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| | **Comments Template on<br>Consultation Paper on Further Work on Solvency of IORPs** | **Deadline<br>13 January 2015<br>23:59 CET** |
| Name of Company: | BASF SE | |
| Disclosure of comments: | Please indicate if your comments should be treated as confidential: | Public |
| | Please follow the following instructions for filling in the template:<br>⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool<br>⇨ Leave the last column empty.<br>⇨ Please fill in your comment/response in the relevant row. If you have no response to a question, keep the row empty.<br>⇨ Our IT tool does not allow processing of comments/responses which do not refer to the specific numbers below.<br>**Please send the completed template, in Word Format, to CP-14-040@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.**<br>The numbering of the questions refers to **Consultation Paper on Further Work on Solvency of IORPs**. | |
| **Reference** | **Comment** | |
| General Comment | BASF is the leading chemical company celebrating its 150th anniversary in 2015. BASF has more than 110.000 employees world wide whereof about 70.000 are employed in Europe. It offers occupational pensions to its German employees (about 50.000) via the BASF Pensionskasse which was founded 1888 and to its other European employees via various pension funds. BASF Pensionskasse and the European BASF pension funds are subject to the European IORP regulation and therefore would be affected by the outcome of this consultation.<br><br>BASF would like to point out that the response to specific questions does not mean that BASF supports the overall concept, guiding the further work on solvency of IORPs in general and EIOPA's questions below in particular | |

General remarks

It must be noted first and foremost that EIOPA is not presenting any alternatives to the general HBS approach. This implies that EIOPA thinks that this methodology will be required in one or another form. This contradicts the recent version of the IORP directive proposal which does not justify any quantitative requirements based on the HBS approach. It also appears to run counter to how EIOPA allegedly is presenting itself as being open to various alternatives and as not prejudging which options should be applied and whether a very harmonized regulation shall be implemented across Europe or whether there are member state options to adopt the rules to the national requirements.

Secondly, it must be noted that the HBS approach does not adequately account for the social character of IORPs (as opposed to the mostly commercial character of insurance companies) and is therefore not appropriate. In other words, it neglects that the members of IORPs are embedded in the protection of labour, social and co-determination law.

Thirdly, every move towards a system that places more burdens on IORPs and their sponsoring undertakings must take into account that in times where most European societies undergo demographic change, occupational pension systems should be strengthened rather than weakened. Every increase in the costs of providing occupational pensions decreases an employer's willingness to provide this important social benefit. This is even more the case in Germany, were the provision of occupational pensions is done on a voluntary basis. It should also be kept in mind that any additional regulatory requirement imposed on IORPs will result in costs which will be borne mostly by beneficiaries and members, because European employers cannot afford more costs due to the fact that their secondary wage costs are already at such a level that any further increase will pose a threat to their international competitiveness. As a result, higher costs either on the employer's or on the employee's side are likely to lead to a decrease in benefit level and coverage of

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| | occupational pension plans. Occupational pensions are voluntary benefits provided by as a form of pay for the employees' work for the employer. Such systems should be not be the most important concern of the employer and its IORPs in Europe to meet the ever changing and more and more complex legal supervisory requirements. Otherwise the employer will turn away from pensions and direct the respective funds into other forms of pay for work.<br><br>Fourthly, we generally consider the market value based approach inadequate for liabilities with such long durations. Moreover, there is normally no need for IORPs to liquidate all pension liabilities at one point in time. For insurance contracts the approach might be adequate as hypothetically all contracts could be cancelled at the same time, for occupational pensions labour law does not allow early cancellations but to the contrary either insures vesting of acquired pension rights or transfer to another pension vehicle. Moreover, any valuation and risk management that is based on a market value approach sets the wrong incentives for those running the institution. Rather than considering the very long duration of the pension liabilities and transferring these into adequate asset allocation, market value based approach is likely to lead to pro-cyclical investment behaviour and could harm solid and long-term planning. This could additionaly destabilize capital markets and whole national economies and requires therefore a proper impact assessment. The HBS would show current market prices of options included. As the participants cannot trade these options, these values are hardly informative. Technically, the option values provide information about the value of the optionality in a risk neutral world, but this is not the (real) world in which participants live.<br><br>Fifthly, pensions are a matter which is subject to member states and therefore need a strengthening of the subsidiarity principle by allowing for options which give the member states the responsibility for defining regulatory details which are in line with national labour, co-determination and social law. Accordingly, we refuse the idea that European regulatory requirements could be imposed on the labour, co-determination or social law at the national level as implied by some questions of this consultation. Europe should continue with clear borders between these different fields of law and the supervisory regulation should always be subordinated. In the German situation | |

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| | pensions are safeguarded already by labour, co-determination and social law.<br><br>Sixthly, we see well tested much less costly, much less complex alternatives to market consistent solvency requirements and HBS: these are ALM studies, stress tests etc. …<br><br>Seventhly, except for the Pensionskassen in Germany, it is a constituting feature of IORPs that they may be underfunded for some time and, in addition, that there may be recovery plans established over time to make up for the underfunding.<br><br>Eightly, results that give the impression of an underfunding but refer to unrealistic scenarios worry the stakeholders. This could lead to show unrealistic liabilities and risks in the balance sheet of the sponsor and could result in a draw back from occupational pensions to protect its business and its shareholders.<br><br>Ninethly, we doubt that any approach that assumes that governance bonds are risk free can lead to results that could be interpreted in a reasonable way. Rather such models will provide somehow arbitrary results whith no added value.<br><br>Last but not least, we are convinced that additional equity capital requirements for IORPS would not increase the security of pension promises but will make it more unattractive for employers to offer occupational pensions. In this context, we welcome the insight of EIOPA that it may be better for members and beneficiaries if an employer invests in his own business to ensure the pension promises in the long run by improving its economic strength and therefore its ability to finance the occupational pensions instead of transferring additional funds into its IORP when an ("artificial" short term) underfunding situation occurs.<br><br>Summarizing our general remarks, we think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept only those proposed options, if any, might be applicable where all security / reduction mechanisms are applied. In no case effects on funding are allowed to arise. This would contradict the European commission which excluded quantitative rules for funding requirements. | |

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| Q1 | No. There is a triangle relationship between employer, employee and IORP which is not covered adequately by "contract" between IORP and employee. In addition, between employee and employer there is the special employment relationship. | |
| Q2 | | |
| Q3 | | |
| Q4 | From our perspective the concept cannot be applied in a collectively managed pension plan (especially for a DB plan) and should be omitted. | |
| Q5 | No. In addition, the right to reject additional contributions does not stop the liability to pay benefits – so that point in time cannot be used for setting a contract boundary. The concept behind this question appears to ignore that it is regularly the employer who makes the pension promise and, for this reason, it is up to the employer to have and exercise unilateral rights within the legal boundaries. Therefore, a starting point for defining "contract boundaries" might be the entitlement from the employer – which means that the employer has to be incorporated as a party. (see Q1) | |
| Q6 | Liabilities of the IORP arise by the employer promising the entitlement to benefits. This very important fact of a dependency on an employer employee relationship should be kept in mind. However, it must be noted that not all parts of an employers pension promise may be financed by IORPs. Due to, mostly tax requirements and specific legal conditions, parts of the pension promise may be financed outside the IORP. | |
| Q7 | Yes. Especially, when there are contributions of the members they could not be included in sponsor support. In order to treat member and employer contributions in a consistent way (often they are linked with each other), there should be the described distinction. | |
| Q8 | Yes. | |
| Q9 | | |

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| Q10 | We are not aware of such cases. But we could imagine that there might be rare cases induced by high level jurisdiction. | |
| Q11 | This concept has to be explained in more detail. | |
| Q12 | There is some dependence on the questions Q7 and Q8 which is not reflected. | |
| Q13 | | |
| Q14 | It is unclear what is meant by cash-flows where all risks could be avoided.<br>Generally it is not quite clear whether the definition shall apply on a single member basis or shall be applied collectively.<br>If it is on a single member basis how shall additional contributions for active members be involved if they are paid to cover additional risks for beneficiaries? | |
| Q15 | This is highly dependent on how one measures the cash flows needed for the risks (see Q5, Q14). There is no reason to exclude this type of exceeding cash flows. | |
| Q16 | | |
| Q17 | We do not understand the condition 4.46.a)2.b / 4.46.b)2.b; if the IORP has the unilateral right to reject additional contributions after a special date, why should the cash-flows for benefits after that date not be incorporated in the cash flows. | |
| Q18 | See Q17. | |
| Q19 | Yes. | |
| Q20 | Yes. | |
| Q21 | See Q17. | |
| Q22 | See Q17-Q21. | |

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| Q23 | No, some of the concepts are still unclear. There can be parts in the "pension promise" which are not addressed through the IORP. | |
| Q24 | From our perspective a distinction between non-discretionary benefits and other benefits (discretionary and mixed as one category) would be sufficient, since employees will expect only non-discretionary benefits. The definition should in addition consider the extent to which the employer, the social partners, works councils or member representatives may agree changes of the pension promise and under which conditions the pension promise may be terminated in the respective member states. | |
| Q25 | | |
| Q26 | No. | |
| Q27 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept pure discretionary benefits should not be recognized. See also Q24. | |
| Q28 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept mixed benefits should not be recognized. See also Q24. | |
| Q29 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept sponsor support which is legally enforceable in Germany should always be a balancing item. | |
| Q30 | | |
| Q31 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we support the first option due to its simplicity. | |
| Q32 | Yes. | |

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| Q33 | | |
| Q34 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we support Option 1 due to its simplicity. | |
| Q35 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is Yes. In Germany the regulated Pensionskassen always have an ex-ante benefit reduction mechanism in place. A BE projection of expected benefit reductions would be difficult to perform and would give no further insight. Due to the unlimited possibility of reduction after usage of all other mechanisms to strengthen the promise, benefit reductions should be usable as a balancing item which closes the HBS.<br><br>However, we do not agree with the approach of valuing all other items of a holistic balance sheet first before recognizing any benefit reduction mechanisms. If there are several mechanisms as balancing items in place it should be possible to skip some instead of performing burdensome calculations or to show them as a "combined" balancing item. | |
| Q36 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is yes, but the broad principles should be set by the member states. | |
| Q37 | No. We generally consider the market value based approach inadequate for liabilities with such long durations. Moreover, there is normally no need for IORPs to liquidate all pension liabilities at one point in time. For insurance contracts the approach might be adequate as hypothetically all contracts could be cancelled at the same time, for occupational pensions labour law does not allow – via vesting - early cancellations. The huge number and size of deferred benefits of vested leavers in a typical IORP is evidence for that. Any valuation and risk management that is based on a market value approach sets the wrong incentives for those running the institution. Calculating technical provisions on a market consistent basis including a risk free interest rate is not appropriate for IORPs. Such a valuation risks to be pro-cyclical and could harm | |

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| | solid and long-term planning. | |
| Q38 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is No.<br>As discussed in the last years, this approach would raise significant practical problems. So the other approaches especially the balancing item approach are preferable. | |
| Q39 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept sponsor support should be dealt as a balancing item. | |
| Q40 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept legally enforcable sponsor support as in Germany should be treated as a balancing item as well as where a sponsor has economic strength and proven via recovery payments in the past its willingness to make up for funding shortfalls. However, the principles and/or criteria for determinant when sponsor support should be treated as a balancing item must be left to the member states because they know their occupational pension frameworks best and can therefore define the most useful and reasonable solutions. | |
| Q41 | | |
| Q42 | | |
| Q43 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept both sponsor support and PPS should independently be dealt with as a balancing item. | |
| Q44 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the PPS should be used as a balancing item. Details should be left to the Member States. | |
| Q45 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept no separate minimum levels of funding | |

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| | should be required. | |
| Q46 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept it should be avoided that sponsors support has to be calculated. However, a principle based approach with some additional member state specifications would be preferable for such valuations. A stochastic modelling should be avoided. | |
| Q47 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept all regulatory specifics and practical guidance should be set by Member States. | |
| Q48 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept any compulsory stochastic modelling should be avoided. | |
| Q49 | | |
| Q50 | | |
| Q51 | | |
| Q52 | | |
| Q53 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept any compulsory stochastic modelling should be avoided. | |
| Q54 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept EIOPA should transfer the specifications of determining risk to the member states. | |
| Q55 | | |
| Q56 | The criticism of the overall HBS approach remains to full extent. | |

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| Q57 | There is no one-size-fits-all approach, neither for sponsors support nor for HBS. The concept should not be used and full responsibility should remain with the member states and the local supervision. | |
| Q58 | We completely reject further QIS'. The best approach would be not to use the HBS concept and to stop working on it. | |
| Q59 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept however sponsor support must be considered in a simple and easy to handle way (i. e. as a balancing item without further calculations). | |
| Q60 | | |
| Q61 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept if any calculation of additional sponsor payments have to be performed, there should be no artificial limitation of when these payments have to be made. | |
| Q62 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we do not believe that the given approach is elaborated sufficiently and we do not believe that its shortcomings can be overcome for all types of IORPs in the EU. | |
| Q63 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is No. | |
| Q64 | | |
| Q65 | | |
| Q66 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the suggested approach is appropriate. | |

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| Q67 | | |
| Q68 | | |
| Q69 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is Yes. | |
| Q70 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we prefer the PPS as a separate balancing item. | |
| Q71 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is Yes. | |
| Q72 | As explained in the General Remarks we do not think that a Solvency II like market consistent approach is appropriate for setting equity capital requirements for IORPs. The existing local rules have proven to be sufficient. | |
| Q73 | We do not believe that the application of the HBS approach produces additional security for pensions. On the contrary, the additional burdens will reduce both the benefits and the commitment of employers to provide occupational pensions.<br>The HBS should therefore not be used as a risk management tool. | |
| Q74 | No. The methodology is too complex and the results could be misinterpreted very easily. | |
| Q75 | No. Competent authorities should continue to use the locally established rules. | |
| Q76 | In Germany sponsor support is generally always legally enforceable. | |
| Q77 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we prefer option 1 to include PPS. | |
| Q78 | We think the HBS approach is unsuitable for company pensions and should therefore | |

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| | not be used. Within this unfitting concept the answer is Yes. From our perspective there is no alternative. | |
| Q79 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we support option 3 since the character might be much different in the various member states. | |
| Q80 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept we support the Option 2 which always allows for ex-ante benefit reductions, but make allowance for ex post benefits reduction or reductions in case of sponsor default as specified by the member states.<br>This would reflect national specifics best. | |
| Q81 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is No. | |
| Q82 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is Yes. | |
| Q83 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is Yes. | |
| Q84 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is Yes. | |
| Q85 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the minimum level of technical provisions to be covered by assets should be based on Level B best estimate calculations. Details should be specified by the member states. | |
| Q86 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept the answer is dependent on the decisions whether additional quantitative solvency requirements have to be fulfilled. Due to the | |

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| | different national labour, co-determination and social law there must be a member state option for adjustments in its national regulatory rules for IORPs. However, this regulation shall not affect national labour or social law. | |
| Q87 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept it should be based on Level B (see Q 85). Details should be specified by the member states. | |
| Q88 | See Q86 | |
| Q89 | There should be no unnecessary mixture of these fields of regulation (see general remarks). In Germany old age provision is always promised by the employer to the employee. The relevant rules which lead to a high safety of the promises are part of labour, co-determination and social law. IORPs are the vehicles which execute the entitlements given by German employers. Their funding and prudential regime should be regulated in separated rules. The supervisory regulation should always be subordinated to labour, social and co-determination law. | |
| Q90 | No as we doubt that a harmonizing would be appropriate especially in option 1 with short recovery periods (see Q91). If the recovery period however is set as an extensive period of time harmonization (option 2) might be possible. Nevertheless leaving it to the discretion of member states also is the best approach since the need of recovery is dependent on the national rules in social and labour law. | |
| Q91 | The arguments presented in 5.114 and 5.86 especially that sponsor money is usually best invested in the own business rather than paid as solvency buffer into the IORP have to be highlighted. This supports an sufficiently long period of time for recovery of any underfunding. Due to the long duration of pension entitlements an underfunding situation usually does not affect the possibility of the IORP to pay its benefits for a very long period. Thus, long recovery periods can help to define an appropriate recovery plan avoiding pro-cyclical behavior. However, the decision on both, content and length, a recovery plan should be left to the member states to ensure a close fit | |

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| | with the other relevant national pension provisions. | |
| Q92 | An appropriate time period should reflect longer phases of changes in the economic environment. We propose a period oriented on the length of the liability duration. Details should be left to the member states. | |
| Q93 | No. There is no need to harmonise them. (See Q90, Q91) | |
| Q94 | The recovery period should be determined by considering the business needs of the sponsoring employer and the duration of liabilities. To ensure a close link to the other relevant national provisions, member states should decide on the duration of the recovery period. (See Q91) | |
| Q95 | See Q91 and Q92. | |
| Q96 | We support the approach of submitting a recovery plan. There should be no specific measures taken at the EU level. | |
| Q97 | A possible future European prudential framework for IORPs based on the Solvency II like approach using the HBS methodology is inappropriate and, in addition, will increase the burden for IORPs and sponsors, but not really add to the safety of pension promises. It will negatively influence the level of benefits to the members and will not support a broader coverage in the workforce with occupational pensions by employers. (See our general remarks.)<br>Future entitlements have to be based on the new rules incorporating the higher cost arising from additional prudential requirements. Supervisory regulation has always to be subordinated under labour, co-determination and social law which already provide a high level of safeguarding of pensions. In these fields of law the subsidiarity principle applies. | |
| Q98 | If new quantitative or qualitative elements as discussed in the paper should be introduced than these should only apply to new entitlements. The application of such new rules will lead to a completely new business model for these new entitlements | |

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| | with considerably reduced benefit levels. Additionally we believe that introduction of such new rules will lead to a reduction of DB promises and to closings of several IORPs. | |
| Q99 | The given list of negative effects of this regime is quite comprehensive. Especially the requirement to react in time periods shorter than 1 year will raise serious difficulties in an (artificial) underfunding situation. E.g., it is in no way adequate to apply an ex-ante benefit reduction in cases where enough sponsors support would be available. Moreover, a material impact on social, co-determination and labour law is not acceptable. It is correct that this framework would discourage sponsors from future providing occupational pension promises in the future and will even lead them to close existing systems. The introduction of such a regime would counteract any ambition to further spread pensions in Europe.<br>A supervisory framework similar to the one described in example 1 is not acceptable. | |
| Q100 | No, example 1 is not at all acceptable. | |
| Q101 | It is not clear why the choice for Level B technical provision shall require a market-consistent HBS for transparency reasons. Market consistency is not a concept that increases transparency. To the contrary, we believe that market-consistency could rather give mis-leading information about the sustainability of an IORP. We also question why pension protection schemes are not taken into account. Defining sufficiently long recovery periods by the member states for underfunding situations is the right approach. | |
| Q102 | No. | |
| Q103 | The approach of example 3 with one framework for pillar 1 and another framework for pillar 2/3 sounds quite complex, especially if additional national regulation rules also shall apply. As we understand also the outcomes of pillar 2/3 calculations can result in additional solvency requirements (at least of qualitative character but these could also induce additional capital needs). We therefore reject this alternative. | |

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| Q104 | As it would produce immense burdens and huge costs that will negatively influence benefit levels and willingness of sponsors to provide occupational pensions we reject this alternative | |
| Q105 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept it is appreciated that under example 4 Level B technical provisions are used to be covered by financial assets and that all security and benefit adjustment mechanisms could be used for covering the SCR + technical provisions. We do not understand why the recovery period shall be 1 year but can be extended through *national social and labour law*. This opening should also be possible within the national regulatory rules. That said, example 4 and 6 are from our perspective the only ones that would not entirely damage existing pension systems. | |
| Q106 | Under the given examples this one would be the second (after example 6) appropriate one. However, we still question the necessity of a market consistent valuation. | |
| Q107 | This framework would require a market consistent valuation of technical provisions and for SCR which is not appropriate for the long-term character of the promises.<br>For insurance contracts the approach might be adequate as hypothetically all contracts could be cancelled at the same time, for occupational pensions labour law does not allow early cancellations. So the current market situation cannot be the determining factor. The pillar 2 HBS results shall be disclosed publicly. This will lead to mis-interpretations by members and beneficiaries since the results are neither easily to explain nor to understand, especially the effects of "market consistent" discount rates. It also could damage the ratings and share prices of publically listed corporations.<br>Even if a pillar 2 underfunding does not impose directly a higher capital need this could be succeeded by a modification of the pension arrangement. | |
| Q108 | No. | |
| Q109 | This approach mostly reflects the current proposal for the IORP II directive. No additional funding requirements occur by staying with the old (Solvency I) rules in pillar 1. However the application of the HBS and SCR calculations in pillar 2 produce a | |

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| | lot of cost. It is appreciated that all security mechanisms can be applied – but then the result of a complete funding at all times could be stated without any calculation in case of a strong sponsor/a pension protection scheme in place and ex-ante benefit reduction mechanisms. | |
| Q110 | We think the HBS approach is unsuitable for company pensions and should therefore not be used. Within this unfitting concept this framework would be the preferred one out of the 6 alternatives. | |
| Q111 | We think the HBS approach is unsuitable for company pensions and should therefore not be further considered. Within this unfitting concept we welcome the idea to simplify the HBS in cases where additional security mechanisms are in place (see Q109). Best simplification would be not to use the HBS concept at all, follow the subsidiarity principle and continue using the rules that have been established in the member states. | |