

**Comments Template on EIOPA-CP-12-005  
Draft Implementing Technical Standards on reporting of national  
provisions of prudential nature relevant to occupational pension schemes**

**Deadline  
10 March 2013  
18:00 CET**

Name of Company:		
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>The question numbers below correspond to Consultation Paper No. 05 (EIOPA-CP-12/005).</p> <p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "Question"; <b>if you change numbering, your comment cannot be processed by our IT tool</b></li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-12-005@eiopa.europa.eu">CP-12-005@eiopa.europa.eu</a>. Our IT tool does not allow processing of any other formats.</b></p>		
<b>Question</b>	<b>Comment</b>	
General Comment	<p><i>Aon Hewitt is a leading global leader in pensions and investment consultancy services (www.aon.com). With more than 29,000 professionals in 90 countries, we partner with organisations to solve their most complex pensions and risk management challenges. We provide advice to thousands of IORPs and sponsors across Europe, including all countries that participated in EIOPA's recent Quantitative Impact Study. We have significant experience in advising organisations on the establishment and development of cross-border IORPs.</i></p> <p>We disagree with the statement that "uncertainty about the prudential law and social and labour law seems to be one of the reasons behind the low level of cross-border IORPs in the European</p>	

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Union" given our involvement in the practical establishment and geographical extension of cross-border IORPs for our multinational clients

Therefore, although this Technical Standard may provide EIOPA and stakeholders with useful information, we do not think it will directly help with increasing the level of cross-border IORPs. EIOPA should think carefully about the level of resources it should allocate to this project, compared to other potential projects that could have a bigger impact on the level of cross-border IORPs.

We strongly believe that cross-border activity can be facilitated without detailed new legislation. We believe it could be positively encouraged by providing greater focus on the advantages that can be gained from setting up cross-border IORPs, and sharing the positive experiences from multinationals that have set up cross-border IORPs already. We believe the only clarifying legislation required is a common definition of what constitutes cross-border activity.

Aon Hewitt has helped a number of large multinationals to set up cross-border IORPs in Europe, and a number of other companies are now actively exploring this as an option. Their primary objectives are to create financial efficiencies and improve governance for their European wide pension arrangements.

There has been a lot of focus on the obstacles to cross-border activity. In our opinion, this is unfounded. In our experience, these obstacles are perceived rather than actual. This is evidenced by the multi-country cross-border IORPs set up by a number of companies successfully.

We strongly believe that the obstacles to cross-border activity are perceived barriers rather than actual barriers. For example, with reference to the chart on page 17, we are of the the opinion that:

- Differences in social and labour law are not an issue as cross-border IORPs necessarily have different sections for each country taking into account different country practices.

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In other words, if you are simply consolidating the financing vehicle without changing the actual local benefits delivered, then social and labour law is not an issue.;

- Unfavourable tax treatment is not an issue as EC tax communications and subsequent actions have removed any discriminatory treatment;
- Cross-border IORPs are relatively easy to set up and there is good cooperation between supervisors when approving new arrangements;
- There is demand for cross-border IORPs as evident by the work done by several of our largest multinational clients. We strongly believe demand would increase further if there was greater focus on the positives of having a cross-border IORP rather than the barriers to implementation;
- The full funding requirement is a misnomer. IORPs need to be funded in accordance with the rules of the country where the IORP is based, whereas "full funding" is often perceived as being fully funded on an insurance buy-out basis;
- Potential complications with administration can be managed by retaining existing administrators in each country; and
- Lack of buy-in from local sponsors and existing local fiduciaries can be dealt with through good communications and providing a role for local countries in the governance structure of the new plan

We also do not think it is helpful to refer to the fact that only 80 out of 140,000 IORPs in the EU are cross-border. The figure of 140,000 is often repeated but, as this contains thousands of small IORPs with less than 100 members (including around 50,000 in Ireland with one member only), it does not give a true guide to the realistic size of the market for cross-border IORPs. We believe that multinational companies are the most likely sponsors of a cross-border IORPs. A realistic

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	<p>market size is likely to be in the range of 500-1,000 in the medium-term (ie representing the number of multinationals who might be able to gain some noticeable financial efficiencies or improved governance from having a cross-border IORP). Given there are 80 already, setting an objective to, say, increase this to 200 or 300 in the next 5-10 years does not seem unreasonable.</p> <p>We also think it would be helpful to quote the level of assets in the 84 cross-border IORPs. This may be a better, or alternative measure, of the size of the cross-border IORP market, rather than simply referred to the number of plans .</p> <p>Therefore, we believe EIOPA should be allocating resources to promote the benefits of cross-border pension provision to the multinational community. This is likely to result in a greater level of cross-border IORPs than the number that will be obtained directly as a result of this exercise.</p> <p>We would be happy to discuss our views in more detail. We would be delighted to arrange a meeting with you and EIOPA colleagues with some of our clients so you can find out there reasons for setting up cross-border IORPs and how they overcame perceived barriers.</p>	
1.	<p>The scope appears rather narrow given the objective to provide a "structured overview" of national provisions.</p> <p>We would like to see social and labour law ("SLL") included as part of the scope. EIOPA's predecessor, CEIOPS, carried out a survey in April 2008 which covered certain SLL topics. As SLL is percieved as a bigger barrier to cross-border IORPs than prudential law, we think it would worthwhile EIOPA at least using this opportunity to update the information that it's predecessor held on SLL..</p> <p>It would also be useful to have the following items included as part of the scope , as these are relevant to the creation of cross-border IORPS</p>	

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- An overview of the local pension environment
- A description of the types of IORPs in each country
- Cross-border IORP requirements (including registration process, and rules on benefits/financing etc)
- High-level overview of tax issues (eg tax status of IORP: tax on investment returns; tax on benefit payments; tax on employer and employee contributions; tax on transfer values)

The table on page 12 setting out information requirements looks remarkably short, and does not cover the type of information we typically see in country summaries of prudential law (eg those produced by professional service firms such as Aon Hewitt or European law firms for use by cross-border clients). We would recommend including the following specific items

- Authorisation procedures
- Security mechanisms
- Pension protection schemes
- Use of contingent assets
- Disclosure to members
- Disclosure to supervisors
- Roles of professional advisers, including actuaries and auditors
- What happens when an employer leaves, or withdraws from, an IORP
- What happens when a sponsoring employer becomes insolvent
- Winding-up / termination of an IORP

2.

We believe that information should be continuously updated, unless of course EIOPA does not intend to use it for detailed supervisory processes..

A requirement to update, say, every two years (or, say, within two months if there is a material change) means that EIOPA runs a risk of not having up-to-date information. Professional advisory

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	<p>firms are in the habit of providing updates to clients when there are changes to local legislation; and IORPs are often able to access commercial websites or databases with in-depth and up-to-date overviews of local country legislation.</p> <p>EIOPA should therefore consider whether it needs to be provided with information more or less quickly than would be expected by the IORPs themselves.</p>	
3.	<p>The reporting template does not cover all the areas we would expect to see (see response to Question 1).</p> <p>Given the objective to provide a "structured overview" of national provisions, we are concerned that this may not be achieved by only asking for references to local legislation, including hyperlinks. This may mean that, to a lay person, the information may be very difficult to follow, especially if the local legislation is not written in a common language (which is likely to be the case!).</p> <p>We would suggest that, for each item, a brief description of the local requirements is also provided. This should make each item easier to understand and to help with comparisons between countries, and help meet the "structured overview" objective.</p>	
4.	Yes – see answers to Question 1 and 3.	
5.	Yes, given the objective to provide a "structured overview" of national provisions – the approach to prudential regulation varies for each country, so understanding the type of legislative instruments is important when trying to understand the approach in each country.	
6.	Yes – there is a risk that this exercise may not capture the range of information that we would expect to see (especially given the sometimes blurred boundaries between social and labour law, prudential law, insolvency law etc). Please see our response to Q1 for a list of suggested information.	
7.	We have not studied this in detail. However, we expect that EIOPA will need a significant amount of resource to study and summarise the information in way that is easy for stakeholders to follow	

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	It should also make sure there is sufficient resource available to ensure information is kept up-to-date.	
8.	See answer to Q7 and Q9.	
9.	<p>EIOPA is likely to receive a vast amount of detail in this area, and will then need to summarise it an way that is useful for stakeholders. EIOPA may want to consider doing this initially for a small number of countries in order to test "proof of concept". This will reduce initial costs of the exercise. EIOPA can then review the processes and output of the initial exercise before rolling out to all other countries – this should then improve the overall effectiveness of the whole process, and lead to reduced costs/improved value for money.</p> <p>EIOPA may also want to consider the impact of asking a professional advisory/legal firm to carry out this exercise or subscribing to existing on-line sources containing some of this information. At the very least, EIOPA may wish to review the types of information and products available in the market, both at a European-wide level and national level.</p> <p>Firms such as Aon Hewitt already produced detailed summaries of local country regulatory systems for use by clients and can provide access to on-line databases of up-to-date local country information. Given this EIOPA may also find that the information that can be readily obtained by appointing an advisory firm with expertise of the different European pensions systems.</p>	
10.	<p>Yes – this would be helpful to actual and potential sponsors of cross-border IORPs (and their advisers) and also help to raise EIOPA's profile (ie by providing useful information that can be viewed and used by the European pensions industry).</p> <p>We note that CEIOPS also set up a dedicated area on its website when it carried out its SLL survey in April 2008.</p>	