inform the PEPP provider that the information has been received by the competent authorities of the host Member State and that the PEPP provider can start the provision of PEPP to PEPP savers in that Member State.

4. In the absence of acknowledgment of receipt as referred to in paragraph 3 within 10 working days of the date of the transmission of the information as referred to in paragraph 2, the competent authorities of the home Member State shall inform the PEPP provider that the PEPP provider can start providing services in that host Member State.

5. In the event of a change in any of the information referred to in paragraph 1, the PEPP provider shall notify that change to the competent authorities of the home Member State at least one month before implementing the change. The competent authorities of the home Member State shall inform the competent authorities of the host Member State about the change as soon as possible and no later than one month from receipt of the notification.

6. Host Member States may, for the purposes of this procedure, designate other competent authorities than those referred to in point 18 of Article 2 in order to exercise the powers conferred on the competent authorities of the host Member State. They shall inform the Commission and EIOPA, indicating any division of those duties.

*Article 16***Powers of the competent authorities of the host Member State**

1. Where the competent authorities of the host Member State have reason to consider that a PEPP is distributed within its territory or a sub-account for that Member State has been opened in infringement of any obligations resulting from the applicable rules, as referred to in Article 3, they shall refer their findings to the competent authorities of the home Member State of the PEPP provider or the PEPP distributor.

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2. After assessing the information received pursuant to paragraph 1, the competent authorities of the home Member State shall, where applicable, take appropriate measures without delay to remedy the situation. They shall inform the competent authorities of the host Member State of any such measures.

3. Where the measures taken by the competent authorities of the home Member State prove to be inadequate or are lacking, and the PEPP provider or the PEPP distributor continues to distribute the PEPP in a manner that is clearly detrimental to the interests of the host Member State's PEPP savers or to the orderly functioning of the market for personal pension products in that Member State, the competent authorities of the host Member State may, after informing the competent authorities of the home Member State, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing the PEPP provider or the PEPP distributor from continuing the distribution of PEPPs within their territory.

In addition, the competent authorities of the home Member State or the competent authorities of the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010.

4. Paragraphs 1 to 3 shall not affect the power of the host Member State to take appropriate and non-discriminatory measures to prevent or penalise irregularities committed within its territory, in situations where immediate action is strictly necessary in order to protect the rights of consumers in the host Member State, and where equivalent measures of the home Member State are inadequate or lacking, or in cases where the irregularities are contrary to national legal provisions protecting the general good, in so far as strictly necessary. In such situations, host Member States shall have the possibility of preventing the PEPP provider or the PEPP distributor from carrying on new business within their territory.

5. Any measure adopted by the competent authorities of the host Member State under this Article shall be communicated to the PEPP provider or the PEPP distributor in a well-reasoned document and notified to the competent authorities of the home Member State without undue delay.

*SECTION II****Portability****Article 17***The portability service**

1. PEPP savers shall have the right to use a portability service which gives them the right to continue contributing into their existing PEPP account, when changing their residence to another Member State.

2. When using the portability service, PEPP savers are entitled to retain all advantages and incentives granted by the PEPP provider and connected with continuous investment in their PEPP.

*Article 18***Provision of the portability service**

1. PEPP providers shall provide the portability service referred to in Article 17 to PEPP savers holding a PEPP account with them and requesting this service.
2. When proposing a PEPP, the PEPP provider or PEPP distributor shall provide prospective PEPP savers with information on the portability service and on which sub-accounts are immediately available.
3. Within three years of the date of application of this Regulation, each PEPP provider shall offer national sub-accounts for at least two Member States upon request addressed to the PEPP provider.

*Article 19***Sub-accounts of the PEPP**

1. Where PEPP providers provide a portability service to PEPP savers in accordance with Article 17, PEPP providers shall ensure that when a new sub-account is opened within a PEPP account, it shall correspond to the legal requirements and conditions, as referred to in Articles 47 and 57, determined at national level for the PEPP by the new Member State of residence of the PEPP saver. All transactions in the PEPP account shall be entered into a corresponding sub-account. The contributions made to and withdrawals from the sub-account may be subject to separate contract terms.
2. Without prejudice to applicable sectorial law, PEPP providers may also ensure compliance with the requirements referred to in paragraph 1 by establishing a partnership with another registered PEPP provider (the 'partner').

Having regard to the scope of the functions to be carried out by the partner, the partner shall be qualified and capable of undertaking the delegated functions. The PEPP provider shall enter into a written agreement with the partner. The agreement shall be legally enforceable and shall clearly define the rights and obligations of the PEPP provider and of the partner. The agreement shall comply with the relevant rules and procedures for delegation and outsourcing established by or under the Union law applicable to them, as referred to in Article 6(1). Notwithstanding that agreement, the PEPP provider shall remain solely liable for its responsibilities under this Regulation.

*Article 20***Opening of a new sub-account**

1. Without delay after being informed about the PEPP saver's change of residence to another Member State, the PEPP provider shall inform the PEPP saver about the possibility to open a new sub-account within the PEPP saver's PEPP account and about the timeframe within which such a sub-account could be opened.

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In that case, the PEPP provider shall provide the PEPP saver free of charge with the PEPP KID, containing the specific requirements referred to in point (g) of Article 28(3) for the sub-account corresponding to the new Member State of residence of the PEPP saver.

In the case that a new sub-account is not available, the PEPP provider shall inform the PEPP saver about the right to switch without delay and free of charge and of the possibility to continue saving in the last sub-account opened.

2. If the PEPP saver intends to make use of the possibility to open a sub-account, the PEPP saver shall inform the PEPP provider of the following:

- (a) the PEPP saver's new Member State of residence;
- (b) the date from which the contributions shall be directed to the new sub-account;
- (c) any relevant information about other conditions for the PEPP.

3. The PEPP saver may continue contributing to the last sub-account opened.

4. The PEPP provider shall offer to provide the PEPP saver with a personalised recommendation explaining whether the opening of a new sub-account within the PEPP saver's PEPP account and making contributions to the new sub-account would be more favourable than continuing to contribute to the last sub-account opened.

5. Where the PEPP provider is not able to ensure the opening of a new sub-account corresponding to the PEPP saver's new Member State of residence, the PEPP saver shall according to his or her choice be able to:

- (a) switch PEPP provider without delay and free of charge notwithstanding the requirements of Article 52(3) on the frequency of switching; or
- (b) continue contributing to the last sub-account opened.

6. The new sub-account shall be opened by amending the existing PEPP contract between the PEPP saver and the PEPP provider, in compliance with the applicable contract law. The date of opening shall be defined in the contract.

*Article 21***Provision of information on portability to the competent authorities**

1. The PEPP provider wishing to open a new sub-account for a host Member State for the first time shall notify the competent authorities of the home Member State.

2. The PEPP provider shall include in the notification the following information and documents:

- (a) standard contract terms of the PEPP contract, as referred to in Article 4, including the annex for the new sub-account;

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- (b) the PEPP KID, containing the specific requirements for the sub-account corresponding to the new sub-account in accordance with point (g) of Article 28(3);
- (c) the PEPP Benefit Statement referred to in Article 36;
- (d) information about contractual arrangements referred to in Article 19(2), where applicable.

3. The competent authorities of the home Member State shall verify whether the documentation provided is complete and transmit it within 10 working days of receipt of the complete documentation to the competent authorities of the host Member State.

4. The competent authorities of the host Member State shall without delay acknowledge the receipt of the information and documents referred to in paragraph 2.

5. The competent authorities of the home Member State shall then inform the PEPP provider that the information has been received by the competent authorities of the host Member State and that the PEPP provider can open the sub-account for that Member State.

In the absence of acknowledgment of receipt as referred to in paragraph 4 within 10 working days of the date of the transmission of the documentation as referred to in paragraph 3, the competent authorities of the home Member State shall inform the PEPP provider that the sub-account for that Member State can be opened.

6. In the event of a change in any of the information and documents referred to in paragraph 2, the PEPP provider shall notify that change to the competent authorities of the home Member State at least one month before implementing the change. The competent authorities of the home Member State shall inform the competent authorities of the host Member State about the change as soon as possible and no later than one month from receipt of the notification.

## CHAPTER IV

**DISTRIBUTION AND INFORMATION REQUIREMENTS***SECTION 1****General provisions****Article 22***General principle**

When carrying out distribution activities for PEPPs, PEPP providers and PEPP distributors shall always act honestly, fairly and professionally in accordance with the best interests of their PEPP customers.

*Article 23***Distribution regime applicable to different types of PEPP providers and PEPP distributors**

1. For the distribution of PEPPs, the different types of PEPP providers and PEPP distributors shall comply with the following rules:



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- (a) insurance undertakings as referred to in point (b) of Article 6(1) of this Regulation and insurance intermediaries as referred to in Article 10(2) of this Regulation shall comply with the applicable national law giving effect to the rules set out in Chapters V and VI of Directive (EU) 2016/97, with the exception of Articles 20, 23, 25 and Article 30(3) of that Directive for the distribution of insurance-based investment products, with any directly applicable Union law adopted under those rules with respect to the distribution of such products and with this Regulation, with the exception of Article 34(4);
- (b) investment firms as referred to in Article 10(2) of this Regulation shall comply with the applicable national law giving effect to the rules on marketing and distribution of financial instruments set out in the first subparagraph of Article 16(3) and Articles 23, 24 and 25 of Directive 2014/65/EU, with the exception of Article 24(2) and Article 25(3) and (4) of that Directive, with any directly applicable Union law adopted under those provisions, and with this Regulation with the exception of Article 34(4);
- (c) all other PEPP providers and PEPP distributors shall comply with the applicable national law giving effect to the rules on marketing and distribution of financial instruments set out in the first subparagraph of Article 16(3) and in Articles 23, 24 and 25 of Directive 2014/65/EU, with the exception of Article 24(2) and Article 25(2), (3) and (4) of that Directive, with any directly applicable Union law adopted under those provisions and with this Regulation.

2. The rules set out in point (a) of paragraph 1 shall apply only to the extent that there is no more stringent provision in the applicable national law giving effect to the rules set out in Chapters V and VI of Directive (EU) 2016/97.

*Article 24***Electronic distribution and other durable mediums**

PEPP providers and PEPP distributors shall provide all documents and information under this Chapter free of charge to PEPP customers electronically, provided that the PEPP customer is able to store such information in a way accessible for future reference and for a period of time adequate for the purposes of the information and that the tool allows the unchanged reproduction of the information stored.

Upon request, PEPP providers and PEPP distributors shall provide free of charge those documents and information also on another durable medium, including paper. PEPP providers and PEPP distributors shall inform PEPP customers about their right to request a copy of those documents on another durable medium, including paper, free of charge.

**▼B***Article 25***Product oversight and governance requirements**

1. PEPP providers shall maintain, operate and review a process for the approval of each PEPP, or significant adaptations of an existing PEPP, before it is distributed to PEPP customers.

The product approval process shall be proportionate and appropriate to the nature of the PEPP.

The product approval process shall specify an identified target market for each PEPP, ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market, and take reasonable steps to ensure that the PEPP is distributed to the identified target market.

The PEPP provider shall understand and regularly review the PEPPs it provides, taking into account any event that could materially affect the potential risk to the identified target market, to assess at least whether the PEPPs remain consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate.

PEPP providers shall make available to PEPP distributors all appropriate information on the PEPP and the product approval process, including the identified target market of the PEPP.

PEPP distributors shall have in place adequate arrangements to obtain the information referred to in the fifth subparagraph and to understand the characteristics and identified target market of each PEPP.

2. The policies, processes and arrangements referred to in this Article shall be without prejudice to all other requirements under or applying by virtue of this Regulation including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interest, inducements and ESG factors.

*SECTION II****Pre-contractual information****Article 26***PEPP KID**

1. Before a PEPP is proposed to PEPP savers, the PEPP provider shall draw up a PEPP KID for that PEPP product in accordance with the requirements of this Section and shall publish the PEPP KID on its website.

2. The PEPP KID shall constitute pre-contractual information. It shall be accurate, fair, clear and not misleading. It shall provide key information and shall be consistent with any binding contractual documents, with the relevant parts of the offer documents and with the terms and conditions of the PEPP.

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3. The PEPP KID shall be a stand-alone document, clearly separate from marketing materials. It shall not contain cross-references to marketing materials. It may contain cross-references to other documents including a prospectus where applicable, only where such cross-references are related to the information required to be included in the PEPP KID by this Regulation.

A separate PEPP KID shall be drawn up for the Basic PEPP.

4. Where a PEPP provider offers to a PEPP saver a range of alternative investment options such that all information required in Article 28(3) regarding those underlying investment options cannot be provided within a single, concise, stand-alone PEPP KID, PEPP providers shall produce one of the following:

- (a) a stand-alone PEPP KID for each alternative investment option;
- (b) a generic PEPP KID providing at least a generic description of the alternative investment options and stating where and how more detailed pre-contractual information relating to the investments backing those investments options can be found.

5. In accordance with Article 24, the PEPP KID shall be drawn up as a short document written in a concise manner. It shall:

- (a) be presented and laid out in a way that is easy to read, using characters of readable size;
- (b) focus on the key information that PEPP customers need;
- (c) be clearly expressed and written in language and a style that facilitates the understanding of the information and, in particular, in language that is clear, succinct and comprehensible.

6. Where colours are used in the PEPP KID, they shall not diminish the comprehensibility of the information if the PEPP KID is printed or photocopied in black and white.

7. Where the corporate branding or logo of the PEPP provider or the group to which it belongs is used in the PEPP KID, it shall not distract from the information contained in the document or obscure the text.

8. In addition to the PEPP KID, PEPP providers and PEPP distributors shall provide prospective PEPP savers with references to any publicly available reports on the financial condition of the PEPP provider, including its solvency, allowing prospective PEPP savers easy access to this information.

9. Prospective PEPP savers shall also be provided with information on the past performance of the PEPP saver's investment option covering performance of a minimum of 10 years or, in cases where the PEPP has been provided for less than 10 years, covering all the years for which the PEPP has been provided. Information on past performance shall be accompanied by the statement 'past performance is not indicative of future performance'.

*Article 27***Language of the PEPP KID**

1. The PEPP KID shall be written in the official languages, or in at least one of the official languages, used in the part of the Member State where the PEPP is distributed, or in another language accepted by the competent authorities of that Member State, or where it has been written in a different language, it shall be translated into one of those languages.

The translation shall faithfully and accurately reflect the content of the original PEPP KID.

2. If a PEPP is marketed in a Member State through marketing materials in one or more of the official languages of that Member State, the PEPP KID shall at least be in the corresponding official languages.

3. The PEPP KID shall be made available upon request in an appropriate format to PEPP savers with a visual impairment.

*Article 28***Content of the PEPP KID**

1. The title ‘PEPP Key Information Document’ shall appear prominently at the top of the first page of the PEPP KID.

The PEPP KID shall be presented in the sequence laid down in paragraphs 2 and 3.

2. An explanatory statement shall appear directly underneath the title. It shall read:

‘This document provides you with key information about this pan-European Personal Pension Product (PEPP). It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this personal pension product and to help you compare it with other PEPPs.’

3. The PEPP KID shall contain the following information:

- (a) at the beginning of the document: the name of the PEPP, whether it is a Basic PEPP or not, the identity and contact details of the PEPP provider, information about the competent authorities of the PEPP provider, the registration number of the PEPP in the central public register and the date of the document;
- (b) the statement: ‘The retirement product described in this document is a long-term product with limited redeemability which cannot be terminated at any time.’;
- (c) under a section titled ‘What is this product?’, the nature and main features of the PEPP, including:
  - (i) its long-term objectives and the means for achieving them, in particular whether the objectives are achieved by means of direct or indirect exposure to the underlying investment assets, including a description of the underlying instruments or reference values, including a specification of the markets the PEPP provider invests in, as well as an explanation of how the return is determined;

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- (ii) a description of the type of PEPP saver to whom the PEPP is intended to be marketed, in particular in terms of the PEPP saver's ability to bear investment loss and the investment horizon;
- (iii) a statement as to
  - whether the Basic PEPP provides a guarantee on the capital or takes the form of a risk-mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital, or
  - whether and to what extent any alternative investment option, if applicable, provides a guarantee or a risk-mitigation technique;
- (iv) a description of the PEPP retirement benefits, in particular the possible forms of out-payments and the right to modify the form of out-payments as referred to in Article 59(1);
- (v) where the PEPP covers biometric risk: details of the risks covered and of the insurance benefits, including the circumstances in which those benefits may be claimed;
- (vi) information on the portability service, including a reference to the central public register referred to in Article 13 where information for the conditions for the accumulation phase and the decumulation phase determined by Member States in accordance with Articles 47 and 57 is contained;
- (vii) a statement on the consequences for the PEPP saver of early withdrawal from the PEPP, including all applicable fees, penalties, and possible loss of capital protection and of other possible advantages and incentives;
- (viii) a statement on the consequences for the PEPP saver if the PEPP saver stops contributing to the PEPP;
- (ix) information on the sub-accounts available and on the PEPP saver's rights referred to in Article 20(5);
- (x) information about the PEPP saver's right to switch and the right to receive information about the switching service as referred to in Article 56;
- (xi) the conditions for modification of the chosen investment option referred to in Article 44;
- (xii) information, where available, related to the performance of the PEPP provider's investments in terms of ESG factors;
- (xiii) the law applicable to the PEPP contract where the parties do not have a free choice of law or, where the parties are free to choose the applicable law, the law that the PEPP provider proposes to choose;
- (xiv) where applicable, whether there is a cooling-off period or cancellation period for the PEPP saver;

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- (d) under a section titled ‘What are the risks and what could I get in return?’, a short description of the risk-reward profile comprising the following elements:
- (i) a summary risk indicator, supplemented by a narrative explanation of that indicator, its main limitations and a narrative explanation of the risks which are materially relevant to the PEPP and which are not adequately captured by the summary risk indicator;
  - (ii) the possible maximum loss of invested capital, including, information on:
    - whether the PEPP saver can lose all invested capital, or
    - whether the PEPP saver bears the risk of incurring additional financial commitments or obligations;
  - (iii) appropriate performance scenarios and the assumptions on which they are based;
  - (iv) where applicable, conditions for returns to PEPP savers or built-in performance caps;
  - (v) a statement that the tax law of the PEPP saver’s Member State of residence may have an impact on the actual payout;
- (e) under a section titled ‘What happens if [the name of the PEPP provider] is unable to pay out?’, a short description of whether the related loss is covered by an investor compensation or guarantee scheme and if so, which scheme it is, the name of the guarantor and which risks are covered by the scheme and which are not;
- (f) under a section titled ‘What are the costs?’, the costs associated with an investment in the PEPP, comprising both direct and indirect costs to be borne by the PEPP saver, including one-off and recurring costs, presented by means of summary indicators of those costs and, to ensure comparability, total aggregate costs expressed in monetary and percentage terms, to show the compound effects of the total costs on the investment.

The PEPP KID shall include a clear indication that the PEPP provider or PEPP distributor shall provide information detailing any cost of distribution that is not already included in the costs specified above, so as to enable the PEPP saver to understand the cumulative effect that those aggregate costs have on the return of the investment;

- (g) under a section titled ‘What are the specific requirements for the sub-account corresponding to [my Member State of residence]?’:
- (i) under a sub-section titled ‘Requirements for the pay-in phase’:
    - a description of the conditions for the accumulation phase, as determined by the Member State of residence of the PEPP saver in accordance with Article 47;

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(ii) under a sub-section titled: ‘Requirements for the pay-out phase’:

a description of the conditions for the decumulation phase, as determined by the Member State of residence of the PEPP saver in accordance with Article 57;

(h) under a section titled ‘How can I complain?’: information about how and to whom a PEPP saver can make a complaint about the PEPP or the conduct of the PEPP provider or PEPP distributor.

4. Layering of the information required under paragraph 3 shall be permitted where the PEPP KID is provided in an electronic format, whereby detailed parts of the information can be presented through pop-ups or through links to accompanying layers. In this case, it shall be possible to print the PEPP KID as one single document.

5. In order to ensure consistent application of this Article, EIOPA shall, after consulting the other ESAs and after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying:

- (a) the details of the presentation, including the form and length of the document, and the content of each of the elements of information referred to in paragraph 3;
- (b) the methodology underpinning the presentation of risk and reward as referred to in points (d)(i) and (iii) of paragraph 3;
- (c) the methodology for the calculation of costs, including the specification of summary indicators, as referred to in point (f) of paragraph 3;
- (d) where information is presented in an electronic format with layering of information, which information shall be in the first layer, and which information may be provided in the additional layers of detail.

When developing the draft regulatory technical standards, EIOPA shall take into account the various possible types of PEPPs, the long-term nature of the PEPP, the capabilities of PEPP savers, and the features of the PEPPs, in order to allow the PEPP saver to select from different investment options and other options provided for by the PEPP, including where that selection may be undertaken at different points in time, or changed in the future.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

**▼B***Article 29***Marketing materials**

Marketing materials that contain specific information relating to the PEPP shall not include any statement that contradicts the information contained in the PEPP KID or diminishes the significance of the PEPP KID. Marketing materials shall indicate that a PEPP KID is available and supply information on how and where to obtain it, including the PEPP provider's website.

*Article 30***Revision of the PEPP KID**

1. The PEPP provider shall review the information contained in the PEPP KID at least annually and shall promptly revise the document where the review indicates that changes need to be made. The revised version shall be made available promptly.

2. In order to ensure consistent application of this Article, EIOPA shall, after consulting the other ESAs and after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the conditions under which the PEPP KID shall be reviewed and revised.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

*Article 31***Civil liabilities**

1. The PEPP provider shall not incur civil liability solely on the basis of the PEPP KID, including any translation thereof, unless it is misleading, inaccurate or inconsistent with the relevant parts of legally binding pre-contractual and contractual documents or with the requirements laid down in Article 28.

2. A PEPP saver who demonstrates loss resulting from reliance on a PEPP KID under the circumstances referred to in paragraph 1, when concluding a PEPP contract for which that PEPP KID was produced, may claim damages from the PEPP provider for that loss in accordance with national law.

3. Elements such as 'loss' or 'damages' as referred to in paragraph 2 which are not defined shall be interpreted and applied in accordance with the applicable national law as determined by the relevant rules of private international law.

4. This Article does not exclude further civil liability claims in accordance with national law.



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5. The obligations under this Article shall not be limited or waived by contractual clauses.

*Article 32***PEPP contracts which cover biometric risks**

Where the PEPP KID concerns a PEPP contract covering biometric risks, the PEPP provider's obligations under this section shall be only towards the PEPP saver.

*Article 33***Provision of the PEPP KID**

1. A PEPP provider or PEPP distributor shall provide prospective PEPP savers with all the PEPP KIDs drawn up in accordance with Article 26 when advising on, or offering for sale, a PEPP, in good time before those PEPP savers are bound by any PEPP contract or offer relating to that PEPP contract.

2. A PEPP provider or PEPP distributor may satisfy the requirements of paragraph 1 by providing the PEPP KID to a natural person with written authority to make investment decisions on behalf of the PEPP saver in respect of transactions concluded under that written authority.

3. In order to ensure consistent application of this Article, EIOPA shall, after having consulted the other ESAs where appropriate, develop draft regulatory technical standards specifying the conditions for fulfilling the requirement to provide the PEPP KID as laid down in paragraph 1.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

*SECTION III**Advice**Article 34***Specification of demands and needs and provision of advice**

1. Prior to the conclusion of a PEPP contract, the PEPP provider or PEPP distributor shall specify, on the basis of information required and obtained from the prospective PEPP saver, the retirement-related demands and needs of that prospective PEPP saver, including the possible need to acquire a product offering annuities, and shall provide the prospective PEPP saver with objective information about the PEPP in a comprehensible form to allow that PEPP saver to make an informed decision.

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Any PEPP contract proposed shall be consistent with the PEPP saver's retirement-related demands and needs, taking into account his or her accrued retirement entitlements.

2. The PEPP provider or PEPP distributor shall provide advice to the prospective PEPP saver prior to the conclusion of the PEPP contract providing the prospective PEPP saver with a personalised recommendation explaining why a particular PEPP, including a particular investment option, if applicable, would best meet the PEPP saver's demands and needs.

The PEPP provider or PEPP distributor shall also provide the prospective PEPP saver with personalised pension benefit projections for the recommended product based on the earliest date on which the decumulation phase may start and a disclaimer that those projections may differ from the final value of the PEPP benefits received. If the pension benefit projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the specific nature of the PEPP contract.

3. If a Basic PEPP is offered without at least a guarantee on the capital, the PEPP provider or PEPP distributor shall clearly explain the existence of PEPPs with a guarantee on the capital, the reasons for recommending a Basic PEPP based on a risk mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital and clearly demonstrate any additional risks that such PEPPs might entail in comparison to a capital guarantee based Basic PEPP providing a guarantee on the capital. This explanation shall be done in written format.

4. When providing advice the PEPP provider or PEPP distributor referred to in point (c) of Article 23(1) of this Regulation shall ask the prospective PEPP saver to provide information regarding that person's knowledge and experience in the investment field relevant to the PEPP offered or demanded and that person's financial situation including his or her ability to bear losses, and his or her investment objectives including his or her risk tolerance so as to enable the PEPP provider or PEPP distributor to recommend to the prospective PEPP saver one or more PEPPs that are suitable for that person and, in particular, are in accordance with his or her risk tolerance and ability to bear losses.

5. The responsibilities of the PEPP provider or PEPP distributor shall not be reduced due to the fact that advice is provided in whole or in part through an automated or semi-automated system.

6. Without prejudice to stricter applicable sectorial law, PEPP providers and PEPP distributors shall ensure and demonstrate to competent authorities on request that natural persons giving advice on PEPPs possess the necessary knowledge and competence to fulfil their obligations under this Regulation. Member States shall publish the criteria to be used for assessing such knowledge and competence.

**▼B***SECTION IV**Information during the term of the contract**Article 35***General provisions**

1. PEPP providers shall draw up a concise personalised document to be provided during the accumulation phase containing key information for each PEPP saver taking into consideration the specific nature of national pension systems and of any relevant law, including national social, labour and tax law (PEPP Benefit Statement). The title of the document shall contain the words 'PEPP Benefit Statement'.
2. The exact date to which the information in the PEPP Benefit Statement refers shall be stated prominently.
3. The information contained in the PEPP Benefit Statement, shall be accurate and up-to-date.
4. The PEPP provider shall make the PEPP Benefit Statement available to each PEPP saver annually.
5. Any material change to the information contained in the PEPP Benefit Statement compared to the previous statement shall be clearly indicated.
6. In addition to the PEPP Benefit Statement, the PEPP saver shall be informed promptly throughout the term of the contract of any change concerning the following information:
  - (a) the contract terms including general and special policy conditions;
  - (b) the name of the PEPP provider, its legal form or the address of its head office and, where appropriate, of the branch which concluded the contract;
  - (c) information on how the investment policy takes into account ESG factors.

*Article 36***PEPP Benefit Statement**

1. The PEPP Benefit Statement shall include, at least, the following key information for PEPP savers:
  - (a) personal details of the PEPP saver and the earliest date on which the decumulation phase may start for any sub-account;
  - (b) the name and contact address of the PEPP provider and an identification of the PEPP contract;
  - (c) the Member State in which the PEPP provider is authorised or registered and the names of the competent authorities;

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- (d) information on pension benefit projections based on the date referred to in point (a), and a disclaimer that those projections may differ from the final value of the PEPP benefits received. If the pension benefit projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the specific nature of the PEPP contract;
- (e) information on the contributions paid by the PEPP saver or any third party into the PEPP account over the previous 12 months;
- (f) a breakdown of all costs incurred, directly and indirectly, by the PEPP saver over the previous 12 months, indicating the costs of administration, the costs of safekeeping of assets, the costs related to portfolio transactions and other costs, as well as an estimation of the impact of the costs on the final PEPP benefits; such costs should be expressed both in monetary terms and as a percentage of contributions over the previous 12 months;
- (g) where applicable, the nature and the mechanism of the guarantee or risk mitigation techniques referred to in Article 46;
- (h) where applicable, the number and value of units corresponding to the PEPP saver's contributions over the previous 12 months;
- (i) the total amount in the PEPP account of the PEPP saver on the date of the statement referred to in Article 35;
- (j) information on the past performance of the PEPP saver's investment option covering performance of a minimum of 10 years or, in cases where the PEPP has been provided for less than 10 years, covering all the years for which the PEPP has been provided. Information on past performance shall be accompanied by the statement 'past performance is not indicative of future performance';
- (k) for PEPP accounts with more than one sub-account, information in the PEPP Benefit Statement shall be broken down for all existing sub-accounts;
- (l) summary information on the investment policy relating to ESG factors.

2. EIOPA shall, in consultation with the European Central Bank and competent authorities, develop draft regulatory technical standards specifying the rules to determine the assumptions on pension benefit projections referred to in point (d) of paragraph 1 of this Article and in Article 34(2). Those rules shall be applied by PEPP providers to determine, where relevant, the annual rate of nominal investment returns, the annual rate of inflation and the trend of future wages.

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EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020. Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Article 10 to 14 of Regulation (EU) No 1094/2010.

*Article 37***Supplementary information**

1. The PEPP Benefit Statement shall specify where and how to obtain supplementary information including:

- (a) further practical information about the PEPP saver's rights and options, including with regard to investments, the decumulation phase, the switching service and the portability service;
- (b) the annual accounts and annual reports of the PEPP provider that are publicly available;
- (c) a written statement of the PEPP provider's investment-policy principles, containing at least information on the investment risk measurement methods, the risk-management processes implemented and the strategic asset allocation with respect to the nature and duration of PEPP liabilities, as well as how the investment policy takes ESG factors into account;
- (d) where applicable, information about the assumptions used for amounts expressed in annuities, in particular with respect to the annuity rate, the type of PEPP provider and the duration of the annuity;
- (e) the level of PEPP benefits, in the case of redemption before the date referred to in point (a) of Article 36(1).

2. In order to ensure consistent application of Article 36 and of this Article, EIOPA shall, after consulting the other ESAs and after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the details of the presentation of the information referred to in Article 36 and in this Article. In relation to the presentation of the information on past performance as referred to in point (j) of Article 36(1), the differences between the investment options shall be taken into account, in particular if the PEPP saver bears investment risk or if the investment option is age-dependent or includes duration matching.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is conferred on the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

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3. Without prejudice to Article 34(2) and point (d) of Article 36(1), in order to allow for comparison with national products, Member States may require PEPP providers to provide PEPP savers with additional pension benefit projections where the rules to determine the assumptions are set by the respective Member States.

*Article 38***Information to be given to PEPP savers during the pre-retirement phase and to PEPP beneficiaries during the decumulation phase**

1. In addition to the PEPP Benefit Statement, PEPP providers shall provide each PEPP saver two months before the dates referred to in points (a) and (b) of Article 59(1) or at the request of the PEPP saver, with information about the upcoming start of the decumulation phase, the possible forms of out-payments and the possibility for the PEPP saver to modify the form of out-payments in accordance with Article 59(1).

2. During the decumulation phase, PEPP providers shall provide annually PEPP beneficiaries with information about the PEPP benefits due and the corresponding form of out-payments.

Where the PEPP saver continues to make contributions or to bear investment risk during the decumulation phase, the PEPP provider shall continue providing the PEPP Benefit Statement containing the relevant information.

*Article 39***Information to be given on request to PEPP savers and PEPP beneficiaries**

At the request of a PEPP saver or of a PEPP beneficiary or of their representatives, the PEPP provider shall provide the supplementary information referred to in Article 37(1) and supplementary information about the assumptions used to generate the projections referred to in point (d) of Article 36(1).

*SECTION V****Reporting to national authorities****Article 40***General provisions**

1. PEPP providers shall submit to their competent authorities the information which is necessary for the purposes of supervision in addition to the information provided under the relevant sectorial law. That additional information shall include, where applicable, the information necessary to carry out the following activities when performing a supervisory review process:

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- (a) to assess the system of governance applied by the PEPP providers, the business they are pursuing, the valuation principles applied for solvency purposes, the risks faced and the risk-management systems, and their capital structure, needs and management;
  - (b) to make any appropriate decisions resulting from the exercise of their supervisory rights and duties.
2. The competent authorities, in addition to the powers conferred to them according to national law, shall have the following powers:
  - (a) to determine the nature, the scope and the format of the information referred to in paragraph 1 which they require PEPP providers to submit at predefined intervals, upon occurrence of predefined events or during enquiries regarding the situation of a PEPP provider;
  - (b) to obtain from the PEPP providers any information regarding contracts which are held by PEPP providers or regarding contracts which are entered into with third parties; and
  - (c) to require information from external experts, such as auditors and actuaries.
3. The information referred to in paragraphs 1 and 2 shall comprise the following:
  - (a) qualitative or quantitative elements, or any appropriate combination thereof;
  - (b) historic, current or prospective elements, or any appropriate combination thereof;
  - (c) data from internal or external sources, or any appropriate combination thereof.
4. The information referred to in paragraphs 1 and 2 shall:
  - (a) reflect the nature, scale and complexity of the business of the PEPP provider concerned, and in particular the risks inherent in that business;
  - (b) be accessible, complete in all material respects, comparable and consistent over time;
  - (c) be relevant, reliable and comprehensible.
5. PEPP providers shall submit to the competent authorities annually the following information:
  - (a) for which Member States the PEPP provider offers sub-accounts;
  - (b) number of notifications in accordance with Article 20(1) received from PEPP savers that have changed their residence to another Member State;
  - (c) number of requests for opening a sub-account and number of sub-accounts opened in accordance with Article 20(2);
  - (d) number of requests from PEPP savers for switching and actual transfers made in accordance with point (a) of Article 20(5);
  - (e) number of requests from PEPP savers for switching and actual transfers made in accordance with Article 52(3).

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The competent authorities shall forward the information to EIOPA.

6. PEPP providers shall have appropriate systems and structures in place to fulfil the requirements laid down in paragraphs 1 to 5 as well as a written policy, approved by the management, supervisory or administrative body of the PEPP provider, ensuring the ongoing appropriateness of the information submitted.

7. Upon request to the competent authorities and in order to carry out the duties assigned to it by this Regulation, EIOPA shall have access to the information submitted by PEPP providers.

8. Where PEPP contributions and PEPP benefits are eligible for advantages or incentives, the PEPP provider shall in accordance with the relevant national law submit to the relevant national authority all information necessary for the provision or reclaiming of such advantages and incentives received in relation to such contributions and benefits, where applicable.

9. The Commission shall adopt delegated acts in accordance with Article 72 to supplement this Regulation by specifying the additional information referred to in paragraphs 1 to 5 of this Article, with a view to ensuring to the appropriate extent convergence of supervisory reporting.

EIOPA, after consulting the other ESAs and the competent authorities and after industry testing, shall develop draft implementing technical standards regarding the format of supervisory reporting.

EIOPA shall submit those draft implementing technical standards to the Commission by 15 August 2020.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

## CHAPTER V

### ACCUMULATION PHASE

#### SECTION 1

#### *Investment rules for PEPP providers*

##### *Article 41*

#### **Investment rules**

1. PEPP providers shall invest the assets corresponding to the PEPP in accordance with the ‘prudent person’ rule and in particular in accordance with the following rules:

- (a) the assets shall be invested in the best long-term interests of PEPP savers as a whole. In the case of a potential conflict of interest, a PEPP provider, or the entity which manages its portfolio, shall ensure that the investment is made in the sole interest of PEPP savers;



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- (b) within the prudent person rule, PEPP providers shall take into account risks related to and the potential long-term impact of investment decisions on ESG factors;
- (c) the assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
- (d) the assets shall be predominantly invested on regulated markets. Investment in assets which are not admitted to trading on a regulated financial market shall be kept to prudent levels;
- (e) investment in derivative instruments shall be possible insofar as such instruments contribute to a reduction in investment risks or facilitate efficient portfolio management. Those instruments shall be valued on a prudent basis, taking into account the underlying asset, and included in the valuation of a PEPP provider's assets. PEPP providers shall also avoid excessive risk exposure to a single counterparty and to other derivative operations;
- (f) the assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole. Investments in assets issued by the same issuer or by issuers belonging to the same group shall not expose a PEPP provider to excessive risk concentration;
- (g) the assets shall not be invested in a non-cooperative jurisdiction for tax purposes identified in the applicable Council's conclusions on the list of non-cooperative jurisdictions for tax purposes, nor in a high-risk third country with strategic deficiencies identified by the applicable Commission Delegated Regulation adopted on the basis of Article 9 of Directive (EU) 2015/849;
- (h) the PEPP provider shall not expose itself and the assets corresponding to the PEPP to risks stemming from excessive leverage and excessive maturity transformation.

2. The rules set out in points (a) to (h) of paragraph 1 apply only to the extent that there is no more stringent provision in the relevant sectorial law applicable to the PEPP provider.

*SECTION II**Investment options for PEPP savers**Article 42***General provisions**

1. PEPP providers may offer up to six investment options to PEPP savers.
2. The investment options shall include the Basic PEPP and may include alternative investment options.

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3. All investment options shall be designed by PEPP providers on the basis of a guarantee or risk-mitigation technique which shall ensure sufficient protection for PEPP savers.
4. Provision of guarantees shall be subject to the relevant sectorial law applicable to the PEPP provider.
5. PEPP providers referred to in points (c), (d), (e) and (f) of Article 6(1) may offer PEPP with a guarantee only by cooperating with credit institutions or insurance undertakings that can provide such guarantees according to the sectorial law applicable to them. Those institutions or undertakings shall be solely liable for the guarantee.

*Article 43***Choice of investment option by the PEPP saver**

Having received the relevant information and advice, the PEPP saver shall choose an investment option when concluding the PEPP contract.

*Article 44***Conditions for modification of the chosen investment option**

1. If the PEPP provider provides alternative investment options, the PEPP saver, while accumulating in the PEPP, shall be able to choose a different investment option after a minimum of five years from the conclusion of the PEPP contract and, in the case of subsequent changes, after five years from the most recent change of investment option. The PEPP provider may allow the PEPP saver to modify the chosen investment option more frequently.
2. The modification of the investment option shall be free of charge for the PEPP saver.

*Article 45***The Basic PEPP**

1. The Basic PEPP shall be a safe product representing the default investment option. It shall be designed by PEPP providers on the basis of a guarantee on the capital which shall be due at the start of the decumulation phase and during the decumulation phase, where applicable, or a risk-mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital.
2. The costs and fees for the Basic PEPP shall not exceed 1 % of the accumulated capital per year.
3. In order to ensure a level playing field between different PEPP providers and different types of PEPPs, EIOPA shall develop draft regulatory technical standards specifying the types of costs and fees referred to in paragraph 2, having consulted the other ESAs where applicable.

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When developing the draft regulatory technical standards, EIOPA shall take into account the various possible types of PEPPs, the long-term retirement nature of the PEPP and the various possible features of the PEPPs, in particular out-payments in the form of long-term annuities or annual drawdowns until at least the age corresponding with the average life expectancy of the PEPP saver. EIOPA shall also assess the peculiar nature of the capital protection with specific regard to the capital guarantee. EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

4. Every two years from the date of application of this Regulation, the Commission shall, after having consulted EIOPA and, where applicable, the other ESAs, review the adequacy of the percentage value referred to in paragraph 2. The Commission shall, in particular take into account the actual level and changes in the actual level of costs and fees and the impact on the availability of PEPPs.

The Commission is empowered to adopt delegated acts in accordance with Article 72 to amend the percentage value referred to in paragraph 2 of this Article in the light of its reviews with a view to allowing appropriate market access for PEPP providers.

*Article 46***Risk-mitigation techniques**

1. The use of risk-mitigation techniques shall ensure that the investment strategy for the PEPP is designed in order to build up a stable and adequate individual future retirement income from the PEPP and to ensure a fair treatment of all generations of PEPP savers.

All risk-mitigation techniques, whether applied under the Basic PEPP or for the alternative investment options, shall be sound, robust and consistent with the risk profile of the corresponding investment option.

2. The applicable risk-mitigation techniques may include, inter alia, provisions:

- (a) for gradually adapting the investment allocation to mitigate the financial risks of investments for cohorts corresponding to the remaining duration (life-cycling);
- (b) establishing reserves from contributions or investment returns, which shall be allocated to PEPP savers in a fair and transparent manner, to mitigate investment losses; or
- (c) for using appropriate guarantees to protect against investment losses.

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3. In order to ensure the consistent application of this Article, EIOPA shall, after consulting the other ESAs, and after conducting industry testing, develop draft regulatory technical standards specifying the minimum criteria that the risk-mitigation techniques have to satisfy, taking into account the various types of PEPPs and their specific features, as well as the various types of PEPP providers and the differences between their prudential regime.

EIOPA shall submit those draft regulatory technical standards to the Commission by 15 August 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

*SECTION III**Other aspects of the accumulation phase**Article 47***Conditions related to the accumulation phase**

1. The conditions related to the accumulation phase of the national sub-accounts shall be determined by Member States unless they are specified in this Regulation.
2. Such conditions may include in particular age limits for starting the accumulation phase, minimum duration of the accumulation phase, maximum and minimum amount of contributions and their continuity.

## CHAPTER VI

**INVESTOR PROTECTION***Article 48***Depositary**

1. The PEPP providers referred to in points (c), (e) and (f) of Article 6(1) shall appoint one or more depositaries for the safekeeping of assets in relation to the PEPP provision business and oversight duties.
2. For the appointment of the depositary, the execution of its tasks in relation to the safekeeping of assets and the liability of the depositary and for the oversight duties of the depositary, Chapter IV of Directive 2009/65/EC shall be applied accordingly.

*Article 49***Coverage of biometric risks**

1. PEPP providers may offer PEPPs with an option ensuring the coverage of biometric risks.
2. Coverage of biometric risks shall be subject to the relevant sectorial law applicable to the PEPP provider. The coverage of biometric risks may vary from sub-account to sub-account.

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3. PEPP providers referred to in points (a), (c), (d), (e) and (f) of Article 6(1) may offer PEPPs with an option ensuring the coverage of biometric risks. In that case, the coverage shall be granted only by cooperating with insurance undertakings that can cover those risks according to the sectorial law applicable to them. The insurance undertaking shall be fully liable for the coverage of biometric risks.

*Article 50***Complaints**

1. PEPP providers and PEPP distributors shall put in place and apply adequate and effective procedures for the settlement of complaints lodged by PEPP customers concerning their rights and obligations under this Regulation.

2. Those procedures shall be applied in every Member State where the PEPP provider or PEPP distributor offers its services and shall be available in an official language of the relevant Member State as chosen by the PEPP customer, or in another language if agreed between the PEPP provider or PEPP distributor and the PEPP customer.

3. PEPP providers and PEPP distributors shall make every possible effort to reply, either electronically or in another durable medium in accordance with Article 24, to the PEPP customers' complaints. The reply shall address all points raised, within an adequate timeframe and at the latest within 15 working days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 working days for reasons beyond the control of the PEPP provider or PEPP distributor, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the PEPP customer will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 working days.

4. PEPP providers and PEPP distributors shall inform the PEPP customer about at least one alternative dispute resolution (ADR) body which is competent to deal with disputes concerning PEPP customers' rights and obligations under this Regulation.

5. The information on the procedures referred to in paragraph 1 shall be mentioned in a clear, comprehensive and easily accessible way on the website of the PEPP provider or PEPP distributor, at the branch, and in the general terms and conditions of the contract between the PEPP provider or PEPP distributor and the PEPP customer. It shall specify how further information on the ADR body concerned and on the conditions for using it can be accessed.

6. The competent authorities shall set up procedures which allow PEPP customers and other interested parties, including consumer associations, to submit complaints to the competent authorities with regard to PEPP providers' and PEPP distributors' alleged infringements of this Regulation. In all cases, complainants shall receive replies.

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7. In cases that concern more than one Member State, the complainant may choose to lodge his or her complaint through the competent authorities of his or her Member State of residence, regardless of where the infringement occurred.

*Article 51***Out-of-court redress**

1. Adequate, independent, impartial, transparent and effective ADR procedures for the settlement of disputes between PEPP customers and PEPP providers or PEPP distributors concerning the rights and obligations arising under this Regulation shall be established in accordance with Directive 2013/11/EU of the European Parliament and the Council <sup>(1)</sup>, using existing competent bodies where appropriate. Such ADR procedures shall be applicable, and the relevant ADR body's competence shall effectively extend, to PEPP providers or PEPP distributors against whom the procedures are initiated.

2. The bodies referred to in paragraph 1 shall cooperate effectively for the resolution of cross-border disputes concerning rights and obligations arising under this Regulation.

## CHAPTER VII

**SWITCHING OF PEPP PROVIDERS***Article 52***Provision of the switching service**

1. PEPP providers shall provide a switching service transferring, upon a request of the PEPP saver, the corresponding amounts or, where applicable, assets-in-kind in accordance with paragraph 4, from a PEPP account held with the transferring PEPP provider to a new PEPP account with the same sub-accounts opened with the receiving PEPP provider, with closing the former PEPP account.

When using the switching service, the transferring PEPP provider shall transfer all information linked to all sub-accounts of the former PEPP account, including reporting requirements, to the receiving PEPP provider. The receiving PEPP provider shall register that information in the corresponding sub-accounts.

A PEPP saver may request to switch to a PEPP provider established in the same Member State (domestic switching) or in a different Member State (cross-border switching). The PEPP saver may exercise the right to switch providers during the accumulation phase and the decumulation phase of the PEPP.

2. Notwithstanding paragraph 1, during the decumulation phase, PEPP providers shall not be obliged to provide a switching service for PEPPs, where PEPP savers are receiving out-payments in the form of lifetime annuities.

<sup>(1)</sup> Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

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3. The PEPP saver may switch PEPP providers after a minimum of five years from the conclusion of the PEPP contract, and, in case of subsequent switching, after five years from the most recent switching, without prejudice to point (a) of Article 20(5). The PEPP provider may allow the PEPP saver to switch PEPP providers more frequently.

4. Where the switching is between PEPP providers engaged in individual portfolio management for PEPP savers, PEPP savers may choose to transfer assets-in-kind or corresponding amounts. In all other cases, only the transfer of corresponding amounts shall be allowed.

The written consent of the receiving PEPP provider shall be required where the PEPP saver requests a transfer of assets-in-kind.

*Article 53***The switching service**

1. At the request of the PEPP saver, after the PEPP saver has made an informed decision based on the information received from the PEPP providers as defined in Article 56, the switching service shall be initiated by the receiving PEPP provider.

2. The request from the PEPP saver shall be drawn up in an official language of the Member State where the switching service is being initiated or in any other language agreed between the parties. In the request, the PEPP saver shall:

- (a) give his or her specific consent to the performance by the transferring PEPP provider of each of the tasks referred to in paragraph 4 and shall give his or her specific consent to the performance by the receiving PEPP provider of each of the tasks referred to in paragraph 5;
- (b) in agreement with the receiving PEPP provider, specify the date from which payments are to be executed to the PEPP account opened with the receiving PEPP provider.

That date shall be at least two weeks after the date on which the receiving PEPP provider receives the documents transferred from the transferring PEPP provider pursuant to paragraph 4.

Member States may require the request from the PEPP saver to be in writing and that a copy of the accepted request is provided to the PEPP saver.

3. Within five working days from receipt of the request referred to in paragraph 2, the receiving PEPP provider shall request the transferring PEPP provider to carry out the tasks as referred to in paragraph 4.

4. Upon receipt of a request from the receiving PEPP provider, the transferring PEPP provider shall:

- (a) within five working days, send the PEPP Benefit Statement for the period from the date of the last drawn up PEPP Benefit Statement to the date of the request to the PEPP saver and to the receiving PEPP provider;

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- (b) within five working days, send a list of the existing assets that are being transferred in the case of transfer of assets-in-kind as referred to in Article 52(4) to the receiving PEPP provider;
- (c) stop accepting incoming payments on the PEPP account with effect from the date specified by the PEPP saver in the request referred to in point (b) of paragraph 2;
- (d) transfer the corresponding amounts, or where applicable, assets-in-kind in accordance with Article 52(4), from the PEPP account to the new PEPP account opened with the receiving PEPP provider on the date specified by the PEPP saver in the request;
- (e) close the PEPP account on the date specified by the PEPP saver if the PEPP saver has no outstanding obligations. The transferring PEPP provider shall immediately inform the PEPP saver where such outstanding obligations prevent the PEPP saver's account from being closed.

5. The receiving PEPP provider shall, as provided for in the request and to the extent that the information provided by the transferring PEPP provider or the PEPP saver enables the receiving PEPP provider to do so, make any necessary preparations to accept incoming payments and accept them with effect from the date specified by the PEPP saver in the request.

*Article 54***Fees and charges connected with the switching service**

1. PEPP savers shall be able to access free of charge their personal information held either by the transferring or by the receiving PEPP provider.
2. The transferring PEPP provider shall provide the information requested by the receiving PEPP provider pursuant to point (a) of Article 53(4) without charging the PEPP saver or the receiving PEPP provider.
3. The total fees and charges applied by the transferring PEPP provider to the PEPP saver for the closure of the PEPP account held with it shall be limited to the actual administrative costs incurred by the PEPP provider and shall not exceed 0,5 % of the corresponding amounts or monetary value of the assets-in-kind to be transferred to the receiving PEPP provider.

Member States may set a lower percentage of the fees and charges as referred to in the first subparagraph and a different percentage when the PEPP provider allows PEPP savers to switch PEPP provider more frequently as referred to in Article 52(3).

The transferring PEPP provider shall not charge any additional fees or charges to the receiving PEPP provider.

4. The receiving PEPP provider may only charge the actual administrative and transaction costs of the switching service.



**▼B***Article 55***Protection of PEPP savers against financial loss**

1. Any financial loss, including fees, charges and interest, incurred by the PEPP saver and resulting directly from the non-compliance of a PEPP provider involved in the switching process with its obligations under Article 53 shall be refunded by that PEPP provider without delay.
2. Liability under paragraph 1 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the PEPP provider pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a PEPP provider is bound by other legal obligations covered by Union or national law.
3. Liability under paragraph 1 shall be established in accordance with the legal requirements applicable at national level.
4. The PEPP saver shall bear any risk of financial loss connected with the redemption in kind of the assets held in the PEPP account for the sake of their transfer from the transferring PEPP provider to the receiving PEPP provider as referred to in Article 52(4).
5. The transferring PEPP provider shall not be obliged to ensure capital protection or provide a guarantee at the moment of switching.

*Article 56***Information about the switching service**

1. PEPP providers shall give to PEPP savers the following information about the switching service in order to enable the PEPP saver to make an informed decision:
  - (a) the roles of the transferring and receiving PEPP provider for each step of the switching process, as set out in Article 53;
  - (b) the time-frame for completion of the respective steps;
  - (c) the fees and charges charged for the switching process;
  - (d) the possible implications of the switching, in particular on the capital protection or guarantee, and other information related to the switching service;
  - (e) information about the possibility for a transfer of assets-in-kind, if applicable.

The receiving PEPP provider shall comply with the requirements of Chapter IV.

The receiving PEPP provider shall, where applicable, inform the PEPP saver of the existence of any guarantee scheme, including a deposit guarantee scheme, investor-compensation scheme or insurance guarantee scheme, which covers that PEPP saver.

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2. The information referred to in paragraph 1 of this Article shall be available on the PEPP provider's website. It shall also be provided to PEPP savers on request in accordance with the requirements of Article 24.

## CHAPTER VIII

## DECUMULATION PHASE

*Article 57***Conditions related to the decumulation phase**

1. The conditions related to the decumulation phase and the out-payments of the national sub-accounts shall be determined by Member States unless they are specified in this Regulation.

2. Such conditions may include in particular the setting of the minimum age for the start of the decumulation phase, of a maximum period before reaching the retirement age for joining a PEPP, as well as conditions for redemption before the minimum age for the start of the decumulation phase, in particular in case of particular hardship.

*Article 58***Forms of out-payments**

1. PEPP providers shall make available to PEPP savers one or more of the following forms of out-payments:

- (a) annuities;
- (b) lump sum;
- (c) drawdown payments;
- (d) combinations of the above forms.

2. PEPP savers shall choose the form of out-payments for the decumulation phase when they conclude a PEPP contract and when they request an opening of a new sub-account. The form of out-payments may differ from sub-account to sub-account.

3. Without prejudice to paragraph 1 of this Article or to Article 57 or 59, Member States may adopt measures to privilege particular forms of out-payments. Such measures may include quantitative limits on lump sum payments to further encourage the other forms of out-payments referred to in paragraph 1 of this Article. Such quantitative limits shall only apply to out-payments corresponding to the capital accumulated in PEPP sub-accounts linked to Member States whose national law provides for quantitative limits on lump sum payments.

4. Member States may specify conditions under which advantages and incentives granted shall be repaid to them.

*Article 59***Modifications of the forms of out-payments**

1. If the PEPP provider provides different forms of out-payments, the PEPP saver shall be allowed to modify the form of out-payments of each opened sub-account:

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- (a) one year before the start of the decumulation phase;
- (b) at the start of the decumulation phase;
- (c) at the moment of switching.

The modification of the form of out-payment shall be free of charge for the PEPP saver.

2. Upon receipt of a PEPP saver's request to modify his or her form of out-payments, the PEPP provider shall provide the PEPP saver with information in a clear and understandable format about the financial implications of such change on the PEPP saver or PEPP beneficiary, in particular as regards any impact on the national incentives that might apply to the existing sub-accounts of the PEPP saver's PEPP.

*Article 60***Retirement planning and advice on out-payments**

1. For the Basic PEPP, at the start of the decumulation phase, the PEPP provider shall offer the PEPP saver personal retirement planning on the sustainable use of the capital accumulated in the PEPP sub-accounts, taking into account at least:

- (a) the value of the capital accumulated in the PEPP sub-accounts;
- (b) the total amount of other accrued retirement entitlements; and
- (c) the long-term retirement-related demands and needs of the PEPP saver.

2. The retirement planning referred to in paragraph 1 shall include a personal recommendation to the PEPP saver on his or her optimal form of out-payments unless only one form of out-payments is provided. If a lump-sum payment is not in line with the retirement-related needs of the PEPP saver, the advice shall be accompanied by a warning to that end.

CHAPTER IX  
**SUPERVISION**

*Article 61***Supervision by the competent authorities and monitoring by EIOPA**

1. The competent authorities of the PEPP provider shall supervise compliance with this Regulation on an ongoing basis and in accordance with the relevant sectorial supervisory regime and standards. They shall also be responsible for supervising compliance with the obligations set out in the rules or instruments of incorporation of the PEPP provider, and the adequacy of its arrangements and organisation with regard to the tasks to be fulfilled when providing a PEPP.

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2. EIOPA and competent authorities shall monitor personal pension products provided or distributed in order to verify that such products are designated ‘PEPP’ or it is suggested that such products are PEPPs only when they are registered under this Regulation.

*Article 62***Powers of competent authorities**

Each Member State shall ensure that the competent authorities have all supervisory and investigatory powers that are necessary for the exercise of their functions pursuant to this Regulation.

*Article 63***Product intervention powers of competent authorities**

1. Competent authorities may prohibit or restrict in or from its Member State the marketing or distribution of a PEPP under the following conditions:

- (a) the competent authorities are satisfied that there are reasonable grounds to believe that the PEPP gives rise to significant or reiterated saver’s protection concerns or poses a risk to the orderly functioning and integrity of financial markets or the stability of whole or part of the financial system within at least one Member State;
- (b) the action is proportionate taking into account the nature of the risks identified, the level of sophistication of PEPP savers concerned and the likely effect of the action on PEPP savers who have concluded a PEPP contract;
- (c) the competent authorities have properly consulted competent authorities in other Member States that may be significantly affected by the action; and
- (d) the action does not have a discriminatory effect on services or activities provided from another Member State.

Where the conditions set out in the first subparagraph are fulfilled, competent authorities may impose the prohibition or restriction on a precautionary basis before a PEPP has been marketed or distributed to PEPP savers. A prohibition or restriction may apply in circumstances, or be subject to exceptions, specified by the competent authorities.

2. The competent authorities shall not impose a prohibition or restriction under this Article unless, not less than one month before the measure is intended to take effect, they have notified all other competent authorities involved and EIOPA in writing or through another medium agreed between the authorities of the details of:

- (a) the PEPP to which the proposed action relates;
- (b) the precise nature of the proposed prohibition or restriction and when it is intended to take effect; and
- (c) the evidence upon which they have based their decision and upon which they have reasonable grounds to believe that each of the conditions in paragraph 1 are met.

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3. In exceptional cases where the competent authorities deem it necessary to take urgent action under this Article in order to prevent detriment arising from the PEPP, the competent authorities may take action on a provisional basis with no less than 24 hours' written notice before the measure is intended to take effect to all other competent authorities and EIOPA, provided that all the conditions set out in this Article are met and that, in addition, it is clearly established that a one-month notification period would not adequately address the specific concern or threat. The competent authorities shall not take action on a provisional basis for a period exceeding three months.

4. The competent authorities shall publish on their websites notice of any decision to impose any prohibition or restriction referred to in paragraph 1. That notice shall specify details of the prohibition or restriction, a time after the publication of the notice from which the measures will take effect and the evidence upon which it is satisfied each of the conditions in paragraph 1 are met. The prohibition or restriction shall only apply in relation to action taken after the publication of the notice.

5. The competent authorities shall revoke a prohibition or restriction if the conditions in paragraph 1 no longer apply.

*Article 64***Facilitation and coordination**

1. EIOPA shall perform a facilitation and coordination role in relation to action taken by competent authorities under Article 63. In particular, EIOPA shall ensure that action taken by a competent authority is justified and proportionate and that, where appropriate, a consistent approach is taken by competent authorities.

2. After receiving notification under Article 63 of any prohibition or restriction that is to be imposed under that Article, EIOPA shall issue an opinion on whether the prohibition or restriction is justified and proportionate. If EIOPA considers that the taking of a measure by other competent authorities is necessary to address the risk, it shall state this in its opinion. The opinion shall be published on EIOPA's website.

3. Where a competent authority proposes to take, or takes, action contrary to an opinion issued by EIOPA under paragraph 2 or declines to take action contrary to such an opinion, it shall immediately publish on its website a notice fully explaining its reasons for so doing.

*Article 65***Product intervention powers of EIOPA**

1. In accordance with Article 9(2) of Regulation (EU) No 1094/2010, EIOPA shall monitor the market for PEPPs which are marketed, distributed or sold in the Union.

2. In accordance with Article 9(5) of Regulation (EU) No 1094/2010, EIOPA may, where the conditions in paragraphs 3 and 4 of this Article are fulfilled, temporarily prohibit or restrict in the Union the marketing, distribution or sale of certain PEPPs or PEPPs with certain specified features.

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A prohibition or restriction may apply in circumstances, or be subject to exceptions, to be specified by EIOPA.

3. EIOPA shall take a decision under paragraph 2 of this Article after consulting the other ESAs, where appropriate, and only if all of the following conditions are fulfilled:

- (a) the proposed action addresses a significant PEPP saver protection concern, including with respect to the long-term retirement nature of the product, or a threat to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system in the Union;
- (b) regulatory requirements under Union law that are applicable to PEPPs do not address the threat;
- (c) a competent authority or competent authorities have not taken action to address the threat or the actions that have been taken do not adequately address the threat.

Where the conditions set out in the first subparagraph are fulfilled, EIOPA may impose the prohibition or restriction referred to in paragraph 2 on a precautionary basis before a PEPP has been marketed, distributed or sold to PEPP customers.

4. When taking action under this Article, EIOPA shall ensure that the action does not:

- (a) have a detrimental effect on the efficiency of financial markets or on PEPP savers that is disproportionate to the benefits of the action;  
or
- (b) create a risk of regulatory arbitrage.

Where a competent authority or competent authorities have taken a measure under Article 63, EIOPA may take any of the measures referred to in paragraph 2 of this Article without issuing the opinion provided for in Article 64.

5. Before deciding to take any action under this Article, EIOPA shall notify competent authorities of the action it proposes.

6. EIOPA shall publish on its website notice of any decision to take any action under this Article. That notice shall specify details of the prohibition or restriction and specify a time after the publication of the notice from which the measures will take effect. A prohibition or restriction shall only apply to action taken after the measures take effect.

7. EIOPA shall review a prohibition or restriction imposed under paragraph 2 at appropriate intervals and at least every three months. If the prohibition or restriction is not renewed after that three-month period, it shall expire.

8. Any action taken by EIOPA in accordance with this Article shall take precedence over any previous action taken by a competent authority.

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9. The Commission shall adopt delegated acts in accordance with Article 72 to supplement this Regulation with criteria and factors to be applied by EIOPA in determining when there is a significant PEPP saver protection concern, including with respect to the long-term retirement nature of the product, or a threat to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system of the Union referred to in point (a) of paragraph 3 of this Article.

Those criteria and factors shall include:

- (a) the degree of complexity of the PEPP and the relation to the type of PEPP saver to whom it is marketed and sold;
- (b) the degree of innovation of a PEPP, an activity or a practice;
- (c) the leverage a PEPP or practice provides;
- (d) in relation to the orderly functioning and integrity of financial markets, the size or the total amount of accumulated capital of the PEPP.

*Article 66*

**Cooperation and consistency**

1. Each competent authority shall contribute to the consistent application of this Regulation throughout the Union.

2. The competent authorities shall cooperate with each other in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(1)</sup>, Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU, (EU) 2016/97 and (EU) 2016/2341.

3. The competent authorities and EIOPA shall cooperate with each other for the purpose of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1094/2010.

4. The competent authorities and EIOPA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1094/2010, in particular to identify and remedy infringements of this Regulation.

5. In order to ensure consistent application of this Article, EIOPA shall develop draft implementing technical standards specifying the details of cooperation and exchange of information, together with the requirements needed to present the information above in a standardised format allowing for comparison.

EIOPA shall submit those draft implementing technical standards to the Commission by 15 August 2020.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

<sup>(1)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).



## CHAPTER X

## PENALTIES

*Article 67***Administrative penalties and other measures**

1. Without prejudice to the supervisory powers of competent authorities and to the right for Member States to provide for and impose criminal sanctions, Member States shall lay down the rules on appropriate administrative penalties and other measures applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The administrative penalties and other measures provided for shall be effective, proportionate and dissuasive.

Member States may decide not to lay down rules for administrative penalties as referred to in the first subparagraph for infringements which are subject to criminal sanctions under their national law.

By the date of application of this Regulation, Member States shall notify the rules referred to in the first and second subparagraph to the Commission and to EIOPA. They shall notify the Commission and EIOPA without delay of any subsequent amendment thereto.

2. The administrative penalties and other measures laid down in paragraph 3 of this Article shall apply at least to situations where:

- (a) a financial undertaking as referred to in Article 6(1) has obtained a registration of a PEPP through false or misleading statements or any other irregular means in infringement of Articles 6 and 7;
- (b) a financial undertaking as referred to in Article 6(1) provides, respectively distributes, products bearing the designation 'pan-European Personal Pension Product' or 'PEPP' without the required registration;
- (c) a PEPP provider has not provided the portability service in infringement of Article 18 or 19 or the information about that service required under Articles 20 and 21, or has failed to meet the requirements and obligations set out in Chapter IV, Chapter V, Articles 48 and 50, and Chapter VII;
- (d) a depositary has failed to fulfil its oversight duties under Article 48.

3. Member States shall, in accordance with national law, provide for competent authorities to have the power to impose at least the following administrative penalties and other measures in relation to the situations referred to in paragraph 2 of this Article:

- (a) a public statement, which indicates the identity of the natural or legal person and the nature of the infringement in accordance with Article 69;
- (b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;
- (c) a temporary ban on any member of the financial undertaking's management, supervisory or administrative body or any other natural person, who is held responsible, from exercising management functions in such undertakings;



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- (d) in case of a legal person, maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 14 August 2019;
- (e) in the case of a legal person, the maximum administrative fines referred to in point (d) may be up to 10 % of the total annual turnover according to the latest available accounts approved by the management, supervisory or administrative body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU of the European Parliament and of the Council <sup>(1)</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting legislative acts according to the latest available consolidated accounts approved by the management, supervisory or administrative body of the ultimate parent undertaking;
- (f) in the case of a natural person, maximum administrative fines of at least EUR 700 000 or, in the Member States whose currency is not the euro, the corresponding value in the national currency on 14 August 2019;
- (g) maximum administrative fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in point (d), (e) or (f), respectively.

4. Any decision imposing administrative penalties or other measures set out in the first subparagraph of paragraph 1 and in paragraph 3 shall be reasoned and subject to the right of appeal before a tribunal.

5. In the exercise of their powers under the first subparagraph of paragraph 1 and under paragraph 3, competent authorities shall cooperate closely to ensure that the administrative penalties and other measures produce the results pursued by this Regulation and coordinate their action in order to avoid possible duplication and overlap when applying administrative penalties and other measures to cross-border cases.

#### *Article 68*

#### **Exercise of the power to impose administrative penalties and other measures**

1. Competent authorities shall exercise the powers to impose administrative penalties and other measures referred to in Article 67 in accordance with their national legal frameworks:

- (a) directly;
- (b) in collaboration with other authorities;

<sup>(1)</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

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- (c) by application to the competent judicial authorities.
2. Competent authorities, when determining the type and level of an administrative penalty or other measure imposed under Article 67(3), shall take into account all relevant circumstances, including, where appropriate:
- (a) the materiality, gravity and the duration of the infringement;
  - (b) the degree of responsibility of the natural or legal person responsible for the infringement;
  - (c) the financial strength of the responsible natural or legal person, as indicated in particular by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
  - (d) the importance of profits gained or losses avoided by the responsible natural or legal person, insofar as they can be determined;
  - (e) the losses for third parties caused by the infringement, insofar as they can be determined;
  - (f) the level of cooperation of the responsible natural or legal person with the competent authorities, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
  - (g) previous infringements by the responsible natural or legal person.

*Article 69***Publication of administrative penalties and other measures**

1. Competent authorities shall publish without undue delay on their official websites any decision imposing an administrative penalty or other measure for infringement of this Regulation after the addressee of the administrative penalty or other measure has been notified of that decision.
2. The publication referred to in paragraph 1 shall include information on the type and nature of the infringement and the identity of the persons responsible and the administrative penalties or other measures imposed.
3. Where the publication of the identity, in the case of legal persons, or the identity and personal data, in the case of natural persons, is considered by the competent authorities to be disproportionate following a case-by-case assessment, or where the competent authorities consider that the publication jeopardises the stability of financial markets or an on-going investigation, competent authorities shall either:
- (a) defer the publication of the decision imposing the administrative penalty or other measure until the reasons for non-publication cease to exist;
  - (b) publish the decision imposing the administrative penalty or other measure, omitting for a reasonable period of time the identity and personal data of the addressee, if it is envisaged that within that period the reasons for anonymous publication shall cease to exist and provided that such anonymous publication ensures an effective protection of the personal data concerned; or

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(c) not publish at all the decision to impose the administrative penalty or other measure in the event that the options set out in points (a) and (b) are considered to be insufficient to ensure:

(i) that the stability of financial markets would not be put in jeopardy;

(ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.

4. In the case of a decision to publish an administrative penalty or other measure on an anonymous basis as referred to in point (b) of paragraph 3, the publication of the relevant data may be postponed. Where a decision imposing an administrative penalty or other measure is subject to an appeal before the relevant judicial authorities, competent authorities shall also without delay add that information to their official website and any subsequent information on the outcome of such appeal. Any judicial decision annulling a decision imposing an administrative penalty or other measure shall also be published.

5. Competent authorities shall ensure that any publication referred to in paragraphs 1 to 4 shall remain on their official website for at least five years after its publication. Personal data contained in the publication shall only be kept on the official websites of the competent authorities for the period which is necessary in accordance with the applicable data protection rules.

*Article 70***Duty to submit information to EIOPA in relation to administrative penalties and other measures**

1. Competent authorities shall inform EIOPA of all administrative penalties and other measures imposed but not published in accordance with point (c) of Article 69(3) including any appeal in relation thereto and the outcome thereof.

2. Competent authorities shall provide EIOPA annually with aggregated information regarding all administrative penalties and other measures imposed in accordance with Article 67.

EIOPA shall publish that information in an annual report.

3. Where Member States have chosen, in accordance with the second subparagraph of Article 67(1), to lay down criminal sanctions for infringements of this Regulation, their competent authorities shall on an annual basis provide EIOPA with anonymised and aggregated data regarding all criminal investigations undertaken and criminal sanctions imposed. EIOPA shall publish anonymised data on criminal sanctions imposed in an annual report.

4. Where competent authorities have disclosed an administrative penalty, other measure or criminal sanction to the public, they shall at the same time report that penalty, measure or sanction to EIOPA.

**▼ M1***Article 70a***Accessibility of information on the European single access point**

1. From 10 January 2028, when making public any information referred to in Article 26(1) of this Regulation, the PEPP provider shall submit that information at the same time to the relevant collection body referred to in paragraph 3 of this Article for the purpose of making it accessible on the European single access point (ESAP) established under Regulation (EU) 2023/2859 of the European Parliament and of the Council <sup>(1)</sup>.

That information shall comply with the following requirements:

- (a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859 or, where required by Union law, in a machine-readable format, as defined in Article 2, point (4), of that Regulation;
- (b) be accompanied by the following metadata:
  - (i) all the names of the PEPP provider to which the information relates;
  - (ii) the legal entity identifier of the PEPP provider, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;
  - (iii) the size of the PEPP provider by category, as specified pursuant to Article 7(4), point (d), of that Regulation;
  - (iv) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;
  - (v) an indication of whether the information contains personal data.

2. For the purposes of paragraph 1, point (b)(ii), PEPP providers shall obtain a legal entity identifier.

3. By 9 January 2028, for the purpose of making the information referred to in paragraph 1 of this Article accessible on ESAP, Member States shall designate at least one collection body referred to in Article 2, point (2), of Regulation (EU) 2023/2859 and notify ESMA thereof.

4. From 10 January 2028, the information referred to in Article 65(6) of this Regulation shall be made accessible on ESAP. For that purpose, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be EIOPA.

That information shall comply with the following requirements:

- (a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859;

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<sup>(1)</sup> Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (OJ L, 2023/2859, 20.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2859/oj>).

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- (b) be accompanied by the following metadata:
- (i) all the names of the PEPP provider to which the information relates;
  - (ii) where available, the legal entity identifier of the PEPP provider, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;
  - (iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;
  - (iv) an indication of whether the information contains personal data.

5. From 10 January 2028, the information referred to in Article 63(4) and Article 69(1) and (4) of this Regulation shall be made accessible on ESAP. For that purpose, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be the competent authority.

That information shall comply with the following requirements:

- (a) be submitted in a data extractable format, as defined in Article 2, point (3), of Regulation (EU) 2023/2859;
- (b) be accompanied by the following metadata:
  - (i) all the names of the PEPP provider to which the information relates;
  - (ii) where available, the legal entity identifier of the PEPP provider, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;
  - (iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;
  - (iv) an indication of whether the information contains personal data.

6. For the purpose of ensuring the efficient collection and management of information submitted in accordance with paragraph 1, EIOPA shall develop draft implementing technical standards to specify:

- (a) any other metadata to accompany the information;
- (b) the structuring of data in the information;
- (c) for which information a machine-readable format is required and, in such cases, which machine-readable format is to be used.

For the purposes of point (c), EIOPA shall assess the advantages and disadvantages of different machine-readable formats and conduct appropriate field tests for that purpose.

EIOPA shall submit those draft implementing technical standards to the Commission.

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Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

7. Where necessary, EIOPA shall adopt guidelines to ensure that the metadata submitted in accordance with paragraph 6, first subparagraph, point (a), are correct.

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## CHAPTER XI

## FINAL PROVISIONS

*Article 71***Processing of personal data**

With regard to the processing of personal data within the framework of this Regulation, PEPP providers, PEPP distributors and competent authorities shall carry out their tasks for the purpose of this Regulation in accordance with Regulation (EU) 2016/679 and Directive 2002/58/EC. With regard to the processing of personal data by EIOPA within the framework of this Regulation, EIOPA shall comply with Regulation (EU) 2018/1725.

*Article 72***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 40(9), 45(4) and 65(9) shall be conferred on the Commission for a period of four years from 14 August 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of powers referred to in Articles 40(9), 45(4) and 65(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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6. A delegated act adopted pursuant to Article 40(9), 45(4) or 65(9) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

*Article 73***Evaluation and report**

1. Five years after the date of application of this Regulation, and every five years thereafter, the Commission shall carry out an evaluation of this Regulation, and after consulting EIOPA and the other ESAs where appropriate, present a report on the main findings to the European Parliament and the Council. That report shall be accompanied, where appropriate, by a legislative proposal.

2. The Report shall cover in particular the following:

- (a) the functioning of the procedure for registration of PEPPs in accordance with Chapter II;
- (b) portability, in particular the sub-accounts available to PEPP savers and the possibility for the saver to continue to contribute to the last opened sub-account in accordance with Article 20(3) and (4);
- (c) development of partnerships;
- (d) the functioning of the switching service and the level of the fees and charges;
- (e) the level of market penetration of the PEPP and the effect of this Regulation on pension provision across Europe, including substitution of existing products and the uptake of the Basic PEPP;
- (f) the complaints procedure;
- (g) the integration of ESG factors in the PEPP investment policy;
- (h) the level of fees, charges and expenses that are directly or indirectly borne by PEPP savers, including an assessment of possible market failures;
- (i) the compliance of PEPP providers with this Regulation and the standards set by the applicable sectorial law;
- (j) the application of different risk-mitigation techniques used by the PEPP providers;
- (k) the provision of PEPP under the freedom to provide services and freedom of establishment;
- (l) if there are merits to disclosing information on the past performance of the product to prospective PEPP savers, taking into account the information for the performance scenarios which will be included in the PEPP;

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(m) whether advice provided to PEPP savers is adequate, in particular regarding possible forms of out-payments.

The assessment referred to in point (e) of the first subparagraph shall take into account reasons for not opening sub-accounts in certain Member States and assess the progress and effort made by PEPP providers in developing technical solutions for opening sub-accounts.

3. The Commission shall set up a panel with relevant stakeholders to monitor the development and implementation of PEPPs on an ongoing basis. That panel shall include at least EIOPA, the competent authorities, industry and consumer representatives and independent experts.

The secretariat of the panel shall be EIOPA.

*Article 74***Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply 12 months after the publication in the *Official Journal of the European Union* of the delegated acts referred to in Articles 28(5), 30(2), 33(3), 36(2), 37(2), 45(3) and 46(3).

This Regulation shall be binding in its entirety and directly applicable in all Member States.