

**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:	GCAE	
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"> ⇒ Do not change the numbering in the column "Question"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ 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>. ⇒ 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-12-005@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p>		
Question	Comment	
General Comment	<p>The questions posed in the consultation are narrow. This approach deters stakeholders from making comments that could be useful to both the Commission and EIOPA in the framing of the Implementing Technical Standard.</p> <p>By way of examples:</p> <ul style="list-style-type: none"> • Recital 2 on page 7 and article 1(2) refer to "national provisions of prudential nature...[comprising] provisions contained in Articles 9 to 19 of Directive 2003/41/EC...". We consider that it would be better expressed along the lines 	

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	<p>"implementing provisions contained in Articles 9 to 19", rather than "[comprising] provisions contained in Articles 9 to 19"</p> <ul style="list-style-type: none"> The illustration of the "position of prudential law position in the legal system of most EU Member States" on page 14, could usefully include a blue circle for Trust Law – which has a significant role in the actions of those running IORPs in Ireland and the UK 	
1.	<p>What is stakeholders' view on the scope of national requirements of prudential nature that are required to be reported to EIOPA?</p> <p>It is not clear why national provisions implementing articles 7 and 8 of Directive 2003/41/EC are excluded from the scope.</p>	
2.	<p>What is stakeholders' view on the procedure and frequency of reporting?</p> <p>Both the procedure and frequency of reporting seem sensible.</p>	
3.	<p>What is stakeholders' view on the level of detail contained in the reporting template?</p> <p>We consider that the level of detail is, at this stage, appropriate. Once Competent Authorities have responded in relation to the "other" national provisions of prudential nature, it might become clear that further detail is required in relation to those 'other' reported requirements.</p>	

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4.	<p>Do you think that there should be more detailed information in the templates? If yes, please specify.</p> <p>Not at this stage. Once responses from Competent Authorities have been received, it may be apparent that further detail is desirable. Similarly, once a complete record has been constructed, greater detail might be encouraged when CAs update the information, if then desirable.</p>	
5.	<p>Do you think that competent authorities should provide details on a type of the national provisions e.g. whether it is a primary or secondary legislation, a legal act, an administrative rule, code of conduct, guidance; whether it is a binding or non-binding regulation? If yes, please specify.</p> <p>We believe that this would be useful, although the legal structure and terminology across Member States may not be consistent and this would need to be addressed to avoid potential confusion.</p>	
6.	<p>Would it be useful to define more precisely in the ITS what 'other' provisions of prudential nature should be reported by competent authorities? If yes, please specify which provisions should be considered as 'other' provisions of prudential nature</p> <p>This could develop over time. If EIOPA obtains information from Competent Authorities that suggests some common areas, then maybe this will guide future categorisation. In the first instance, EIOPA should capture all additional (other) material before deciding whether additional categorisation and detail is possible/desirable</p>	
7.		

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Do stakeholders agree with the costs and benefits analysis?

The scope of this question is not immediately clear to us. If it is confined to section 4 of Annex I (Impact Assessment), then we have no reason to consider that the costs – in terms of additional resource within both Competent Authorities and EIOPA and the likely modest costs passed on to IORPs and members – are unreasonable.

We do not agree with section 2 (and therefore section 3) of Annex I for the reason set out below. That said, the problem definition is, in our view, unnecessary. Article 20(11) requires that this is done.

Lack of certainty on prudential regulation is a minor ‘obstacle’ to the development of cross-border arrangements. We accept that it is hoped that greater transparency of prudential rules will, by exception, make social and labour law provisions clearer, but we fear that the aspired clarity may not materialise and question whether it might be more helpful to take steps to ensure that full details of social and labour law requirements (from all Member States) are collated and made available through EIOPA’s website.

We also question the scale of demand for cross-border provision. The statistic of 80+ cross-border IORPs out of a population of 140,000 is mis-leading as the vast majority of the 140,000 are one or two member arrangements in Ireland and the UK. Commission figures suggest that the number of IORPs with 100 or more members is likely to be around the 6,000 to 7,000 level. The number of sponsors for whom a cross-border arrangement is attractive – even at the concept level – is small; suggesting that the potential number of such arrangements is itself limited.

8.

Would you consider that there are additional benefits or costs that have not been included in the costs and benefits analysis yet? If yes, please specify.

No.

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9.	<p>Are there any other policy options that should be considered in the impact assessment?</p> <p>None comes to mind.</p>	
10.	<p>Would you consider useful having a mapping file of national provisions of prudential nature relevant to IORPs available on EIOPA website?</p> <p>Yes – we would also welcome further transparency with regard to social and labour law. Given that all Competent Authorities are required to provide this information to EIOPA we see no reason why there should be any 'exceptions'.</p>	