

**Comments Template on
Consultation Paper on a Report on Good Practices on individual transfers of
supplementary occupational pension rights**

**Deadline
10 April 2015
23:59 CET**

Name of Company:	Financial Services User Group	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Confidential/Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Please insert the name of your NCA in the box next to "Name of Company". Please also specify the sector of your business in brackets (Consumer Associations, Training/Eductaion bodies, Industry), as well as your Country; ⇒ <u>Do not change the page numbering</u> in the column "reference" ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row, giving reference to the paragraph number where given. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-15-001@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The page numbering refers to the Consultation Paper on a Report on Good practices on individual transfers of supplementary occupational pension rights.</p>		
Reference	Comment	
General Comment	<p>FSUG welcomes the initiative of EC and EIOPA in the area of strengthening the rights of savers and beneficiaries regarding the ability to switch and transfer the savings and accrued rights not only cross-border, but also domestically.</p> <p>Even if the identified Good Practices will not be legally binding, FSUG considers identified rights underestimated given the close relationship between pension savings and free movement of individuals.</p>	

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FSUG recognizes challenges in the cross border transfers and the different social, labor and tax laws within member states. However, FSUG supports the initiative that aims at strengthening rights and most importantly ability of savers to receive on-time information assisting them to make informed decision on transferring the savings and pension rights when the life situation changes significantly.

As a matter of fact, discussing the cross border transfer of pension rights should start with close inspection of domestic barriers. Transfer of pension rights from one scheme to another one located in the same country is already extremely difficult in many cases. For example, in France Better Finance members ARCAF and FAIDER successfully obtained from the French public authorities the right of transfer for a supplemental pension scheme for public employees (PREFON) and for PERPs (individual pension savings plans) in 2010 only. But the other large supplemental scheme for public employees (COREM, 400.000 participants) still does not allow it; and PREFON has introduced so high barriers that it actually prevents participants to exercise their transfer rights:

- 10% penalty if the transfer occurs in the first 10 years
- transfer value communicated once a year but only since 2012 and with more than a one year delay
- disclosure of transfer process and compensation too complex and not intelligible by participants

Besides, this French transfer right does not apply to the decumulation phase; it is only authorized towards other annuity; and limited for pension products not allowing for lump sums withdrawals.

Several new Member States apply restrictive conditions on switching, which in turn is multiplied by rigid information disclosure and low transparency of costs and charges. This approach significantly influences the economic functioning of demand side and allow supply side to exploit unreasonable information asymmetry on the market. The result can be seen in significant inertia of savers and low response of savers (and even the sponsors) to crucial parameters of pension schemes (performance, costs and charges, information disclosure, financial stability of the scheme).

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	Transferability of pension savings (DC based schemes) and pension capital (DB based schemes) is therefore viewed as a crucial consultation in the process of building functioning pension market across EU.	
Page 4	<p>FSUG has been a long-lasting advocate of the right to switch and presented these ideas at various forums and consultation responses to EIOPA (see for example FSUG Response to EIOPA Discussion Paper on a possible EU-single market for personal pension products – August 18th 2013).</p> <p>Even if the wording portability or transferability of pension rights is used when considering the most usual situation (job change), the transferability issue should be understood as a pure right to switch. Nevertheless, savers should have the choice between leaving the entitlements in the previous scheme or switching into the new scheme. In order to be able to decide on this, savers should have the right to respective information about both options on a regular basis without having to request and so reveal their intention to quit.</p> <p>If the right to switch is limited on domestic as well as cross-border level, FSUG argues that the objective to create high added value pension schemes operating on a transparent and cost-efficient level could be jeopardized.</p>	
Page 5		
Page 6	<p>FSUG welcomes the approach EIOPA have applied, where the purpose of the Consultation is not only cross-border switching (transfers) but also domestic issues. FSUG members are confident that pointing at domestic barriers and identification of main obstacles to transfers and switching of pension savings and/or pension capital on domestic level will uncover many potentially successful solutions.</p> <p>FSUG welcomes the EIOPA recommendation on using the Consultation Paper as an inspiration for enhancing the right to switch when transposing the Directive 2014/50/EU ('Directive on minimum requirements for enhancing worker mobility by improving the acquisition and preservation of supplementary pension rights'). FSUG has called for national and supranational regulators and decision-makers to recognize the right to switch as the key element when increasing the consumer protection, cost-efficiency and transparency of pension schemes.</p>	
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Page 8	<p>FSUG position on automatic transfers using “pot follows member” should be used very carefully. The right to switch should be used as a predefined option, however automatic switching might involve potential detriments to savers (members). Automatic switching according to mentioned rule could lead to a possible reduction of pension rights for the beneficiary or it could have a negative impact for savers when the receiving scheme doesn’t fit the personal needs of the savers. This is the case mostly for DB schemes. For DC schemes, potential detriments might arise if the receiving DC scheme offers significantly worse conditions or is of pure added value when considering the after-fees performance or poor choice of pension funds. In several MS which has introduced 3rd pillar schemes and/or 1bis DC schemes, the provider offers only one pension scheme (pension fund) which significantly limits the competition and leads to a poor value for savers.</p>	
Page 9		
Page 10		
Page 11	<p>EIOPA has pointed at the key issue regarding the portability/transferability/right to switch: “Currently there is no explicit legal rule on the European level which grants members of supplementary pension schemes the right to transfer their pension rights.”</p> <p>The key aspect that should be taken into account and understood by regulators is the need to enforce real freedom of movement of capital and thus the right to switch if the main objective of remains pursued (pension saving). This right has been granted mostly only to the pension providers. Increasing transferability might certainly improve the movement of capital (savings) and increase the freedom also for consumers (savers). Therefore, the issue of diversity of social and labor law as well as tax treatment between MS should not prevail if the right to switch is exercised by the savers (sponsors) and the main objective (pension saving) is met.</p>	
Page 12	<p>The Consultation Paper claims that only 5 MS apply conditions with regard to the sum transferred, however there are 7 Member States identified in the footnote.</p>	
Page 13		

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Page 16	EIOPA claims that “..Member States do not differentiate between conditions for domestic and cross-border receiving schemes. This approach is in line with the single market philosophy. In practice, applying these conditions may however be more difficult in a cross-border context.” FSUG points as several cases in new MS, where the national legislation prohibits transfers (switching) of savings into pension schemes in other MS. This allows domestic pension players to impose higher fees and charges on sponsors as well as savers even when the same pension providers offer better conditions for pension schemes (pension funds) offered in other MS.	
Page 17	B) Transfer between 2nd and 3rd pillar In many new MS, the law prohibits the right to switch among “pillars” and thus allows the pension providers to exploit the market by imposing high AMCs (asset management costs). A good example of this approach could be found in Slovakia, where the TER for 1bis pillar is close to 0,75% p.a., while 3 rd pillar pension providers impose charges measured by TER close to 3% p.a. Both pillars are almost identical in their operational setting, but the national legislation prohibits savers to execute the right to switch to better performing and low-cost scheme. 3 rd pillar providers are even more expensive than typical UCITS funds and investment companies. FSUG wonders why EIOPA has gone deeper into this issue to confront the current practice of pension providers on this issue. FSUG therefore urges supranational regulators to raise this issue on the EU level.	
Page 18		
Page 19	FSUG supports the EIOPA suggestion for a Good Practice 4 which might improve the situation for savers.	
Page 20	FSUG welcomes the EIOPA pledge for layering of information and a "new approach to information disclosure". A) Information disclosure FSUG fully supports the EIOPA in its initiatives and steps taken towards greater transparency of	

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	<p>pension schemes. In this context FSUG reminds EIOPA of the EuroFinUse Study on Real Returns of Pensions as well as the OXERA Study on Position of Savers in Private Pension Products where these issues have been scrutinized and analyzed deeply. The results point at a low transparency and significant negative impact on savers.</p> <p>FSUG urgently calls for a unified approach on the disclosure of impact of returns and costs. If the returns are presented on a continual historical basis and/or modeled for the future on the continual basis (often using compound impact), so should be the impact of costs and charges presented on the whole saving cycle of a member.</p>	
Page 21	<p>EIOPA correctly states that: <i>“The information relevant for the transfer can comprise the following elements: transfer value, transfer options, procedure, time frames and tax implications of a transfer. However, it can be argued that the economic consequences of the transfer are more important for the decision whether to transfer compared to procedural or administrative requirements.”</i></p> <p>FSUG welcomes the EIOPA sensitive recognition of the economic utility and impact of the decision to switch, which is not of the procedural issue rather than economic one.</p>	
Page 22	<p>FSUG can only agree with the proposed wording for Good Practice 5: Content of Information to Scheme Member</p> <p>FSUG thinks that economic consequences of the decision to switch are far more important than the main procedure of the switching process and therefore the central point of the information should be the economic impact of such decision than the main procedure of switching. However, FSUG supports to implement the full disclosure of the impact of costs and charges as well as potential reduction of benefits or coverage of various risks before the main decision to switch is taken.</p> <p>FSUG agrees with proposed “Good Practice 6: Systematic Delivery of Information “, providing the above mentioned approach to information disclosure and structure of the information is</p>	

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	observed.	
Page 23	<p>FSUG welcomes the EIOPA proposal for Good Practice 7: Online Tool/Portal with (additional) relevant information concerning scheme member's transfer.</p> <p>However, it should be noted that such portals should be provided either by demand side of the market participants (savers associations, non-profit organizations) and not by the supply side providers as it could lead to the detriments to the savers as mentioned above (page 21 and 22). Building and operation of such portals/tools should be at the central point of any support from the national as well as supranational regulators and decision-makers.</p>	
Page 24	<p>EIOPA has, according to our view, identified the malpractice of pension providers on imposing higher than economically reasonable fees on the switching members. FSUG supports the idea of EIOPA expressed in the Good Practice 9: Charges, if any, to reflect the actual work necessary. Claiming that the main process of transferring the savings from one pension scheme to another has any statistically significant relation to the amount transferred cannot stand.</p>	
Page 25		
Page 26	<p>FSUG agrees with EIOPA argumentation on the Good Practice 10: Direct communication between schemes on transfer execution. Direct involvement of a transferring member (saver) as a communication channel should be avoided and member (saver) should be communicated only when for receiving key messages on the result of the process.</p>	
Page 27	<p>Above presented argumentation (page 26) is logically linked to the formulation of Good Practice 12: Member involvement reduced to request and decision on transfer.</p>	
Page 28	<p>Good Practice 13 : Identification of receiving scheme especially for cross border transfers. EIOPA considers it Good Practice if there is a mechanism (e.g. a register) or other practice (e.g. questionnaires) to help the transferring scheme to identify with legal certainty whether the receiving scheme is eligible to receive a transfer, especially for cross border reasons.</p> <p>FSUG agrees that a register of schemes would be helpful, provided there is a mechanism for keeping it up to date and removing schemes where it no longer meets the requirements.</p>	

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	<p>3.6. Calculation of transfer value FSUG recognizes this issue as a key point in a whole debate on the economic utility of exercising the right to switch. Most DC schemes are transparent on this issue as there are no major differences between valuation methods. However, even for DB schemes, FSUG argues that there should be no major difference among values between transferring and receiving pension scheme. Furthermore, members should be consulted and explained in details on any major differences between the values calculated and the member shall have the right to ask for clarification and to consult NCAs.</p>	
Page 29	<p>FSUG recognizes that the differences between tax treatment of pensions in the Member States are enormous. Furthermore, the development in this area is rather diverging than converging, which might have detrimental impact on savers and members. Tax differences among MS complicate switching cross-border and thus creating a functioning pension market in EU. As MS impose different tax regimes (EEE, EET, ETT, TEE, TTE), the switching might result either in avoiding taxation or in double taxation. Solution could be in the EU register of recognized pension schemes (similar to the UK QROPS)</p>	
Page 30		
Page 31	<p>FSUG agrees with EIOPA proposal for Good Practice 14 : Safeguarding the right to transfer over the right to unilateral capital pay out.</p>	
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Annex I		
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