

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Name of Company:	Hoechst-Gruppe VVaG Pensionskasse der Mitarbeiter der Hoechst-Gruppe VVaG Brüningstraße 50 65926 Frankfurt am Main Germany	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<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 "reference"; <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/response in the relevant row. If you have <u>no response</u> to a question, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments/responses 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-14-040@eiopa.europa.eu">CP-14-040@eiopa.europa.eu</a> . Our IT tool does not allow processing of any other formats.</b></p> <p>The numbering of the questions refers to <b>Consultation Paper on Further Work on Solvency of IORPs</b>.</p>		
<b>Reference</b>	<b>Comment</b>	
General Comment	<b>I. Introduction</b> The presented paper on Further Work on Solvency of IORPS summarizes the discus-	

**Comments Template on  
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**Deadline  
13 January 2015  
23:59 CET**

sion results of the last years around a "Solvency II-like" approach for IORPs using the Holistic Balance Sheet (HBS) methodology. On the one hand the consultation paper outlines different options for the various elements of the HBS. On the other hand, options describe how quantitative results could be used for regulatory purposes depending on where (Pillar 1 or Pillar 2) and how they are applied.

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 II directive proposal which does not justify any quantitative requirements based on the HBS approach, regardless for which Pillar. 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. The fact that EIOPA recognizes that this work is done at its own initiative does not solve this issue.

**II. No additional requirements which do not make occupational pensions more secure but add extra cost**

Every move towards a system that places more unnecessary 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 Member States like Germany, where 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. 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 occupational pension plans – without making them any more secure than they are today.

**Comments Template on  
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**Deadline**  
**13 January 2015**  
**23:59 CET**

From our perspective it is right that the experience of the financial crisis led to an analysis of systemic risk in the financial markets. In the area of banking, this has led to additional regulation: because banks lend money to each other, the default of one bank makes the default of other banks more likely. These links between banks have been addressed by regulation. However, from our perspective it is not right to now apply similar regulation to insurance companies and IORPs. Neither insurance companies nor IORPs lend money to each other; one institution going bankrupt does not increase the likelihood of other institutions going bankrupt as well. Beyond this, IORPs (in contrast to insurance companies) benefit from a guarantee given by the sponsoring employer, and are governed by social and labour law. Therefore, it would neither increase financial stability nor the security of occupational pensions to introduce Solvency-II-style capital requirements – it would only add additional costs.

We strongly oppose the introduction of any new requirements which do not make occupational pensions more secure but add extra costs, because these additional costs would make it less attractive for employers to offer occupational pensions, as already stated above. In this context, we welcome the insight of EIOPA that it may be better for members and beneficiaries if sponsors invest in their own business to ensure the pension promises in the long run instead of transferring additional funds into its IORP when an (“artificial” short term) underfunding situation occurs (p. 71 EIOPA Consultation Paper).

We overall would like to emphasise that our response, which discusses the specific points as raised by EIOPA, does not mean that we support the overall concept – we do not.

**III. Why the HBS is not a suitable regulatory instrument**

We recognize that EIOPA has tried to address our previous criticism that the Solvency-II-approach does not do justice to the special characteristics of IORPs. The current Consultation Paper undertakes an attempt to improve on the shortcomings of the HBS approach in particular on the valuation of sponsor support by delivering further valuation approaches (i.e. the balancing item approach) and it tackles the urgent question

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

of how the HBS approach is going to be used as a regulatory instrument.

We welcome that EIOPA for the first time discusses the central question of the regulatory function of the HBS (trigger points, funding requirements and EU-wide rules for SCR, tiering of assets, recovery period) although we think that should have been answered on a much earlier stage before all the in-depth-analysis of the HBS elements.

**No recognition of social and labour law**

Despite these improvements, we not only oppose the general idea of introducing new solvency requirements for IORPs, but also the HBS approach as proposed. 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.

Discussing the EU's existing supervisory architecture (European system of financial supervisors; ESFS), occupational pensions were only mentioned in the De-Larosière-Report from 2009 in relation to IAS 19; in a speech by Jacques De Larosière at the Public Hearing on Financial Supervision in the EU they were not even mentioned (Public hearing on Financial Supervision in the EU, Brussels, 24 May 2013). On this background it is presumptuous that the EIOPA Consultation suggests that Member States should adjust their national social and labour law so that it would be compatible with potentially new prudential regulation: "If EU prudential requirements were amended, Member States may need to adjust their social and labour law in order to ensure that their overall framework continues to reflect the previously agreed objectives." (p. 114 EIOPA Consultation Paper). We strongly oppose the idea that prudential law should trump social and labour law.

**The "balancing item approach" and the valuation of sponsor support**

We in general welcome the introduction of the "balancing item approach" (BIA), with respect to sponsor support in combination with a model which is similarly simple as

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

the PwC model ("M" approach) and which would not require calculating the HBS (for the "M" approach this is needed), but rather rely on a simpler measure (e.g. technical provisions). But we strongly suggest – if the HBS should be introduced at all – that in cases of a strong sponsor, a multi-employer-scheme (MES) or existence of other security mechanism) as balancing items, that there should be no requirement to explicitly set up an HBS. In particular, these factors not should lead to any Solvency II-style capital requirements.

The rationale is that in the cases of the application of the BIA the strength of the security mechanisms / sponsor support is actually proven and thus market consistent valuation (incl. using the risk free interest rates) is not needed anymore because the strength of the sponsor avoids the necessity of a transfer of the IORP's assets and liabilities and further concrete quantifications seem to be superfluous. Especially in the case of MES the BIA captures the notion that a large number of sponsors in the end is in charge of the settlement of pension claims (= HBS) and also serves as cushion for adverse developments (=SCR). This illustrates the flexibility of the sponsor support of MES IORPs and delivers a flexible protection of pension claims acting in solidarity.

In those cases where the HBS approach includes existing security mechanisms such as sponsor support, pension protection schemes, benefit reductions and where the HBS is used to trigger regulatory actions (recovery plans) the question remains: which regulatory options are available within a recovery plan at all in case of a shortfall within the HBS since all security mechanisms are already included?

**Market consistent valuation: Not appropriate and not necessary for IORPs**

We generally consider the so-called market-consistent approach inadequate for liabilities with such long durations. Any valuation and risk management that is based solely on a market value approach sets the wrong incentives for those running the institution. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation (of liabilities) would lead to a completely wrong as-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term planning, as well as risk analyses and related calculations. It would therefore not contribute to more security for the beneficiaries.

And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike in the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. In particular, 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. By maintaining the Solvency II structure, the HBS itself is not an appropriate approach for IORPs. The fact that security mechanisms of occupational pensions are considered at a later stage may not solve this general problem.

**Sustainability and transparency**

We understand that for EIOPA these two goals are essential and related to each other. We share these principles, but the instruments of the HBS approach are not appropriate to reach them. Regarding sustainability, we do not feel that the push towards DC which the HBS would bring about (see below) would make the overall pension system more sustainable – to the contrary. Transferring the risks to those who are least able to bear them, i.e. individuals, is socially not desirable.

We generally support transparency, but we do not think that the HBS approach is the right way to support it. Because of the increasing number of valuation methods and options with respect to recognised cash flows used within the HBS, the HBS gets more and more complex and does not lead to more transparent and comparable results (see 4.145 and EIOPA’s own analysis in section 4.5.6. stating huge differences between resulting values of sponsor support given the modelling approach).

Transparency in the second pillar is not the same as in the third pillar – or, in other words, as for financial products. We are aware of the trend towards DC, however, we

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

would like to point out that in many EU Member States there is a large legacy of DB schemes which will pay out pensions over decades to come. In addition, there isn't only pure DC, but also hybrid schemes where the risk is shared between the stakeholders. In Germany for example, there are currently no pure DC schemes at all, the employer is always liable to ensure that the pension promise made is kept. This means the employer has a strong interest that the IORP is efficient and sustainable. With these mechanisms, the need for detailed information for the beneficiaries is reduced. Transparency requirements therefore need to be tailored to fit those schemes – they cannot just be copied from financial products.

In addition, we would also like to point out that transparency needs to be treated carefully in this context. Sponsor support is an important security mechanism for IORPs. However, publishing detailed information around a specific situation might impact on the rating of the sponsoring employer. Second, if the members and beneficiaries e.g. do not have any choices regarding the investment strategy, there is little benefit in informing them about the funding ratio and potential measures taken to address underfunding. When occupational pensions are provided by the employer to the employee, there is no need to publish certain information like detailed cost information. The employer is not competing with pension providers to win the most customers, but rather providing a social service to their employees, which in Germany is governed by labour and social law. It is important to disclose certain information to the national supervisor (in Germany BaFin), but not to the public.

**The HBS dilemma: if it is sound, it isn't practical; and if it is workable, its results are questionable**

While without doubt EIOPA has invested a lot of time in the HBS, we do not think that the presented concept is to any degree satisfactory: the parts which are intellectually coherent are impossible for IORPs to comply with given their limited resources (stochastic modelling, also some of the simplifications); where simplifications have been introduced, the appropriateness of those simplified heuristics and the chosen parameters is doubtful and thus the intended goal of comparability of results is highly questionable (see again 4.145 and EIOPA's own analysis in section 4.5.6. stating huge

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

differences between resulting values of sponsor support given different modelling approach). From a practical perspective more simplifications would be better – but even as it stands at the moment it is not clear what the derived figures would show and what they could be used for. This illustrates the dilemma of the HBS: to get the HBS workable simplifications are needed (as apposed to a precise valuation of IORP’s security mechanisms), but that would challenge the whole approach. Thus even if we were supportive of the introduction of the HBS, this would not be a suitable approach.

While we recognise that EIOPA has tried to incorporate some of the specific features of occupational pensions into the HBS, the approach remains completely inadequate as an instrument for the supervision of IORPs.

**IV. A supervisory regime sui generis for IORPs**

We still agree with the general aim of the Commission in the Call for Advice of April 2011, according to which a risk-based supervisory system for IORPs should be developed – but in our opinion *the IORP Directive (respective IORP II) should be the starting point*. Thus we continue to be of the opinion that the supervision of IORPs requires a *regulatory regime sui generis* that truly accounts for the differences of IORPs and insurance companies. Due to the differences of pension schemes all over the EU (see below), we suggest to respect those differences among occupational pension systems in the different Member States when amending the regulatory framework.

This approach is justified due to the basic differences between IORPs and insurance undertakings, as EIOPA itself has identified several times (in particular in the second consultation document on the review of the IORP Directive, EIOPA-CP-11/006, see 9.3.6 a – h as well as in other EIOPA documents and speeches). We have reservations that in spite of this commitment, the current EIOPA paper on further work on solvency of IORPs as well as EIOPA’s discussion paper on sponsor support of 2013, the technical specifications for the IORP QIS from 2012 as well as EIOPA’s previous consultations on the IORP review are built on the Solvency II principles and structure.

**V. EIOPA needs to recognise that occupational pensions are diverse across**



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

**Europe**

We support the concept that Member States should be given sufficient leeway (e.g. regarding the recovery period and sponsor support as balancing item). In lines with the proposals in these areas, we support 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. EU legislation should define clear borders between these different fields of law and the supervisory regulation should always be subordinated. In the German situation pensions are safeguarded already by labour, co-determination and social law.

EIOPA should always bear in mind that in the diverse area of occupational pensions in Europe, it is beneficial to develop minimum requirements rather than aiming for full harmonisation. The HBS should not be used to lead to EU-wide harmonization of calculation of technical provisions (Level A or B technical provisions) especially for the reason of putative comparability for an internal market of pensions if this leads to a higher cost burden for employees and employers and detrimental effects in consequence. As EIOPA clearly analyses the result would be negative effects for occupational pensions, sponsors and economic growth (i.e. 5.86, 5.177, 5.179 and 5.188).

We would also like to point out that Level B as is currently defined does not fit all pension schemes across Europe either. It must be noted that for Germany in almost all cases it would be a discount rate fixed by the national competent authority.

In this context we welcome that EIOPA recommends using the principle of proportionality and the introduction of the balancing item approach: IORPs with certain characteristics would not have to make detailed calculations to determine whether the HBS balances (p. 43). But we think that in these cases the strong sponsor should make up for explicit exemptions that should release from explicitly setting up a holistic balance sheet or Solvency II-like risk based solvency capital requirements.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

**VI. The future of occupational pensions in Europe**

On a positive note, we welcome the recommendation to consider grandfathering, which would mean that the new prudential requirements would not apply to existing IORPs. However, we still see a number of issues for the future of occupational pensions if an HBS-style approach to solvency was introduced:

- With state pensions being scaled back in many EU Member States, we envisage a strong second pillar for the future, which supports individuals in closing the gap the reforms of the first pillar have presented them with. Policy-makers and supervisors both at the national and the EU level should do everything possible to ensure that the framework occupational pensions operate in is adequate to support this goal. However, we feel that the long-term implications from implementing an HBS-style approach would be different: to us it looks like EIOPA wants to support the trend towards DC, pushing those employers who are still offering DB schemes towards DC as well. Taking into account the described developments in state pensions, from a social policy perspective this is undesirable.
- In addition, we think that the current proposals would foster consolidation in the pension sector. While there are certain advantages of larger schemes, e.g. economies of scale, we would like to warn that it is not desirable to grow schemes so big that their failure would cause a major crisis. We have seen the problems with institutions which are too big to fail – even though IORPs are fundamentally different from banks, they also do not benefit from a system with very few very large institutions.
- The consultation paper does not take into account any implications the HBS proposals and the supervisory response will have on what employers offer and how it affects coverage. To us it looks like EIOPA is assuming an occupational pension system where membership is mandatory. In many EU Member States this is not the case, and with further unnecessary burdens being imposed on employers offering occupational pensions, provision in those Member States is

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>likely to go down.</p> <ul style="list-style-type: none"> <li>We doubt that the current suggestions will strengthen long-term investment or cross-border activity. The causalities presented in the paper are spurious.</li> </ul> <p>Finally and importantly, we do not envisage a future where the main concern of IORPs is how to comply with European legislation. Legislation should be designed in a way which allows IORPs to pursue their main objective: providing their members with a good value pension, so that poverty in old age is avoided and a large number of people can maintain a similar standard of living they used to have while working.</p>	
Q1	<p>No. Some of the shortcomings are explained in section 4.16. In addition, there is typically no direct "contract" between the IORP and the member, as is typically the case for an insurance contract. The legal relationship may be indirect though, for example, it may be an agreement between the sponsor and the IORP or the employer and the member. See also EIOPA's own "Mapping Exercise" under section 5.3. We understand that the issue of defining contract boundaries under Solvency II has been fraught with difficulties and has still not been finalized after many years of deliberations. We believe that these difficulties and potential for misunderstandings should not be transferred to IORPs.</p> <p>Starting with the premise that IORPs are not insurers, in particular they are not financial institutions, we suggest deriving the definition as to what benefits and contributions are to be included in the valuation of the TPs from first principles that are appropriate for IORPs. We would therefore suggest use a term such as "Boundaries of obligations and contributions" rather than "contract boundaries". We think it is important to use a different name not only because of the reasons given in the consultation itself but also because of the fundamentally different nature of, for example, employer-owned IORPs and insurers.</p>	
Q2	Yes.	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

<p>Q3</p>	<p>Maybe "Boundaries of agreements" could describe reality better. See our answer to Q1.</p> <p>The answer to Q1 was: There is typically no direct "contract" between the IORP and the member, as is typically the case for an insurance contract. The legal relationship may be indirect though, for example, it may be an agreement between the sponsor and the IORP or the employer and the member. See also EIOPA's own "Mapping Exercise" under section 5.3. We understand that the issue of defining contract boundaries under Solvency II has been fraught with difficulties and has still not been finalized after many years of deliberations. We believe that these difficulties and potential for misunderstandings should not be transferred to IORPs.</p> <p>Starting with the premise that IORPs are not insurers, in particular they are not financial institutions, we suggest deriving the definition as to what benefits and contributions are to be included in the valuation of the TPs from first principles that are appropriate for IORPs. We would therefore suggest use a term such as "Boundaries of obligations and contributions" rather than "contract boundaries". We think it is important to use a different name not only because of the reasons given in the consultation itself but also because of the fundamentally different nature of, for example, employer-owned IORPs and insurers.</p>	
<p>Q4</p>	<p>The Solvency II model fits insurance contracts, but it does not fit occupational pensions. This is the case because in occupational pensions the "boundaries" when and under which conditions the increase in entitlements may change or may be frozen are governed by social and labour law. This often involves all parties.</p> <p>We support the idea that the technical provisions should only include those contributions and benefits which are laid down in the agreed relationship between IORP and employee as well as between IORP and employer (4.24).</p> <p>We strongly disagree with Points 4.25 and 4.26. For IORPs it does not matter what the employer promised to the employee; the rules which matter for IORPs are the agreed</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

fixed rules between the IORP and the relevant stakeholders. An adequate description of the risks carried by the IORP cannot be based on rules for which there is no agreement with the IORP.

From our perspective, "risks building up for a promise to provide benefits of occupational retirement provision (primarily) via an IORP" is not at all a suitable approach for calculating adequate financial resources for IORPs. We are concerned about Point 4.27 which relates the "promise to provide benefits" directly to the calculated cashflows. The second part of this paragraph rightly recognises that cashflows which have to be paid by the IORP should be included in the technical provisions. There is no basis for the inclusion of cash flows beyond this, in particular not for parts of the "promise" which are not or cannot be delivered by the IORP.

Q5

No. In principle, the concept as described is not suited as basis for a definition of agreed boundaries for IORPs given the implications of the relevant social and labour law (cf. answer to Q1 and 4). However, where existent, it must be possible to include any unilateral rights and options agreed upon by the IORP when determining the relevant cashflows. If the rights and options can only be exercised if other stakeholders agree, there should be the option to include them if the agreement of the other stakeholders can be taken as a given. If applicable, especially the legal rights and possibilities of social partners should be taken into account.

The answers to Q1 and Q4 were:  
There is typically no direct "contract" between the IORP and the member, as is typically the case for an insurance contract. The legal relationship may be indirect though, for example, it may be an agreement between the sponsor and the IORP or the employer and the member. See also EIOPA's own "Mapping Exercise" under section 5.3. We understand that the issue of defining contract boundaries under Solvency II has been fraught with difficulties and has still not been finalized after many years of deliberations. We believe that these difficulties and potential for misunderstandings should not be transferred to IORPs.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Starting with the premise that IORPs are not insurers, in particular they are not financial institutions, we suggest deriving the definition as to what benefits and contributions are to be included in the valuation of the TPs from first principles that are appropriate for IORPs. We would therefore suggest use a term such as "Boundaries of obligations and contributions" rather than "contract boundaries". We think it is important to use a different name not only because of the reasons given in the consultation itself but also because of the fundamentally different nature of, for example, employer-own IORPs and insurers.

The Solvency II model fits insurance contracts, but it does not fit occupational pensions. This is the case because in occupational pensions the "boundaries" when and under which conditions the increase in entitlements may change or may be frozen are governed by social and labour law. This often involves all parties.

We support the idea that the technical provisions should only include those contributions and benefits which are laid down in the agreed relationship between IORP and employee as well as between IORP and employer (4.24).

We strongly disagree with Points 4.25 and 4.26. For IORPs it does not matter what the employer promised to the employee; the rules which matter for IORPs are the agreed fixed rules between the IORP and the relevant stakeholders. An adequate description of the risks carried by the IORP cannot be based on rules for which there is no agreement with the IORP.

From our perspective, "risks building up for a promise to provide benefits of occupational retirement provision (primarily) via an IORP" is not at all a suitable approach for calculating adequate financial resources for IORPs. We are concerned about Point 4.27 which relates the "promise to provide benefits" directly to the calculated cashflows. The second part of this paragraph rightly recognises that cashflows which have to be paid by the IORP should be included in the technical provisions. There is no basis for the inclusion of cash flows beyond this, in particular not for parts of the "promise" which are not or cannot be delivered by the IORP.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q6	We have not additions.	
Q7	The technical provisions should only include incoming cashflows which are already agreed or where the contribution party has a unilateral right to pay these contributions. From an actuarial perspective there is no need to distinguish between regular contributions and special contributions, for example by the sponsor, but there may be other reasons for a distinction (e.g. tax treatment). Of course this should be clearly distinguished from future contributions by the sponsor which have not yet been agreed upon. If members pay contributions, they must of course be kept separately.	
Q8	Yes. But still already agreed upon payments by the sponsor, for example as part of a recovery plan, can be, depending on their characteristics, part of the technical provisions or own funds.	
Q9	If the payments are agreed upon and the IORP is obliged to such payments, these payments should be treated like comparable payments towards the employees.	
Q10	No, not in normal cases i.e. for upfront agreed contributions and benefits. Rare cases may occur by high level jurisdiction, for instance by ECJ rulings on gender equal treatment.	
Q11	No. From our perspective, a concept which does not also consider the agreed contributions cannot work.	
Q12	Even if the intent is understood, the basic concepts do not fit occupational pensions. In addition, definitions and descriptions are not clear enough and of insufficient depth.	
Q13	From our perspective it makes sense to include only unconditional benefits, in particular if stakeholders have the option to avoid future surplus participation of members and beneficiaries to avoid an increase in liabilities. Potentially awarded surpluses would be gradually taken into account if these calculations are updated on an annual	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>basis.</p> <p>The complexity of calculations which include future, non-fixed non-unconditional benefits leads to little added value as compared to the costs and efforts involved, in particular for many small IORPs. In addition, we doubt that many insights can be gleaned from these calculations, because they are unlikely to be transparent and comprehensible to outsiders.</p>	
<p>Q14</p>	<p>We understand that the given definition fits our position to only include cashflows, which are based on rules the IORP agreed to («risk building up <b>IN</b> the IORP », see Q4). This also includes the option of the IORP and other stakeholders to avoid future non-unconditional benefits in order to reduce risk such as surplus participation of members and beneficiaries.</p> <p>The answer to Q4 was: The Solvency II model fits insurance contracts, but it does not fit occupational pensions. This is the case because in occupational pensions the “boundaries” when and under which conditions the increase in entitlements may change or may be frozen are governed by social and labour law. This often involves all parties.</p> <p>We support the idea that the technical provisions should only include those contributions and benefits which are laid down in the agreed relationship between IORP and employee as well as between IORP and employer (4.24).</p> <p>We strongly disagree with Points 4.25 and 4.26. For IORPs it does not matter what the employer promised to the employee; the rules which matter for IORPs are the agreed fixed rules between the IORP and the relevant stakeholders. An adequate description of the risks carried by the IORP cannot be based on rules for which there is no agreement with the IORP.</p> <p>From our perspective, “risks building up for a promise to provide benefits of occupational retirement provision (primarily) via an IORP” is not at all a suitable approach for calculating adequate financial resources for IORPs. We are concerned about Point 4.27</p>	



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	which relates the "promise to provide benefits" directly to the calculated cashflows. The second part of this paragraph rightly recognises that cashflows which have to be paid by the IORP should be included in the technical provisions. There is no basis for the inclusion of cash flows beyond this, in particular not for parts of the "promise" which are not or cannot be delivered by the IORP.	
Q15	We have no additions because the definition is not clear.	
Q16	We have no additions because the definition is not clear.	
Q17	We think that it might be generally possible to work with the given definition; however, there might be problems with the boundaries of the definition in individual cases. The delivery of occupational pensions is too diverse for a conclusive assessment.	
Q18	We do not see any advantages in the suggested amendments to the definition. We prefer a slightly longer but comprehensible and clear definition over a short one which is ambiguous.	
Q19	Yes. For example regarding the mentioned non-unconditional benefits, it should be considered that if there is a consensus among all stakeholders, they can be avoided with the aim of reducing risk.	
Q20	Yes.	
Q21	We cannot make a final assessment at the current point in time. However, see Q17 – generally the definition seems workable.  The answer to Q17 was: We think that it might be generally possible to work with the given definition; however, there might be problems with the boundaries of the definition in individual cases. The delivery of occupational pensions is too diverse for a conclusive assessment.	
Q22	No, the concept is not clear enough. Further conditions will not help. However, if there are unilateral rights of the sponsor which have implications for the risk carried by the	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>IORP, it should be possible to consider these rights adequately.</p>	
<p>Q23</p>	<p>Not really. Many terms are not clear enough. For example, the term «pension promise» as it is used in this Chapter seems to refer to the obligation the IORP has towards the employees based on an existing contractual relationship between the IORP and the employees. This is in general not the given situation (see Q1 etc.). Neglecting this, under this assumption we understand the examples. However, none of the examples really fits the German situation.</p> <p>We would like to stress explicitly that we do not take the term «pension promise», as used in this Chapter, to encompass all obligations which an employers has towards the employee within the occupational pension framework, which also includes obligations stemming from social and labour law, and which are not addressed through the IORP.</p> <p>The answer to Q1 was: There is typically no direct “contract” between the IORP and the member, as is typically the case for an insurance contract. The legal relationship may be indirect though, for example, it may be an agreement between the sponsor and the IORP or the employer and the member. See also EIOPA’s own “Mapping Exercise” under section 5.3. We understand that the issue of defining contract boundaries under Solvency II has been fraught with difficulties and has still not been finalized after many years of deliberations. We believe that these difficulties and potential for misunderstandings should not be transferred to IORPs.</p> <p>Starting with the premise that IORPs are not insurers, in particular they are not financial institutions, we suggest deriving the definition as to what benefits and contributions are to be included in the valuation of the TPs from first principles that are appropriate for IORPs. We would therefore suggest use a term such as “Boundaries of obligations and contributions” rather than “contract boundaries”. We think it is important to use a different name not only because of the reasons given in the consultation itself but also because of the fundamentally different nature of, for example, employer-own IORPs and insurers.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q24	<p>We do not understand the need to distinguish between «discretionary» and «mixed». Why does the existence of an explicit or implicit policy matter? From a risk perspective a restriction to pure discretionary benefits seems sufficient, because employees will expect only non-discretionary benefits. Other discretionary benefits seem too uncertain. Modelling and calculating them would bring large uncertainties, which would worsen the transparency and comprehensibility of the results.</p> <p>The restriction to only “one party” does not meet the reality of German IORPs given the involvement of always more than one party, for example by means of co-determination.</p>	
Q25	<p>No, see Q24.</p> <p>The answer to Q24 was: We do not understand the need to distinguish between «discretionary» and «mixed». Why does the existence of an explicit or implicit policy matter? From a risk perspective a restriction to pure discretionary benefits seems sufficient, because employees will expect only non-discretionary benefits. Other discretionary benefits seem too uncertain. Modelling and calculating them would bring large uncertainties, which would worsen the transparency and comprehensibility of the results.</p> <p>The restriction to only “one party” does not meet the reality of German IORPs given the involvement of always more than one party, for example by means of co-determination.</p>	
Q26	<p>No. We consider models which aim to include such policies neither reliable nor resilient.</p>	
Q27	<p>No. Pure discretionary benefits shall not be recognised in an HBS. In addition, we doubt that it is possible to conduct reliable and robust calculations regarding these future uncertain benefits, which are based in complex decision processes. This is particularly the case if it is necessary to consider several scenarios (how many? which weighting?) for which there might be no precedent cases. Too much complexity reduces comprehensibility as well the clarity of the results.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q28	<p>No. As a type of discretionary benefits, mixed benefits should also not be included in an HBS (see Q27). For IORPs this includes future surplus participation of members and beneficiaries which is not guaranteed.</p> <p>The answer to Q27 was: Pure discretionary benefits shall not be recognised in an HBS. In addition, we doubt that it is possible to conduct reliable and robust calculations regarding these future uncertain benefits, which are based in complex decision processes. This is particularly the case if it is necessary to consider several scenarios (how many? which weighting?) for which there might be no precedent cases. Too much complexity reduces comprehensibility as well the clarity of the results.</p>	
Q29	<p>Because of the absence of enforceability, non-legally enforceable sponsor support should in principle not be a part of the HBS. However, it must be possible to use reliable support instruments if they are sufficient and necessary. Reliable and therefore enforceable support instruments are for us a key characteristic of occupational pensions organised by social partners.</p>	
Q30	<p>Yes.</p>	
Q31	<p>We support the first option due to its simplicity.</p>	
Q32	<p>Yes.</p>	
Q33	<p>Yes.</p>	
Q34	<p>Option 1 appears favourable due to its simplicity, but it potentially underestimates the real value of the loan for the IORP. However, option 2 seems the theoretically best approach, but is too extensive and potentially leads to unreliable results.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q35

We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept the answer is "Yes, but ....". We underline that all kinds of benefit reduction mechanisms should be treated as a last resort item at any time. We agree with the conclusion that if a benefit reduction mechanism is available and not limited it generates the ultimate mechanism for the IORP's sustainability and should be valued as balancing item.

But we do not see any dichotomy of a direct approach and the balancing item approach and would not restrict the recognition of a benefit reduction mechanism to cases of unlimited reductions. Applying one or the other approach should be determined by the kind of benefit reduction available. We suggest to use a kind of direct approach that differs from the one provided within the consultation in cases of a "restricted" benefit reduction mechanism. If agreements/bylaws or national law and other regulations allow for a benefit reduction but restrict that to a certain amount this mechanism should be recognized directly up to its legal or regulatory limits. There should be no use of probability or predictability based on past policies within this approach.

In case of an unlimited benefit reduction mechanism the balancing item approach should kick in.

Additionally we do not agree with the approach of valuing all other items of a holistic balance sheet first before recognizing any benefit reduction mechanisms as mentioned in 4.91 last sentence.

It is an unnecessary and costly exercise to value all mechanisms and "assets" that qualify as balancing items on the holistic balance sheets if IORPs dispose of more than one. In Germany for example all IORPs dispose of two items, but not necessarily the same. Pensionsfonds and some form of Pensionskassen combine legally enforceable sponsor support with a pension protection scheme, another form of Pensionskassen combines legally enforceable sponsor support with an ex ante benefit reduction mechanism. Bringing the possible balancing items in line on a high level could work as follows:

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>1. Use legally enforceable sponsor support qualified to be recognized as balancing item.</p> <p>2. If enforceable sponsor support is not sufficient, a pension protection scheme should be used.</p> <p>3. Use benefit reduction mechanisms as balancing item.</p> <p>Within the HBS it should be possible either to work through this list top down or to skip one or the other possible balancing item without valuing it thoroughly. By using the step-by-step approach the first mechanism qualified as balancing item should end the valuation process. Example: legally enforceable sponsor support is qualified as balancing item. End of valuation, even if there are a pension protection scheme and benefit reduction mechanisms available.</p> <p>As provided in our answers concerning sponsor support and pension protection schemes the consultation paper and therefore the whole HBS concept lacks convincing and workable answers concerning these two items of the HBS. This hampers the valuation process: either the valuation will be a very costly process or will be impossible to implement respectively will end in unconvincing results. To force IORPs to run through the whole valuation process although with a benefit reduction mechanism they provide an enforceable and easy to calculate balancing item cannot be in the interest of members and beneficiaries but has to be regarded as "l'art pour l'art".</p> <p>Another idea to deal with multiple balancing items could be: As soon as more than one of the three potential items (sponsor support, pension protection scheme or benefit reduction mechanisms) are recognized as balancing item, they could be combined into one value. This would increase uniformity and comparability across IORPs.</p>	
Q36	The concept of the HBS should not be applied to IORPs. The reason is that the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks which we regard as unsuitable for IORPs.	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

But given the HBS would be applied to IORPs we support at the most a principle based approach to valuing sponsor support that leaves the specifics to be set by Member States and national competent authorities. This approach would enable the national legislator to find suitable solutions for valuation of this mechanism under consideration of the different types of sponsors and how sponsor support is organized and legally regulated (in SLL) within each Member State. A „one-size-fits-all“-approach that doesn’t fit accurately for none of the existing variants should not be applied.

In general, we want to underline that sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS would be introduced - the proportionality principle including the balancing item approach for the use of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach) could potentially be part of this principle based approach. However, this alternative approach should not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. technical provisions).

In this context we welcome that EIOPA recommends using the principle of proportionality and the introduction of the balancing item approach: IORPs with certain characteristics would not have to do detailed calculations to determine whether the HBS balances (p. 43). But we think that in these cases the strong sponsor should make up for explicit exemptions that should release from explicitly setting up a holistic balance sheet or Solvency II-like risk based solvency capital requirements.

Q37

The concept of the HBS should not be applied to IORPs. The reason is that the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the measurement and quantification of risks unsuitable for IORPs. Generally we reject the notion that assets and liabilities should be valued mark-to-market given the long term nature of pensions and the inadequate short-termism mark-to-market valuation may induce (see i.e. Q85 for more details).

With respect to the valuation of sponsor support we think it is adequate to use market

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

data where available to account for the ability of the sponsor to pay. We want to underline that the proposed balancing item approach (BIA) in this sense is in general market consistent (see also EIOPA 4.3) and should be accompanied with a model which is similarly simple as the PwC model ("M" approach).

The answer to Q85 was:

An HBS-type approach – if at all regarded as suitable - should include all mechanisms. If sponsor support and/or a PPS exist, they can secure the pensions promise. However, a sufficient level of funding with financial assets should be ensured. This should be calculated in a way so that the financial assets are generally sufficient to meet the benefits, without taking sponsor support and PPS into account. Level B technical provisions should therefore be the minimum requirement for the level of liabilities. In the Consultation Paper, EIOPA states that if there is a PPS, Level B should be sufficient (par. 5.85).

The main points in favour of Level B for IORPs are the extremely long-term focus combined with – by German labour law - almost no distortion by cancellations.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

Calculating technical provisions on a market consistent basis incl. a risk free interest rate is not necessary and not appropriate for IORPs. A mark-to-market valuation of liabilities for IORPs as envisaged under Solvency II would be extremely damaging for long-term investments. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation of liabilities would lead to a completely wrong assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term planning, as well as risk analyses and related calculations. It



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

would therefore not contribute to more security for the beneficiaries. And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike within the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. Thus we think that especially in cases where the balancing item approach is justified, a mark-to-market valuation is particularly inappropriate and unnecessary given its damaging consequences as the function of a market valuation (= transfer to other IORP or market actors).

The result would be in addition an **enormous increase in liabilities** (without being a more accurate assessment) **and thus funds to be delivered by sponsor** (for future and eventually for existing promises) will discourage sponsors from occupational pensions. We therefore support EIOPA's analysis (i.e. 5.86, 5.177, 5.179 and 5.188) of the negative consequences of Level A technical provisions as funding requirements for existing promises for sponsors, employees and defined benefits and also with respect to growth and macroeconomic aspects.

These **consequences are confirmed by comprehensive studies**, i.e. the study "The economic impact for the EU of a Solvency II inspired funding regime for pension funds" by UK's employer association CBI together with Oxford Economics that analysed economic consequences of a 30% increase of liabilities to be covered by additional delivered funds by sponsors and the SCR covered by sponsor support or PPS (= corresponds to Level A technical provisions to be covered by financial assets). The main results of the study are an increased call on business funds and in consequence significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employment as well as more modest impacts on employee pension contributions, procurement, prices and dividend payments. To give some numbers:

- 30% increase of technical provisions = €440 billion (£350 billion) = cost increase for UK Businesses
- Up to 2.5% reduction of GDP for longer period
- Up to 180,000 job losses p.a.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>Similar results are given by the Report commissioned by UK's Pensions Minister Steve Webb (<a href="#">Webb-Report</a>) indicating a funding shortfall in the UK of</p> <ul style="list-style-type: none"> <li>• £400 billion (i.e. increase in technical provisions of £500 bn, less estimated sponsor support of £350bn, plus a net SCR of £250bn. The net SCR also allows for sponsor support).</li> <li>• £150 billion (i.e. increase in technical provisions of £500bn, less estimated sponsor support of £350bn)</li> </ul>	
Q38	<p>No, a separate and explicit valuation of the sponsor support using expected cash flows is in general not necessary (and often not possible with accurate precision and data). Such explicit approaches raise significant practical problems as already discussed with respect to the IORP QIS and the sponsor support discussion paper in 2013. Especially in cases when the balancing item approach is applicable no explicit valuation on the basis of expected cash flows should be required. In order to achieve a market consistent valuation the balancing item approach (BIA) is accurate as also mentioned by EIOPA in 4.3 and should therefore be allowed. Given that the BIA is only allowed if the strength of the sponsor is checked, the affordability of payments and the credit risk of the sponsor are (implicitly) considered. Thus the BIA in combination with a model which is similarly simple as the PwC model ("M" approach) could potentially be used, however, this alternative approach should not require calculating the HBS.</p>	
Q39	<p>Given its serious concerns against a possible introduction of a HBS structure for IORPs, we would welcome the "balancing item approach" (BIA) in combination with a model which is similarly simple as the PwC model ("M" approach). This alternative approach should not require calculating the HBS, but rather rely on a simpler measure to check the sponsor value (e.g. using technical provisions, market capitalisation, total wages etc.). The BIA is practical to use in many circumstances, market consistent and reflects the essential notion of the function of sponsor support as a flexible asset to call upon when needed. If the sponsor (or other security mechanisms) is reliable the BIA should be used to value sponsor support.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

And we suggest – if the HBS should be introduced at all – that a strong sponsor proven by the PwC criteria or a multi-employer-scheme IORP should make up a case for the exemption from explicitly setting up a holistic balance sheet or measuring Solvency II-like risk based solvency capital requirements. At least significant easements of these regulatory concepts would be appropriate. The existing security mechanisms of IORPs should then not be seen as a part of the balance sheet or the SCR – they have a substitutional character that should replace the HBS and the SCR.

The rationale is that in the cases of the application of the BIA the strength of the security mechanisms / sponsor support is actually proven and thus market consistent valuation of assets and liabilities (incl. using the risk free interest rates) is not needed anymore because the BIA is a flexible asset that fills any gap if needed. So this approach would consequently pursue the concept of the BIA which is also described by EIOPA (see 4.114.): *“In some circumstances the strength of the sponsor may be sufficient so that a detailed approach to valuing that unlimited sponsor support may be disproportionate. In addition, the set up and legal structure of IORPs may mean that the valuation is unnecessary and does not provide useful information to the IORP and/or supervisor. In these circumstances, IORPs could follow the balancing item approach such that the value of sponsor support is simply the required amount to balance the holistic balance sheet.”*

Q40

Given the general rejection of the HBS as a regulatory tool for IORPs, we support the listed conditions for sponsor support to qualify as balancing item (see 4.4). All conditions are legitimate in certain circumstances und should therefore equivalently be considered in the regulatory framework.

In particular we would welcome the concept of the balancing item in combination with a model which is similarly simple as the PwC model (“M” approach), however, this alternative approach should not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalisation, total wages etc.).

If the HBS should be introduced at all, we think this approach would be practicable

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>and efficiently to implement for a broad range of sponsors especially with respect to using total wages as proxy for not-for-profit sponsors (public sector, charities, etc.) that do not have values like market capitalization or other suitable financial metrics (4.127, 4.200 and the rationale in 4.229) or industry wide funds. Using the value "2" for M could to be appropriate.</p> <p>But we are very critical with respect to the requirement that IORP shall demonstrate that default rate of the sponsor (4.124) or PwC's M value of the sponsor (see 4.131) is likely to be stable over time. It is questionable how IORPs can practically fulfill this requirement given that even professional rating agencies have to adjust their ratings from time to time.</p>	
Q41	<p>With respect to the use of the balancing item approach for valuing sponsor support we additionally suggest that multi employer schemes (MES) with large number of employers, legally enforceable sponsor support and joint financing should automatically qualify for applying the balancing item approach without explicitly assessing the strength of the sponsors (in addition to the listing in no. 4.4 of the consultation document). The rationale for this is that MES with a sufficient number of employers and joint financing could be seen as a means of collective pooling of default risk of individual sponsors – in analogy to the suggestions of EIOPA regarding pension protection schemes in 4.248 of the consultation paper.</p>	
Q42	<p>Again we would in general welcome the introduction of the "balancing item approach" (BIA) in combination with a model which is similarly simple as the PwC model ("M" approach), however, this alternative approach should not require calculating the HBS (for the "M" approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalization, total wages etc.)."</p>	
Q43	<p>Yes, we agree. Pension protection schemes should definitely be considered either via backing up sponsor support as balancing item or directly as balancing item on the HBS. Otherwise this important security mechanism for safeguarding the pension promise from the beneficiaries' perspective would be neglected. See also answer to Q 77.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

The answer to Q77 was:  
We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept, we prefer option 1 to include PPS on an IORP's balance sheet. Otherwise this important security mechanism for safeguarding the pension promise from the beneficiaries perspective would be neglected and the aim of the European Commission (similar level of protection irrespective of the security mechanisms used) would not be met.

PPS should be included in an HBS, favourably as a balancing item on the holistic balance sheet. See Q35 and Q71.

One advantage of using the indirect approach of considering a PPS via the effect on sponsor support would be that it is less effort to model: in this case the sponsor support would not have to be modelled explicitly because sponsor support functions as a balancing item. In the case of considering PPS directly as an asset in the HBS sponsor support would have to be modelled / valued concretely using one of the other suggested valuation methods although afterwards the PPS is included as a balancing item in the HBS (see also EIOPA's suggestions in 4.5).

We support following arguments for including pension protection schemes in any EU-wide framework as expressed in the Consultation paper.

- PPS protects members and beneficiaries against insolvency of their employers. In a holistic view, it should therefore be included in the HBS. The Consultation paper describes the conditions a PPS would have to fulfill (CP, par. 4.139), which we support.
- There is a close link between sponsor support and pension protection schemes. Pension protection schemes could be seen as a form of collective sponsor support. Therefore they should, like sponsor support, be included in the holistic balance sheet.
- PPS is a mechanism, established under national social and labor law, which protects members and beneficiaries against insolvency of their employers. A

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>prudential framework should not aim at changing the level of security which is accepted under national social and labor law.</p> <ul style="list-style-type: none"> <li>• PPS fulfill their task on a regular and ongoing basis. They are not a last resort mechanism, like insurance guarantee schemes. So they can't be excluded from the HBS on the grounds that they are similar to insurance guarantee schemes.</li> <li>• PPS can be financed by tens of thousands of sponsors, which gives them a very strong financial basis, comparable to the strength of a whole national economy.</li> <li>• In cases where a strong PPS is in place, the benefits of members and beneficiaries would be protected with a sufficient level of security. A sufficient level of security can therefore be achieved in those cases, without applying short recovery periods or requiring an IORP to hold financial assets at least of the amount of Level A technical provisions.</li> </ul> <p>EIOPA rightly considers individual sponsor support as an important security mechanism. It therefore would not make sense to not include pension protection schemes as a form of collective sponsor support of over 90,000 employers in Germany. In addition, if it was not recognized, the security level in Germany would be systematically higher than in many other EU Member States.</p> <p>Since the foundation of the PSVaG in Germany forty years ago, no beneficiaries or pensioners have lost their legally protected pension rights because of the insolvency of the sponsoring employer. Not taking pension protection schemes into account in the HBS would therefore remove it even further from the reality of occupational pensions in some European Member States.</p>	
Q44	<p>The PPS should generally be used as balancing item. Both approaches are appropriate and should be included in a framework, if the HBS framework should be introduced at all.</p>	
Q45	<p>In case of a strong sponsor or a sponsor backed by a pension protection scheme the pension promise is safeguarded. That is the rationale for treating these security mechanisms as balancing items. Thus an additional separate minimum level of funding with financial assets should not be required.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q46	<p>The concept of the HBS should not be applied to IORPs as the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks. We regard this approach as unsuitable for IORPs and the long term nature of pensions because it delivers inadequate management incentives.</p> <p>But assuming the HBS would be applied to IORPs we agree to a principles-based and IORP specific approach to valuing sponsor support instead of an inadequate „one-size-fits-all“-approach for all types of IORPs. This enables to cover a broad range of different types of IORPs and sponsors as well as country specific differences and to find suitable solutions. Thus the regulatory specifics should be set by Member States (see Q36) including a variety of equivalent approaches and leaving it up to the IORP to decide which approach to choose (including particularly the balancing item approach). In addition further deterministic simplifications by Member States to consider national circumstances should be allowed. A stochastic modeling or explicit cash-flow-modeling should not be compulsory.</p> <p>In particular, we want to underline that sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS should be introduced - within the HBS the balancing item approach for the valuation of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach), but which would not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalization, total wages, etc.) should be part of the suggested approaches.</p>	
Q47	<p>No guidance by EIOPA is needed.</p> <p>As suggested in Q36 and Q46 the regulatory specifics as well as practical guidance should be set by Member States to make sure that a broad range of different types of IORPs and sponsors as well as country specific differences are adequately covered. This approach would most likely originate suitable solutions for valuation of sponsor support.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q48	Compulsory stochastic modeling should be avoided.	
Q49	<p>Generally, we do not consider further QIS work necessary (see General Comments). However, given the announced QIS in 2015, the considered simplifications should be kept (in particular Simplification 2). It is crucial that any simplification is viable for IORPs and that there are escape clauses so that special schemes do not have to apply the simplification at all cost.</p> <p>Simplification 1 is less important to German IORPs as it is still too complex to be broadly acceptable. The required input data (see 4.173) cannot realistically be raised for many sponsors (i.e. default probabilities, some of the correlations or the maximum sponsor support if not a model which is similarly simple as the PwC model ("M" approach), but which would not require calculating the HBS (for the "M" approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalization, total wages, etc.) is used). This approach is in particular not adequate for multi employer schemes (MES) / industry wide IORPs where the problems of input data are even greater (see also Q51).</p> <p>The answer to Q51 was: Generally, we do not consider further QIS work necessary (see General Comments). However, given the announced QIS in 2015, the considered simplifications should be kept—in particular Simplification 2 (Simplification 1 is less important to German IORPs).</p> <p>It is crucial that any simplification is viable for IORPs and that there are escape clauses so that special schemes do not have to follow the simplification. Regarding Simplification 1 and 2, for example MES / industry-wide IORPs are often not able to assess the sponsor support data in an appropriate way. They need more simplifications like macro-economic data and / or pars-pro-toto calculations or sampling. Further simplifications should therefore be developed in order to reflect the heterogeneous nature of IORPs regarding available resources and know-how. However, "over engineering" of the simplification should be avoided. The applied assumptions must be stated more</p>	



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>clearly. The simplifications according to HBS 6.36 of the technical specifications for the QIS should remain applicable. We therefore suggest keeping the simplifications of the last QIS.</p>	
<p>Q50</p>	<p>No. In addition to simplification 1 also other approaches should be equivalently allowed (see Q36 and Q46).</p> <p>The answers to Q36 and Q46 were: The concept of the HBS should not be applied to IORPs. The reason is that the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks unsuitable for IORPs.</p> <p>But given the HBS would be applied to IORPs we support at the most a principle based approach to valuing sponsor support that leaves the specifics to be set by Member States and national competent authorities. This approach would enable the national legislator to find suitable solutions for valuation of this mechanism under consideration of the different types of sponsors and how sponsor support is organized and legally regulated (in SLL) within each Member State. A „one-size-fits-all“-approach that doesn't fit accurately for none of the existing variants should not be applied.</p> <p>In particular, we want to underline that sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS would be introduced - the proportionality principle including the balancing item approach for the use of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach) could potentially be part of this principle based approach. However, this alternative approach should not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. technical provisions).</p> <p>In this context we welcome that EIOPA recommends using the principle of proportionality and the introduction of the balancing item approach: IORPs with certain characteristics would not have to do detailed calculations to determine whether the HBS bal-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

ances (p. 43). But we think that in these cases the strong sponsor should make up for explicit exemptions that should release from explicitly setting up a holistic balance sheet or Solvency II-like risk based solvency capital requirements.

We are still of the opinion that the concept of the HBS should not be applied to IORPs as the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks. We regard this approach as unsuitable for IORPs and the long term nature of pensions because it delivers inadequate management incentives.

But assuming the HBS would be applied to IORPs we agree to a principles-based and IORP specific approach to valuing sponsor support instead of an inadequate „one-size-fits-all“-approach for all types of IORPs. This enables to cover a broad range of different types of IORPs and sponsors as well as country specific differences and to find suitable solutions. Thus the regulatory specifics should be set by Member States (see Q36) including a variety of equivalent approaches and leaving it up to the IORP to decide which approach to choose (including particularly the balancing item approach). In addition further deterministic simplifications by Member States to consider national circumstances should be allowed. A stochastic modeling or explicit cash-flow-modeling should not be compulsory.

Sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS should be introduced - within the HBS the balancing item approach for the valuation of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach), but which would not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalization, total wages, etc.) should be part of the suggested approaches.

Q51	Generally, we do not consider further QIS work necessary (see General Comments). However, given the announced QIS in 2015, the considered simplifications should be kept – in particular Simplification 2 (Simplification 1 is less important to German
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**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>IORPs).</p> <p>It is crucial that any simplification is viable for IORPs and that there are escape clauses so that special schemes do not have to follow the simplification. Regarding Simplification 1 and 2, for example MES / industry-wide IORPs are often not able to assess the sponsor support data in an appropriate way. They need more simplifications like macro-economic data and / or pars-pro-toto calculations or sampling. Further simplifications should therefore be developed in order to reflect the heterogeneous nature of IORPs regarding available resources and know-how. However, "over engineering" of the simplification should be avoided. The applied assumptions must be stated more clearly. The simplifications according to HBS 6.36 of the technical specifications for the QIS should remain applicable. We therefore suggest keeping the simplifications of the last QIS.</p>	
Q52	<p>EIOPA should work on solutions for cases where data on credit ratings or default probabilities is not easily available.</p>	
Q53	<p>We want to stress that no stochastic modeling should be compulsory for IORPs as it is (too) complex and it has not yet been proven that stochastic approaches are better in principle. This also holds for the suggested Barrie &amp; Hibbert variants even if the simplified method is less complex and deterministic aspects are involved.</p> <p>Thus we are of the opinion that the order with respect to valuation approaches needs to be changed: (simplified) deterministic approaches should not be "lower-quality" alternatives, but also first choices in their own right. Each IORP needs to be able to decide whether they use the stochastic or simplified calculations. No IORP should be forced to use the stochastic model. Even if guidance was provided, the costs for IORPs will be high and we do not believe that many IORPs have enough resources to do stochastic valuations. EIOPA therefore should work on developing a deterministic approach which works for IORPs in terms of size, practicability and comprehensibility. Overall, we consider it best to leave it at the IORP's discretion to decide whether the value added by stochastic or internal models justifies the resources dedicated to the development of such models. We therefore do not need any additional guidance for conducting stochastic valuations, most German IORPs are likely to use the determinis-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	tic model.	
Q54	<p>Yes, EIOPA should develop spreadsheets if the B&amp;H approaches should be included.</p> <p>But in general we are of the opinion that within the principles based framework of the valuation EIOPA should transfer the specifications to Member States (see Q36 and Q46).</p> <p>The answers to Q36 and Q46 were: We are still of the opinion that the concept of the HBS should not be applied to IORPs. The reason is that the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks unsuitable for IORPs.</p> <p>But given the HBS would be applied to IORPs we support at the most a principle based approach to valuing sponsor support that leaves the specifics to be set by Member States and national competent authorities. This approach would enable the national legislator to find suitable solutions for valuation of this mechanism under consideration of the different types of sponsors and how sponsor support is organized and legally regulated (in SLL) within each Member State. A „one-size-fits-all“-approach that doesn’t fit accurately for none of the existing variants should not be applied.</p> <p>In general we want to underline that sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS would be introduced - the proportionality principle including the balancing item approach for the use of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach) could potentially be part of this principle based approach. However, this alternative approach should not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. technical provisions).</p> <p>In this context we welcome that EIOPA recommends using the principle of proportionality and the introduction of the balancing item approach: IORPs with certain characteristics would not have to do detailed calculations to determine whether the HBS bal-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

ances (p. 43). But we think that in these cases the strong sponsor should make up for explicit exemptions that should release from explicitly setting up a holistic balance sheet or Solvency II-like risk based solvency capital requirements.

We are of the opinion that the concept of the HBS should not be applied to IORPs as the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks. We regard this approach as unsuitable for IORPs and the long term nature of pensions because it delivers inadequate management incentives.

But assuming the HBS would be applied to IORPs we agree to a principles-based and IORP specific approach to valuing sponsor support instead of an inadequate „one-size-fits-all“-approach for all types of IORPs. This enables to cover a broad range of different types of IORPs and sponsors as well as country specific differences and to find suitable solutions. Thus the regulatory specifics should be set by Member States (see Q36) including a variety of equivalent approaches and leaving it up to the IORP to decide which approach to choose (including particularly the balancing item approach). In addition further deterministic simplifications by Member States to consider national circumstances should be allowed. A stochastic modeling or explicit cash-flow-modeling should not be compulsory.

Sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS should be introduced - within the HBS the balancing item approach for the valuation of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach), but which would not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalization, total wages, etc.) should be part of the suggested approaches.

Q55

In general the ASA could be useful for the standard case with a medium sized sponsor with one IORP, in addition, it addresses the problems for unrated IORPs. Generally the credit ratio method seems less sound compared to standard credit ratings as ratings are based on much more information and thus supposedly provide a more reliable es-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

estimate for a sponsor's probability of default.

It is still not obvious how to deal with nonstandard scenarios where a sponsor supports more than one IORP; where a single IORP has several sponsors or where sponsors are non-corporate. For these cases the ASA is not yet practical or adequate as EIOPA didn't suggest changes. If the suggested proportionality principle and the use of the balancing item does not apply the ASA still seems to be very complex or inadequate, in particular for small IORPs, MES or IORPs with non-corporate sponsors (see also Q62 to 68). Thus further work in a number of areas needs to be done for the general applicability of the ASA. Our main concerns are (see the General Comments for more detail):

- Generalisation: not really simpler and not adequate, particularly for MES. The problem of unrated companies has been addressed, but other central problems have not been solved.
- Where do the parameters for the calculations come from?
- Data requirements: difficult, particularly for MES
- Sponsor support and insolvency protection

We oppose the introduction of any new data requirements. However, if any new data requirements were to be introduced at all, this should only be done for the future, because in the past the necessary data was not collected. Some aspects of the method still need further explanation or elaboration or otherwise seem very arbitrary (e.g. Tables 4 and 6 in EIOPA's sponsor support discussion paper 2013). Large IORPs should also be allowed to use the simplified approach.

As EIOPA indicates the comparability of the ASA with other approaches is questionable (4.244) showing that values for sponsor support deviate systematically).

The answer to Q62 to Q68 were:

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q62: We are concerned that the approach would not work well for more complex IORP structures, e.g. multi-employer schemes, where one IORP has many sponsors or cases where one sponsor has several IORPs.

Q64: Most of the approaches discussed within the consultation are available since the IORP-QIS of 2012. Therefore we had the opportunity to test them already. Especially in cases of industry wide IORPs assessing sponsor strength by using financial reporting proved to be impossible. Sometimes the same held true concerning the simplification of a sample of the five largest sponsors because their officially published financial reporting contained not the necessary data.

In case of industry wide schemes that use the wage sum for calculating contributions only the total wage sum of the sponsors seemed to be an appropriate solution for assessing the sponsor support.

Therefore we would like to bring forward a model which is similarly simple as the PwC model ("M" approach), but which does not require calculating the HBS, but rather rely on a simpler measure (e.g. using market capitalization, total wages technical provisions, etc.).

Q 65:  
We like to discuss a case that is relevant for some German industry wide funds: Legally enforceable sponsor support is available for every employee against his/her own employer. But as a whole there is no legally enforceable "last man standing principle" available in a sense that the industry is indebted to finance the benefits of every member on a collective basis. But although the scheme does not provide of a legally enforceable "last man standing principle" social partners as representatives of the sponsors act as if it was available.

We suggest that in these cases of a practical application of "last man standing" it

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

should also be recognized as being at the disposition of the IORP if it can be shown from historical data that the collective funding of the scheme has been applied in the past reasonably often. We regard this condition to be met if the sponsors or their representatives corresponded in 3 out of the last 4 times to the pattern. PWC also argues that additional factors should be taken into account when assessing the covenant (See Research Report on Options for assessing employer covenant and the holistic balance sheet commissioned by Institute and Faculty of Actuaries). Concerning the financial data (including wage sum) discussed above this would lead to the possibility to use industry wide indicators collected by national bureaus of statistic research in comparison to the possible amount of sponsor support needed to balance the HBS. Giving Member States the option to define rules for the recognition of different sets of indicators for sponsor strength or other national specificities could help to adjust the regulatory regime to national GAP.

In addition with respect to the use of the balancing item approach for valuing sponsor support we suggest that multi employer schemes with a large number (definition to be discussed) of employers, legally enforceable sponsor support and joint financing should automatically qualify for applying the balancing item approach without recurring to the strength of the individual sponsor (in addition to the listing in no. 4.4 of the consultation document). The rationale for this is that MES with a sufficient number of employers and joint financing could be seen as a means of the collective pooling of default risk of individual sponsors – in analogy to the suggestions of EIOPA regarding pension protection schemes in 4.248 of the consultation paper.

Q56 No, we do not see that any adaptations have been made with respect to the problems mentioned in Q55. The suggested balancing item approach is helpful only when applicable, but that does not help in cases where the criteria are not fulfilled and the proportionality principle thus not qualifies: In this case a concrete valuation using one of



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	the 5 principles-based approaches (incl. the ASA) has to be applied (see 4.200).	
Q57	<p>Yes, see also Q36 and Q46.</p> <p>A principles-based-approach enables to cover a broad range of different types of IORPs and sponsors as well as country specific differences and to find suitable solutions. Thus the regulatory specifics should be set by Member States including a variety of equivalent approaches and leaving it up to the IORP to decide which approach to choose (including particularly the balancing item approach). In addition further deterministic simplifications by Member State to consider national circumstances should be allowed for.</p> <p>The answers to Q36 and Q46 were: The HBS should not be applied to IORPs. The reason is that the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks unsuitable for IORPs.</p> <p>But given the HBS would be applied to IORPs we support at the most a principle based approach to valuing sponsor support that leaves the specifics to be set by Member States and national competent authorities. This approach would enable the national legislator to find suitable solutions for valuation of this mechanism under consideration of the different types of sponsors and how sponsor support is organized and legally regulated (in SLL) within each Member State. A „one-size-fits-all“-approach that doesn’t fit accurately for none of the existing variants should not be applied.</p> <p>In particular, we want to underline that sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS would be introduced - the proportionality principle including the balancing item approach for the use of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach) could potentially be part of this principle based approach. However, this alternative approach should not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. technical provisions).</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

In this context we welcome that EIOPA recommends using the principle of proportionality and the introduction of the balancing item approach: IORPs with certain characteristics would not have to do detailed calculations to determine whether the HBS balances (p. 43). But we think that in these cases the strong sponsor should make up for explicit exemptions that should release from explicitly setting up a holistic balance sheet or Solvency II-like risk based solvency capital requirements.

The concept of the HBS should not be applied to IORPs as the HBS and the calculation of the SCR fully rest on the Solvency II structure regarding the market consistent valuation of assets and liabilities and the assessment and quantification of risks. We regard this approach as unsuitable for IORPs and the long term nature of pensions because it delivers inadequate management incentives.

But assuming the HBS would be applied to IORPs we agree to a principles-based and IORP specific approach to valuing sponsor support instead of an inadequate „one-size-fits-all“-approach for all types of IORPs. This enables to cover a broad range of different types of IORPs and sponsors as well as country specific differences and to find suitable solutions. Thus the regulatory specifics should be set by Member States (see Q36) including a variety of equivalent approaches and leaving it up to the IORP to decide which approach to choose (including particularly the balancing item approach). In addition further deterministic simplifications by Member States to consider national circumstances should be allowed. A stochastic modeling or explicit cash-flow-modeling should not be compulsory.

Sponsor support should be considered in a regulatory framework. Thus – assuming that the HBS should be introduced - within the HBS the balancing item approach for the valuation of sponsor support in combination with a model which is similarly simple as the PwC model (“M” approach), but which would not require calculating the HBS (for the “M” approach this is needed), but rather rely on a simpler measure (e.g. using technical provisions, market capitalization, total wages, etc.) should be part of the suggested approaches.

Q66: The suggested approach is appropriate as it will facilitate the valuation without

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

violating the underlying principles. Allowing parent guarantees under the same conditions and with the same effects as "standard" sponsor support is reasonable and, in addition, often a meaningful simplification.

Q67:

We welcome that EIOPA still explicitly recognizes that the non-standard case of non-corporate sponsors, especially public sector entities and charities which are in addition mostly multi-employer-schemes (MES), deserve specific considerations.

We recognise that in particular the presented principle 2 together with a model which is similarly simple as the PwC model ("M" approach), which should not require calculating the HBS, but rather rely on a simpler measure (e.g. technical provisions) for the use of the balancing item approach and the calculation of the sponsor support facilitates the valuation for not-for-profit sponsors, especially if this needs to be done by using total wages as proxy and for MES only for the suggested sample of the 5 largest sponsors. The suggested approach seems to be more appropriate than previous suggestions as applying the ASA procedure (incl. collecting the numbers for the two credit ratios, asset cover and income cover; to determine reasonable payment periods; to calculate the loss absorbing capacity and to perform sensitivity analysis) for all the sponsors of multi-employer-schemes (suggested in EIOPA's 2013 Discussion Paper on SS).

With respect to the range of (partly new) simplified valuation methods presented by EIOPA we are of the opinion that these approaches (except the balancing item approach) are still not suitable / workable for not-for-profit and public sector sponsors as all these approaches focus on financial data / metrics of corporate sponsors. EIOPA has not yet further developed solutions or amendments for quantifying the sponsor support related to not-for-profit-institutions and for public sector IORPs (see No. 4.235 to 4.237) compared to EIOPA's Sponsor Support Consultation (see No. 64 to 67 and 101 to 102 of the 2013 Discussion Paper) and EIOPA's Sponsor Support Conference in 2013 – thus these problems are still not resolved.

Although EIOPA states (No. 4.236) that assessing the ability of the sponsor(s) to pro-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

vide financial support to the IORP is in principle not different for not-for-profit sponsors compared to corporate sponsors no concrete suggestions of how to do so can be found:

- EIOPA still mentions with respect to charities, etc. that a relaxation with respect to the income ratio but a increased value for the asset cover / balance sheet ratio within the ASA might be suitable. But we are of the opinion that it will be rather challenging to discover a serious (data) base for the deduction of how much relaxation is appropriate (i.e. to develop an adjusted credit ratio matrix for not-for-profits). Valid data on default probabilities for not-for-profit entities seems to be lacking. If no serious deduction is possible, the procedure as a whole becomes questionable. In addition, there is doubt that financial ratios for not-for-profit entities have the same explanatory power as those of profit-oriented corporations always paying attention on their financial metrics. Therefore, the output of the simplified alternative approach for not-for-profit entities might not be comparable with the output for profit-oriented corporations.
- Public sector sponsors are not mentioned anymore by EIOPA, although they were explicitly tackled in the Sponsor Support Discussion Paper of 2013 stating that the credit quality of the public sponsor may be assessed using the credit ratios analogue to the income and the asset cover ratio (see No. 67 Discussion Paper 2013). This seems to indicate that EIOPA realized that a thorough assessment of these mostly very complex financial arrangements and safeguarding mechanisms of many public sector entities is time-consuming and can hardly be handled while the approach itself is already questionable (e.g. an attempt to precisely qualify). Especially multi-employer public sector IORPs will face obstacles. For example, a German public sector IORP with municipalities as sponsors would have to assess the structure and the various dimensions of the revenue equalisations in Germany, that organises the financial distributional system between the different administrative levels: municipalities, federal states, federal level. This system involves a distinction between the primary and secondary revenue equalisation (the formal allocation of proportions from certain tax revenues vs. hardship case adjustments) as well as between the horizontal and the vertical revenue equalisation (from one municipali-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>ty/state to another municipality/state vs. from the federal state to the states or from the states to the municipalities). The German system of revenue equalisation is very complex and a thorough assessment seems to be unworkable in practice.</p>	
<p>Q58</p>	<p>Assuming that the HBS would be applied to IORPs we agree to a principles-based and IORP specific approach to valuing sponsor support where specifics of the approach are set within Member States instead of an inadequate „one-size-fits-all“-approach for all types of IORPs and sponsors. Therefore EIOPA should not define parameters to use for maximum sponsor support as this should be done at Member State level and from national supervisory authorities.</p> <p>In general the attempt to precisely calculate the value of (maximum) sponsor support is still questionable as there are no “<i>universally recognised standards</i>” of calculating it (stated by EIOPA in the 2013 Discussion Paper on Sponsor Support) and the calculation gets (too) complex very quickly. We still think that maximum sponsor support could be a useful measure. However, so far (e.g. in the ASA) it has not been used sensibly. Thus an explicit quantitative calculation should not be compulsory.</p>	
<p>Q59</p>	<p>Sponsor support should definitely be considered in a regulatory framework. Thus – given that the HBS should be introduced which is contrary to our position - within the</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	HBS the balancing item approach for the valuation of sponsor support in combination with a model which is similarly simple as the PwC model ("M" approach), but which does not require calculating the HBS, but rather rely on a simpler measure (e.g. using technical provisions, market capitilization, total wages, etc.) as proxy for sponsor affordability should be part of the suggested approaches.	
Q60	<p>Assuming the question is not confined to the UK model, we have the following general comments:</p> <p>It is unlikely that it is possible to specify something of general applicability / general validity which works on the level of the individual IORP. It is not necessary in cases where mandatory insolvency protection and last man standing principles apply which support employers of many IORPs.</p>	
Q61	We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept, if any calculation of additional sponsor payments has to be performed, there should be no artificial limitation of when these payments have to be made. It is not the time period that matters but only the economic strength of the sponsor. If a time period should be defined it would have to meet at least the duration of the liabilities.	
Q62	We are concerned that the approach would not work well for more complex IORP structures, e.g. multi-employer schemes, where one IORP has many sponsors or cases where one sponsor has several IORPs.	
Q63	No other suggestions.	
Q64	<p>Most of the approaches discussed within the consultation are available since the IORP-QIS of 2012. Therefore we had the opportunity to test them already. Especially in cases of industry wide IORPs assessing sponsor strength by using financial reporting proved to be impossible. Sometimes the same held true concerning the simplification of a sample of the five largest sponsors because their officially published financial reporting contained not the necessary data.</p> <p>In case of industry wide schemes that use the wage sum for calculating contributions</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

only the total wage sum of the sponsors seemed to be an appropriate solution for assessing the sponsor support.

Therefore we would like to bring forward a model which is similarly simple as the PwC model ("M" approach), but which does not require calculating the HBS, but rather rely on a simpler measure (e.g. using market capitalization, total wages technical provisions, etc.).

Q65

We like to discuss a case that is relevant for some German industry wide funds: Legally enforceable sponsor support is available for every employee against his/her own employer. But as a whole there is no legally enforceable "last man standing principle" available in a sense that the industry is indebted to finance the benefits of every member on a collective basis. But although the scheme does not provide a legally enforceable "last man standing principle", social partners as representatives of the sponsors act as if it was available.

We suggest that in these cases of a practical application of "last man standing" it should also be recognized as being at the disposition of the IORP if it can be shown from historical data that the collective funding of the scheme has been applied in the past reasonably often. We regard this condition to be met if the sponsors or their representatives corresponded in 3 out of the last 4 times to the pattern. PwC also argues that additional factors should be taken into account when assessing the covenant (see Research Report on Options for assessing employer covenant and the holistic balance sheet commissioned by Institute and Faculty of Actuaries). Concerning the financial data (including wage sum) discussed above this would lead to the possibility to use industry wide indicators collected by national bureaus of statistic research in comparison to the possible amount of sponsor support needed to balance the HBS. Giving Member States the option to define rules for the recognition of different sets of indicators for sponsor strength or other national specificities could help to adjust the regula-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>tory regime to national GAP.</p> <p>In addition with respect to the use of the balancing item approach for valuing sponsor support we suggest that multi employer schemes with a large number (definition to be discussed) of employers, legally enforceable sponsor support and joint financing should automatically qualify for applying the balancing item approach without recurring to the strength of the individual sponsor (in addition to the listing in no. 4.4 of the consultation document). The rationale for this is that MES with a sufficient number of employers and joint financing could be seen as a means of the collective pooling of default risk of individual sponsors – in analogy to the suggestions of EIOPA regarding pension protection schemes in 4.248 of the consultation paper.</p>	
Q66	<p>The suggested approach is appropriate as it will facilitate the valuation without violating the underlying principles. Allowing parent guarantees under the same conditions and with the same effects as “standard” sponsor support is reasonable and, in addition, often a meaningful simplification.</p>	
Q67	<p>We welcome that EIOPA still explicitly recognizes that the non-standard case of non-corporate sponsors, especially public sector entities and charities which are in addition mostly multi-employer-schemes (MES), deserve specific considerations.</p> <p>We recognise that in particular the presented principle 2 together with a model which is similarly simple as the PwC model (“M” approach), which should not require calculating the HBS, but rather rely on a simpler measure (e.g. technical provisions) for the use of the balancing item approach and the calculation of the sponsor support facilitates the valuation for not-for-profit sponsors, especially if this needs to be done by using total wages as proxy and for MES only for the suggested sample of the 5 largest sponsors. The suggested approach seems to be more appropriate than previous suggestions as applying the ASA procedure (incl. collecting the numbers for the two credit ratios, asset cover and income cover; to determine reasonable payment periods; to calculate the loss absorbing capacity and to perform sensitivity analysis) for all the</p>	



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

sponsors of multi-employer-schemes (suggested in EIOPA’s 2013 Discussion Paper on SS).

With respect to the range of (partly new) simplified valuation methods presented by EIOPA we are of the opinion that these approaches (except the balancing item approach) are still not suitable / workable for not-for-profit and public sector sponsors as all these approaches focus on financial data / metrics of corporate sponsors. EIOPA has not yet further developed solutions or amendments for quantifying the sponsor support related to not-for-profit-institutions and for public sector IORPs (see No. 4.235 to 4.237) compared to EIOPA’s Sponsor Support Consultation (see No. 64 to 67 and 101 to 102 of the 2013 Discussion Paper) and EIOPA’s Sponsor Support Conference in 2013 – thus these problems are still not resolved.

Although EIOPA states (No. 4.236) that assessing the ability of the sponsor(s) to provide financial support to the IORP is in principle not different for not-for-profit sponsors compared to corporate sponsors no concrete suggestions of how to do so can be found:

- EIOPA still mentions with respect to charities, etc. that a relaxation with respect to the income ratio but a increased value for the asset cover / balance sheet ratio within the ASA might be suitable. But we are of the opinion that it will be rather challenging to discover a serious (data) base for the deduction of how much relaxation is appropriate (i.e. to develop an adjusted credit ratio matrix for not-for-profits). Valid data on default probabilities for not-for-profit entities seems to be lacking. If no serious deduction is possible, the procedure as a whole becomes questionable. In addition, there is doubt that financial ratios for not-for-profit entities have the same explanatory power as those of profit-oriented corporations always paying attention on their financial metrics. Therefore, the output of the simplified alternative approach for not-for-profit entities might not be comparable with the output for profit-oriented corporations.
- Public sector sponsors are not mentioned anymore by EIOPA, although they were explicitly tackled in the Sponsor Support Discussion Paper of 2013 stating that the

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>credit quality of the public sponsor may be assessed using the credit ratios analogue to the income and the asset cover ratio (see No. 67 Discussion Paper 2013). This seems to indicate that EIOPA realized that a thorough assessment of these mostly very complex financial arrangements and safeguarding mechanisms of many public sector entities is time-consuming and can hardly be handled while the approach itself is already questionable (e.g. an attempt to precisely qualify). Especially multi-employer public sector IORPs will face obstacles. For example, a German public sector IORP with municipalities as sponsors would have to assess the structure and the various dimensions of the revenue equalisations in Germany, that organises the financial distributional system between the different administrative levels: municipalities, federal states, federal level. This system involves a distinction between the primary and secondary revenue equalisation (the formal allocation of proportions from certain tax revenues vs. hardship case adjustments) as well as between the horizontal and the vertical revenue equalisation (from one municipality/state to another municipality/state vs. from the federal state to the states or from the states to the municipalities). The German system of revenue equalisation is very complex and a thorough assessment seems to be unworkable in practice.</p>	
Q68	No.	
Q69	<p>Pension protection schemes should definitely be considered either via backing up sponsor support or directly as balancing item on the HBS. If a PPS covers 100% of benefits and is sufficiently strong (i.e. large number of sponsors joining) it should be able to cover liabilities as well as SCR due to the loss-absorbing function. Otherwise this important security mechanism for safeguarding the pension promise from beneficiaries perspective would be neglected and the aim of the European Commission (similar level of protection irrespective of the security mechanisms used) would not be met.</p>	
Q70	<p>We think it is important that the effect of an PPS as an balancing item is considered in the HBS, be it via modelling it indirectly as backing up sponsor support to function as balancing item by reducing sponsor default probability to zero or directly as balancing item. In principle, we prefer pension protection schemes to be a separate component of the HBS. They are a mechanism in their own right, therefore it should be included in their own right in the HBS as well. However, given the variety of possible constella-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>tions, in certain cases this treatment may not be appropriate. Therefore IORPs should be able to choose between both variants.</p>	
<p>Q71</p>	<p>Yes. Including a strong PPS as balancing item is justified, because it can guarantee that the pension benefits will always be delivered on a sufficient level as defined in the national social and labour law. See also Q77. If the PPS will always lead to a balanced HBS, it should be possible to exempt IORPs from the complex and time-consuming exercise of calculating the sponsor support. Especially, if both sponsor support and PPS are in place, no separate cacluations should be required.</p> <p>The answer to Q77 was: We think the HBS approach is unsuitable for occupatinal pensions and should therefore be omitted. Within this unfitting concept, we prefer option 1 to include PPS on an IORP's balance sheet. Otherwise this important security mechanism for safeguarding the pension promise from the beneficiaries perspective would be neglected and the aim of the European Commission (similar level of protection irrespective of the security mechanisms used) would not be met.</p> <p>PPS should be included in an HBS, favourably as a balancing item on the holistic balance sheet. See Q35 and Q71.</p> <p>One advantage of using the indirect approach of considering a PPS via the effect on sponsor support would be that it is less effort to model: in this case the sponsor support would not have to be modelled explicitly because sponsor support functions as a balancing item. In the case of considering PPS directly as an asset in the HBS sponsor support would have to be modelled / valued concretely using one of the other suggested valuation methods although afterwards the PPS is included as a balancing item in the HBS (see also EIOPA's suggestions in 4.5).</p> <p>We support following arguments for including pension protection schemes in any EU-wide framework as expressed in the Consultation paper.</p> <ul style="list-style-type: none"> <li>• PPS protects members and beneficiaries against insolvency of their employers.</li> </ul>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

In a holistic view, it should therefore be included in the HBS. The Consultation paper describes the conditions a PPS would have to fulfill (CP, par. 4.139), which we support.

- There is a close link between sponsor support and pension protection schemes. Pension protection schemes could be seen as a form of collective sponsor support. Therefore they should, like sponsor support, be included in the holistic balance sheet.
- PPS is a mechanism, established under national social and labor law, which protects members and beneficiaries against insolvency of their employers. A prudential framework should not aim at changing the level of security which is accepted under national social and labor law.
- PPS fulfill their task on a regular and ongoing basis. They are not a last resort mechanism, like insurance guarantee schemes. So they can't be excluded from the HBS on the grounds that they are similar to insurance guarantee schemes.
- PPS can be financed by tens of thousands of sponsors, which gives them a very strong financial basis, comparable to the strength of a whole national economy.
- In cases where a strong PPS is in place, the benefits of members and beneficiaries would be protected with a sufficient level of security. A sufficient level of security can therefore be achieved in those cases, without applying short recovery periods or requiring an IORP to hold financial assets at least of the amount of Level A technical provisions.

EIOPA rightly considers individual sponsor support as an important security mechanism. It therefore would not make sense to not include pension protection schemes as a form of collective sponsor support of over 90,000 employers in Germany. In addition, if it was not recognized, the security level in Germany would be systematically higher than in many other EU Member States.

Since the foundation of the PSVaG in Germany forty years ago, no beneficiaries or pensioners have lost their legally protected pension rights because of the insolvency of the sponsoring employer. Not taking pension protection schemes into account in the HBS would therefore remove it even further from the reality of occupational pensions in some European Member States.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q72

We are of the opinion that the current rules of the existing IORP directive regarding funding and capital requirements are adequate. A market-oriented HBS and risk-based SCR should not be introduced as it would not be appropriate for IORPs. BUT if nevertheless more Solvency II-oriented concepts would be introduced the existing security mechanisms of IORPs (SS, PPS, Benefit reductions) should definitely be considered within such a thing as the HBS. But we strongly suggest that in this case the balancing item approach should play an adequate role as exempting from superfluous aspects (see our answer to Q39). Also, grandfathering and a high degree of possible simplifications would be key. For many components a meaningful approach could only be specified on a Member State or even IORP level.

We also want to mention that those examples for the use of the HBS where actually financial assets are required against Level A technical provisions and only SCR may be covered by Sponsor Support or PPS (i.e. example 1) the main driver of the quantitative impact of the proposed regulations will be market consistent valuation and the risk free discount rate used to calculate the best estimate of liabilities. The remaining items are less influential. The consequences would be – as analysed by EIOPA too, see i.e. 5.86 – an enormous cost increases for sponsors (and not only recognized as balance sheets items for IORPs) as well as detrimental macroeconomic effects result:

- increased call on business funds, due to the role of employers as guarantors of 'defined benefit' pensions in several EU states
- Consequences of additional funding: significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employment
- more modest impacts on employee pension contributions, procurement, prices and dividend payments

See also our answer to Q85 on this topic.

The answers to Q39 and Q 85 were:

Q39: Given its serious concerns against a possible introduction of a HBS structure for

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

IORPs, we would welcome the “balancing item approach” (BIA) in combination with a model which is similarly simple as the PwC model (“M” approach). This alternative approach should not require calculating the HBS, but rather rely on a simpler measure to check the sponsor value (e.g. using technical provisions, market capitalisation, total wages etc.). The BIA is practical to use in many circumstances, market consistent and reflects the essential notion of the function of sponsor support as a flexible asset to call upon when needed. If the sponsor (or other security mechanisms) is reliable the BIA should be used to value sponsor support.

And we suggest – if the HBS should be introduced at all – that a strong sponsor proven by the PwC criteria or a multi-employer-scheme IORP should make up a case for the exemption from explicitly setting up a holistic balance sheet or measuring Solvency II-like risk based solvency capital requirements. At least significant easements of these regulatory concepts would be appropriate. The existing security mechanisms of IORPs should then not be seen as a part of the balance sheet or the SCR – they have a substitutional character that should replace the HBS and the SCR.

The rationale is that in the cases of the application of the BIA the strength of the security mechanisms / sponsor support is actually proven and thus market consistent valuation of assets and liabilities (incl. using the risk free interest rates) is not needed anymore because the BIA is a flexible asset that fills any gap if needed. So this approach would consequently pursue the concept of the BIA which is also described by EIOPA (see 4.114.): *“In some circumstances the strength of the sponsor may be sufficient so that a detailed approach to valuing that unlimited sponsor support may be disproportionate. In addition, the set up and legal structure of IORPs may mean that the valuation is unnecessary and does not provide useful information to the IORP and/or supervisor. In these circumstances, IORPs could follow the balancing item approach such that the value of sponsor support is simply the required amount to balance the holistic balance sheet.”*

The answer to Q85 was:

An HBS-type approach – if at all regarded as suitable - should include all mechanisms. If sponsor support and/or a PPS exist, they can secure the pensions promise. Howev-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

er, a sufficient level of funding with financial assets should be ensured. This should be calculated in a way so that the financial assets are generally sufficient to meet the benefits, without taking sponsor support and PPS into account. Level B technical provisions should therefore be the minimum requirement for the level of liabilities. In the Consultation Paper, EIOPA states that if there is a PPS, Level B should be sufficient (par. 5.85).

The main points in favour of Level B for IORPs are the extremely long-term focus combined with – by German labour law - almost no distortion by cancellations.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

Calculating technical provisions on a market consistent basis incl. a risk free interest rate is not necessary and not appropriate for IORPs. A mark-to-market valuation of liabilities for IORPs as envisaged under Solvency II would be extremely damaging for long-term investments. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation of liabilities would lead to a completely wrong assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term planning, as well as risk analyses and related calculations. It would therefore not contribute to more security for the beneficiaries. And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike within the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. Thus we think that especially in cases where the balancing item approach is justified, a mark-to-market valuation is particularly inappropriate and unnecessary given its damaging consequences as the function of a market valuation (= transfer to other IORP or market actors).

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

The result would be in addition an **enormous increase in liabilities** (without being a more accurate assessment) **and thus funds to be delivered by sponsor** (for future and eventually for existing promises) will discourage sponsors from occupational pensions. We therefore support EIOPA's analysis (i.e. 5.86, 5.177, 5.179 and 5.188) of the negative consequences of Level A technical provisions as funding requirements for existing promises for sponsors, employees and defined benefits and also with respect to growth and macroeconomic aspects.

These **consequences are confirmed by comprehensive studies**, i.e. the study "The economic impact for the EU of a Solvency II inspired funding regime for pension funds" by UK's employer association CBI together with Oxford Economics that analysed economic consequences of a 30% increase of liabilities to be covered by additional delivered funds by sponsors and the SCR covered by sponsor support or PPS (= corresponds to Level A technical provisions to be covered by financial assets). The main results of the study are an increased call on business funds and in consequence significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employment as well as more modest impacts on employee pension contributions, procurement, prices and dividend payments. To give some numbers:

- 30% increase of technical provisions = €440 billion (£350 billion) = cost increase for UK Businesses
- Up to 2.5% reduction of GDP for longer period
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Similar results are given by the Report commissioned by UK's Pensions Minister Steve Webb (Webb-Report) indicating a funding shortfall in the UK of

- £400 billion (i.e. increase in technical provisions of £500 bn, less estimated sponsor support of £350bn, plus a net SCR of £250bn. The net SCR also allows for sponsor support).
- £150 billion (i.e. increase in technical provisions of £500bn, less estimated sponsor support of £350bn)



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q73	<p>We do not believe that the application of the HBS approach leads to additional security for pensions. On the contrary, the additional burdens will reduce both the benefits and the commitment of employers to provide occupational pensions. Any valuation and risk management that is based on a one-year-view send the wrong message to anyone running an IORP.</p> <p>If the HBS was to be used as a risk management tool in the second pillar, it would have to be used without public disclosure and in combination with the use of the balancing item approach. Minimum funding requirements and valuation standards should continue to be according to the current IORP Directive. Regulatory consequences of the HBS analysis within the risk management should be determined by national supervisors (i.e. recovery plans with long recovery periods). The requirements of Art. 29 of the <a href="#">Council's General Approach regarding IORP II</a> from 10 December 2014 regarding risk evaluation for pensions are sufficient.</p> <p>It must be safeguarded that the use of the HBS will not be broadend step by step: in a first step an introduction as risk management tool in pillar 2 followed by the second step to use the HBS for strict harmonization of valuation and funding. We strongly warn against this kind of development.</p>	
Q74	<p>No, HBS information should only be disclosed to supervisors as this information may be of relevance for IORPs and supervisors but not for beneficiaries; especially if there will be other balance sheet information on pillar 1 according to national standards in addition to the risk assessment of pillar 2 as it will not be easily understood how these values relate to each other. As the methodology is very complex, the results could be misinterpreted very easily. In general we are of the opinion that the valuation of assets and liabilities and risk-based SCR according to SII are not appropriate for IORPs and therefore we do not support this option (see general remarks Part III). The publication of the assessment could seriously harm sponsoring employers without providing</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	any additional benefit.	
Q75	<p>No. Competent authorities should continue to use the locally established rules.</p> <p>From our perspective the qualitative requirements in the <a href="#">Council's General Approach regarding IORP II</a> from 10 December 2014, in particular Art. 29 (Risk Evaluation for Pensions) is more than sufficient.</p>	
Q76	<p>We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept we support the recognition of non-legally enforceable sponsor support in specific situations.</p> <p>Legally enforceable sponsor support may come in a form that is complicated to operate for sponsors. Therefore they may choose a form of sponsor support that is easy to perform for them and easy to assess for the IORP but not legally enforceable. For example to lift contributions or provide additional resources instead of making up for any shortfall of the IORP against members and beneficiaries individually.</p> <p>Additionally we would like to come back to the question of a "last man standing principle" as discussed above (Q 65): In these cases where a legally enforceable sponsor support is available for every employee against his/her own employer but as a whole there is no legally enforceable "last man standing principle" available in a sense that the industry is indebted to finance the benefits of every member on a collective basis and social partners as representatives of the sponsors act as if it was available we suggest that a practical application of "last man standing" in the past a collective funding of the scheme should also be recognized as being at the disposition of the IORP. Therefore we suggest to recognise all forms of non-legally enforceable sponsor support if can be shown from historical data that it has been provided reasonably often. We regard this condition to be met if the sponsors or their representatives corresponded in 3 out of the last 4 times to the pattern.</p>	
Q77	We think the HBS approach is unsuitable for occupational pensions and should therefore	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

be omitted. Within this unfitting concept, we prefer option 1 to include PPS on an IORP's balance sheet. Otherwise this important security mechanism for safeguarding the pension promise from the beneficiaries perspective would be neglected and the aim of the European Commission (similar level of protection irrespective of the security mechanisms used) would not be met.

PPS should be included in an HBS, favourably as a balancing item on the holistic balance sheet. See Q35 and Q71.

One advantage of using the indirect approach of considering a PPS via the effect on sponsor support would be that it is less effort to model: in this case the sponsor support would not have to be modelled explicitly because sponsor support functions as a balancing item. In the case of considering PPS directly as an asset in the HBS sponsor support would have to be modelled / valued concretely using one of the other suggested valuation methods although afterwards the PPS is included as a balancing item in the HBS (see also EIOPA's suggestions in 4.5).

We support following arguments for including pension protection schemes in any EU-wide framework as expressed in the Consultation paper.

- PPS protects members and beneficiaries against insolvency of their employers. In a holistic view, it should therefore be included in the HBS. The Consultation paper describes the conditions a PPS would have to fulfill (CP, par. 4.139), which we support.
- There is a close link between sponsor support and pension protection schemes. Pension protection schemes could be seen as a form of collective sponsor support. Therefore they should, like sponsor support, be included in the holistic balance sheet.
- PPS is a mechanism, established under national social and labor law, which protects members and beneficiaries against insolvency of their employers. A prudential framework should not aim at changing the level of security which is accepted under national social and labor law.
- PPS fulfill their task on a regular and ongoing basis. They are not a last resort

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

- mechanism, like insurance guarantee schemes. So they can't be excluded from the HBS on the grounds that they are similar to insurance guarantee schemes.
- PPS can be financed by tens of thousands of sponsors, which gives them a very strong financial basis, comparable to the strength of a whole national economy.
  - In cases where a strong PPS is in place, the benefits of members and beneficiaries would be protected with a sufficient level of security. A sufficient level of security can therefore be achieved in those cases, without applying short recovery periods or requiring an IORP to hold financial assets at least of the amount of Level A technical provisions.

EIOPA rightly considers individual sponsor support as an important security mechanism. It therefore would not make sense to not include pension protection schemes as a form of collective sponsor support of over 90,000 employers in Germany. In addition, if it was not recognized, the security level in Germany would be systematically higher than in many other EU Member States.

Since the foundation of the PSVaG in Germany forty years ago, no beneficiaries or pensioners have lost their legally protected pension rights because of the insolvency of the sponsoring employer. Not taking pension protection schemes into account in the HBS would therefore remove it even further from the reality of occupational pensions in some European Member States.

The answers to Q35 and Q71 were:

Q35: We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept the answer is "Yes, but ....". We underline that all kinds of benefit reduction mechanisms should be treated as a last resort item at any time. We agree with the conclusion that if a benefit reduction mechanism is available and not limited it generates the ultimate mechanism for the IORP's sustainability and should be valued as balancing item.

But we do not see any dichotomy of a direct approach and the balancing item approach and would not restrict the recognition of a benefit reduction mechanism to cases of unlimited reductions. Applying one or the other approach should be determined

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

by the kind of benefit reduction available. We suggest to use a kind of direct approach that differs from the one provided within the consultation in cases of a "restricted" benefit reduction mechanism. If agreements/bylaws or national law and other regulations allow for a benefit reduction but restrict that to a certain amount this mechanism should be recognized directly up to its legal or regulatory limits. There should be no use of probability or predictability based on past policies within this approach.

In case of an unlimited benefit reduction mechanism the balancing item approach should kick in.

Additionally we do not agree with the approach of valuing all other items of a holistic balance sheet first before recognizing any benefit reduction mechanisms as mentioned in 4.91 last sentence.

It is an unnecessary and costly exercise to value all mechanisms and "assets" that qualify as balancing items on the holistic balance sheets if IORPs dispose of more than one. In Germany for example all IORPs dispose of two items, but not necessarily the same. Pensionsfonds and some form of Pensionskassen combine legally enforceable sponsor support with a pension protection scheme, another form of Pensionskassen combines legally enforceable sponsor support with an ex ante benefit reduction mechanism. Bringing the possible balancing items in line on a high level could work as follows:

1. Use legally enforceable sponsor support qualified to be recognized as balancing item.
2. If enforceable sponsor support is not sufficient, a pension protection scheme should be used.
3. Use benefit reduction mechanisms as balancing item.

Within the HBS it should be possible either to work through this list top down or to skip one or the other possible balancing item without valuing it thoroughly. By using

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>the step-by-step approach the first mechanism qualified as balancing item should end the valuation process. Example: legally enforceable sponsor support is qualified as balancing item. End of valuation, even if there are a pension protection scheme and benefit reduction mechanisms available.</p> <p>As provided in our answers concerning sponsor support and pension protection schemes the consultation paper and therefore the whole HBS concept lacks convincing and workable answers concerning these two items of the HBS. This hampers the valuation process: either the valuation will be a very costly process or will be impossible to implement respectively will end in unconvincing results. To force IORPs to run through the whole valuation process although with a benefit reduction mechanism they provide an enforceable and easy to calculate balancing item cannot be in the interest of members and beneficiaries but has to be regarded as "l'art pour l'art".</p> <p>Another idea to deal with multiple balancing items could be: As soon as more than one of the three potential items (sponsor support, pension protection scheme or benefit reduction mechanisms) are recognized as balancing item, they could be combined into one value. This would increase uniformity and comparability across IORPs.</p> <p>Q71: Including a strong PPS as balancing item is justified, because it can guarantee that the pension benefits will always be delivered on a sufficient level as defined in the national social and labour law. See also Q77. If the PPS will always lead to a balanced HBS, it should be possible to exempt IORPs from the complex and time-consuming exercise of calculating the sponsor support. Especially, if both sponsor support and PPS are in place, no separate calculations should be required.</p>	
Q78	Yes, we agree.	
Q79	We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept we support option 3 expecting to treat mixed benefits like pure discretionary benefits, which leads to excluding mixed benefits from HBS.	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q80	We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. 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. Since national social and labour law is crucial in this regard, any concept needs to take into account the existing differences in the Member States.	
Q81	No, no additional options.	
Q82	We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept the answer is yes.	
Q83	We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept the answer is yes.	
Q84	We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept the answer is yes.	
Q85	<p>An HBS-type approach – if at all regarded as suitable - should include all mechanisms. If sponsor support and/or a PPS exist, they can secure the pensions promise. However, a sufficient level of funding with financial assets should be ensured. This should be calculated in a way so that the financial assets are generally sufficient to meet the benefits, without taking sponsor support and PPS into account. Level B technical provisions should therefore be the minimum requirement for the level of liabilities. In the Consultation Paper, EIOPA states that if there is a PPS, Level B should be sufficient (par. 5.85).</p> <p>The main points in favour of Level B for IORPs are the extremely long-term focus combined with – by German labour law - almost no distortion by cancellations.</p> <p>We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to com-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

petent national authorities.

Calculating technical provisions on a market consistent basis incl. a risk free interest rate is not necessary and not appropriate for IORPs. A mark-to-market valuation of liabilities for IORPs as envisaged under Solvency II would be extremely damaging for long-term investments. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation of liabilities would lead to a completely wrong assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term planning, as well as risk analyses and related calculations. It would therefore not contribute to more security for the beneficiaries. And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike within the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. Thus we think that especially in cases where the balancing item approach is justified, a mark-to-market valuation is particularly inappropriate and unnecessary given its damaging consequences as the function of a market valuation (= transfer to other IORP or market actors).

The result would be in addition an **enormous increase in liabilities** (without being a more accurate assessment) **and thus funds to be delivered by sponsor** (for future and eventually for existing promises) will discourage sponsors from occupational pensions. We therefore support EIOPA's analysis (i.e. 5.86, 5.177, 5.179 and 5.188) of the negative consequences of Level A technical provisions as funding requirements for existing promises for sponsors, employees and defined benefits and also with respect to growth and macroeconomic aspects.

These **consequences are confirmed by comprehensive studies**, i.e. the study "The economic impact for the EU of a Solvency II inspired funding regime for pension funds" by UK's employer association CBI together with Oxford Economics that analysed economic consequences of a 30% increase of liabilities to be covered by additional delivered funds by sponsors and the SCR covered by sponsor support or PPS (=



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

corresponds to Level A technical provisions to be covered by financial assets). The main results of the study are an increased call on business funds and in consequence significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employment as well as more modest impacts on employee pension contributions, procurement, prices and dividend payments. To give some numbers:

- 30% increase of technical provisions = €440 billion (£350 billion) = cost increase for UK Businesses
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- £400 billion (i.e. increase in technical provisions of £500 bn, less estimated sponsor support of £350bn, plus a net SCR of £250bn. The net SCR also allows for sponsor support).
- £150 billion (i.e. increase in technical provisions of £500bn, less estimated sponsor support of £350bn)

Q86

It could be argued that Level B best estimates should be restricted to cases where there are security mechanisms like sponsor support and PPS in place, however, there could be reasonable exceptions to this principle. Prior approval of the national supervisor should not be required. Member State options should be possible, to reflect specificities of IORP systems in different Member States. Importantly, this regulation shall not affect national labour or social law.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q87

We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept it should be based on Level B (see Q 85).

Any valuation and risk management that is based on a market consistent valuation sends the wrong message to anyone running an IORP. The one-year-perspective is not adequate for IORPs and the risk margin does not fit.

In addition we would like to point out that the "market consistent" Level A does not equal the market value.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

The answer to Q85 was:

An HBS-type approach – if at all regarded as suitable - should include all mechanisms. If sponsor support and/or a PPS exist, they can secure the pensions promise. However, a sufficient level of funding with financial assets should be ensured. This should be calculated in a way so that the financial assets are generally sufficient to meet the benefits, without taking sponsor support and PPS into account. Level B technical provisions should therefore be the minimum requirement for the level of liabilities. In the Consultation Paper, EIOPA states that if there is a PPS, Level B should be sufficient (par. 5.85).

The main points in favour of Level B for IORPs are the extremely long-term focus combined with – by German labour law - almost no distortion by cancellations.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

Calculating technical provisions on a market consistent basis incl. a risk free interest rate is not necessary and not appropriate for IORPs. A mark-to-market valuation of liabilities for IORPs as envisaged under Solvency II would be extremely damaging for long-term investments. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation of liabilities would lead to a completely wrong assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term planning, as well as risk analyses and related calculations. It would therefore not contribute to more security for the beneficiaries. And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike within the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. Thus we think that especially in cases where the balancing item approach is justified, a mark-to-market valuation is particularly inappropriate and unnecessary given its damaging consequences as the function of a market valuation (= transfer to other IORP or market actors).

The result would be in addition an **enormous increase in liabilities** (without being a more accurate assessment) **and thus funds to be delivered by sponsor** (for future and eventually for existing promises) will discourage sponsors from occupational pensions. We therefore support EIOPA's analysis (i.e. 5.86, 5.177, 5.179 and 5.188) of the negative consequences of Level A technical provisions as funding requirements for existing promises for sponsors, employees and defined benefits and also with respect to growth and macroeconomic aspects.

These **consequences are confirmed by comprehensive studies**, i.e. the study "The economic impact for the EU of a Solvency II inspired funding regime for pension funds" by UK's employer association CBI together with Oxford Economics that analysed economic consequences of a 30% increase of liabilities to be covered by additional delivered funds by sponsors and the SCR covered by sponsor support or PPS (= corresponds to Level A technical provisions to be covered by financial assets). The main results of the study are an increased call on business funds and in consequence

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employment as well as more modest impacts on employee pension contributions, procurement, prices and dividend payments. To give some numbers:

- 30% increase of technical provisions = €440 billion (£350 billion) = cost increase for UK Businesses
- Up to 2.5% reduction of GDP for longer period
- Up to 180,000 job losses p.a.

Similar results are given by the Report commissioned by UK's Pensions Minister Steve Webb ([Webb-Report](#)) indicating a funding shortfall in the UK of

- £400 billion (i.e. increase in technical provisions of £500 bn, less estimated sponsor support of £350bn, plus a net SCR of £250bn. The net SCR also allows for sponsor support).
- £150 billion (i.e. increase in technical provisions of £500bn, less estimated sponsor support of £350bn)

See Q86.

The answer to Q86 was:

It could be argued that Level B best estimates should be restricted to cases where there are security mechanisms like sponsor support and PPS in place, however, there could be reasonable exceptions to this principle. Prior approval of the national supervisor should not be required. Member State options should be possible, to reflect specificities of IORP systems in different Member States. Importantly, this regulation shall not affect national labour or social law.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

Q88

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q89	We would welcome a clarification that such provisions in national SLL are possible. In addition, such an approach corresponds to the need for more flexibility of the Member States.	
Q90	<p>We doubt that harmonising would be appropriate especially in option 1 with short recovery periods (see Q91). Even if the recovery period was longer, harmonization would not be sensible because of the big differences between IORP systems and in particular the security mechanisms anchored in national social and labour law. Leaving it to the discretion of Member States is the best approach, because this way the duration of the liabilities can be taken into account.</p> <p>The answer to Q91 was: 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 extensive period of time for recovery of any underfunding, which is locally decided (see Q90). Due to the long duration of pension entitlements an underfunding situation usually does not affect the ability 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. In addition, the volatility associated with a market consistent valuation is another argument for an extensive time period.</p>	
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 extensive period of time for recovery of any underfunding, which is locally decided (see Q90). Due to the long duration of pension entitlements an underfunding situation usually does not affect the ability 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. In addition, the volatility associated with a market consistent valuation is another argument for an extensive time period.	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

	<p>The answer to Q90 was: We doubt that harmonising would be appropriate especially in option 1 with short recovery periods (see Q91). Even if the recovery period was longer, harmonization would not be sensible because of the big differences between IORP systems and in particular the security mechanisms anchored in national social and labour law. Leaving it to the discretion of Member States is the best approach, because this way the duration of the liabilities can be taken into account.</p>	
Q92	<p>As a consequence from our answer to Q91, we would call for the length of the whole liability duration.</p> <p>The answer to Q91 was: 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 extensive period of time for recovery of any underfunding, which is locally decided (see Q90). Due to the long duration of pension entitlements an underfunding situation usually does not affect the ability 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. In addition, the volatility associated with a market consistent valuation is another argument for an extensive time period.</p>	
Q93	<p>No, there is no need for harmonising recovery periods (see Q90).</p> <p>The answer to Q90 was: We doubt that harmonising would be appropriate especially in option 1 with short recovery periods (see Q91). Even if the recovery period was longer, harmonization would not be sensible because of the big differences between IORP systems and in particular the security mechanisms anchored in national social and labour law. Leaving it to the discretion of Member States is the best approach, because this way the duration of the liabilities can be taken into account.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q94	<p>It should be extensive. In addition, it should be determined by considering the business needs of the sponsoring employer – see Q91.</p> <p>The answer to Q91 was: 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 extensive period of time for recovery of any underfunding, which is locally decided (see Q90). Due to the long duration of pension entitlements an underfunding situation usually does not affect the ability 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. In addition, the volatility associated with a market consistent valuation is another argument for an extensive time period.</p>	
Q95	<p>See Q91 and Q92</p> <p>The answers to Q91 and Q92 were: 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 extensive period of time for recovery of any underfunding, which is locally decided (see Q90). Due to the long duration of pension entitlements an underfunding situation usually does not affect the ability 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. In addition, the volatility associated with a market consistent valuation is another argument for an extensive time period.</p> <p>Q92: As a consequence from our answer to Q91, we would call for the length of the whole liability duration.</p>	
Q96	<p>We support the approach of submitting a recovery plan. However, we would like to emphasise that because of the relevance of national social and labour law and their differences, there should be no specific measures taken at the EU level.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

Q97	<p>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 also our General Remarks).</p> <p>If, against our recommendation, an HBS-approach was introduced, at least future entitlements would have to be based on the new rules incorporating the higher cost arising from additional prudential requirements. This is likely to result in lower benefits.</p> <p>It has to be avoided that a new regime influences labour and social law: prudential regulation should regard and support national social and labour law, it should not stipulate changes in social and labour law.</p>	
Q98	<p>If new quantitative elements as discussed in the paper should be introduced than these should only apply to new members. Existing successful IORPs should be able to continue their work as they used to.</p> <p>We would like to emphasise that transitional measure for existing schemes/IORPs are not an alternative to including security mechanisms in a HBS for future schemes/IORPs – security mechanisms need to be included, <i>and</i> adequate transitional measures have to be developed.</p> <p>The application of such new rules will lead to a completely new business model for these new entitlements with considerably reduced benefit levels. Additionally we believe that the introduction of such new rules will lead to closings of several IORPs and will reduce DB promises.</p>	
Q99	<p>General Remarks applying to all six examples:</p> <p><b>No additional requirements which do not make occupational pensions more</b></p>	



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

**secure but add extra cost**

Every move towards a system that places more unnecessary 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 Member States like Germany, where 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. 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 occupational pension plans – without making them any more secure than they are today.

From our perspective it is right that the experience of the financial crisis led to an analysis of systemic risk in the financial markets. In the area of banking, this has led to additional regulation: because banks lend money to each other, the default of one bank makes the default of other banks more likely. These links between banks have been addressed by regulation. However, from our perspective it is not right to now apply similar regulation to insurance companies and IORPs. Neither insurance companies nor IORPs lend money to each other; one institution going bankrupt does not increase the likelihood of other institutions going bankrupt as well. Beyond this, IORPs (in contrast to insurance companies) benefit from a guarantee given by the sponsoring employer, and are governed by social and labour law. Therefore, it would neither increase financial stability nor the security of occupational pensions to introduce Solvency-II-style capital requirements – it would only add additional costs.

We strongly oppose the introduction of any new requirements which do not make oc-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

cupational pensions more secure but add extra costs, because these additional costs would make it less attractive for employers to offer occupational pensions, as already stated above. In this context, we welcome the insight of EIOPA that it may be better for members and beneficiaries if sponsors invest in their own business to ensure the pension promises in the long run instead of transferring additional funds into its IORP when an ("artificial" short term) underfunding situation occurs (p. 71 of the EIOPA Consultation Paper).

We overall would like to emphasise that our response, which discusses the specific points as raised by EIOPA, does not mean that we support the overall concept – we do not.

**Why the HBS is not a suitable regulatory instrument**

We recognize that EIOPA has tried to address our previous criticism that the Solvency-II-approach does not do justice to the special characteristics of IORPs. The current Consultation Paper undertakes an attempt to improve on the shortcomings of the HBS approach in particular on the valuation of sponsor support by delivering further valuation approaches (i.e. the balancing item approach) and it tackles the urgent question of how the HBS approach is going to be used as a regulatory instrument.

We welcome that EIOPA for the first time discusses the central question of the regulatory function of the HBS (trigger points, funding requirements and EU-wide rules for SCR, tiering of assets, recovery period) although we think that should have been answered on a much earlier stage before all the in-depth-analysis of the HBS elements.

**No recognition of social and labour law**

Despite these improvements, we not only oppose the general idea of introducing new

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

solvency requirements for IORPs, but also the HBS approach as proposed. 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. Discussing the EU's existing supervisory architecture (European system of financial supervisors; ESFS), occupational pensions were only mentioned in the De-Larosière-Report from 2009 in relation to IAS 19; in a speech by Jacques De Larosière at the Public Hearing on Financial Supervision in the EU they were not even mentioned (Public hearing on Financial Supervision in the EU, Brussels, 24 May 2013). On this background it is presumptuous that the EIOPA Consultation suggests that Member States should adjust their national social and labour law so that it would be compatible with potentially new prudential regulation: "If EU prudential requirements were amended, Member States may need to adjust their social and labour law in order to ensure that their overall framework continues to reflect the previously agreed objectives." (p. 114 of the EIOPA Consultation Paper). We strongly oppose the idea that prudential law should trump social and labour law.

**The "balancing item approach" and the valuation of sponsor support**

We in general welcome the introduction of the "balancing item approach" (BIA), with respect to sponsor support in combination with a model which is similarly simple as the PwC model ("M" approach) and which would not require calculating the HBS (for the "M" approach this is needed), but rather rely on a simpler measure (e.g. technical provisions). But we strongly suggest – if the HBS should be introduced at all – that in cases of a strong sponsor, a multi-employer-scheme (MES) or existence of other security mechanism) as balancing items, that there should be no requirement to explicitly set up an HBS. In particular, these factors not should lead to any Solvency II-style

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

capital requirements.

The rationale is that in the cases of the application of the BIA the strength of the security mechanisms / sponsor support is actually proven and thus market consistent valuation (incl. using the risk free interest rates) is not needed anymore because the strength of the sponsor avoids the necessity of a transfer of the IORP's assets and liabilities and further concrete quantifications seem to be superfluous. Especially in the case of MES the BIA captures the notion that a large number of sponsors in the end is in charge of the settlement of pension claims (= HBS) and also serves as cushion for adverse developments (=SCR). This illustrates the flexibility of the sponsor support of MES IORPs and delivers a flexible protection of pension claims acting in solidarity.

In those cases where the HBS approach includes existing security mechanisms such as sponsor support, pension protection schemes, benefit reductions and where the HBS is used to trigger regulatory actions (recovery plans) the question remains: which regulatory options are available within a recovery plan at all in case of a shortfall within the HBS since all security mechanisms are already included?

**Market consistent valuation: Not appropriate and not necessary for IORPs**

We generally consider the so called market-consistent approach inadequate for liabilities with such long durations. Any valuation and risk management that is based solely on a market value approach sets the wrong incentives for those running the institution. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation (of liabilities) would lead to a completely wrong assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

planning, as well as risk analyses and related calculations. It would therefore not contribute to more security for the beneficiaries.

And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike in the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. In particular, 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. By maintaining the Solvency II structure, the HBS itself is not an appropriate approach for IORPs. The fact that security mechanisms of occupational pensions are considered at a later stage may not solve this general problem.

**Sustainability and transparency**

We understand that for EIOPA these two goals are essential and related to each other. We share these principles, but the instruments of the HBS approach are not appropriate to reach them. Regarding sustainability, we do not feel that the push towards DC which the HBS would bring about (see below) would make the overall pension system more sustainable – to the contrary. Transferring the risks to those who are least able to bear them, i.e. individuals, is socially not desirable.

We generally support transparency, but we do not think that the HBS approach is the right way to support it. Because of the increasing number of valuation methods and options with respect to recognised cash flows used within the HBS, the HBS gets more and more complex and does not lead to more transparent and comparable results (see 4.145 and EIOPA’s own analysis in section 4.5.6. stating huge differences between resulting values of sponsor support given the modelling approach).

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

Transparency in the second pillar is not the same as in the third pillar – or, in other words, as for financial products. We are aware of the trend towards DC, however, we would like to point out that in many Member States there is a large legacy of DB schemes which will pay out pensions over decades to come. In addition, there isn't only pure DC, but also hybrid schemes where the risk is shared between the stakeholders. In Germany for example, there are currently no pure DC schemes at all, the employer is always liable to ensure that the pension promise made is kept. This means the employer has a strong interest that the IORP is efficient and sustainable. With these mechanisms, the need for detailed information for the beneficiaries is reduced. Transparency requirements therefore need to be tailored to fit those schemes – they cannot just be copied from financial products.

In addition, we would also like to point out that transparency needs to be treated carefully in this context. Sponsor support is an important security mechanism for IORPs. However, publishing detailed information around a specific situation might impact on the rating of the sponsoring employer. Second, if the members and beneficiaries e.g. do not have any choices regarding the investment strategy, there is little benefit in informing them about the funding ratio and potential measures taken to address underfunding. When occupational pensions are provided by the employer to the employee, there is no need to publish certain information like detailed cost information. The employer is not competing with pension providers to win the most customers, but rather providing a social service to their employees, which in Germany is governed by labour and social law. It is important to disclose certain information to the national supervisor (in Germany BaFin), but not to the public.

**The HBS dilemma: if it is sound, it isn't practical; and if it is workable, its results are questionable**

While without doubt EIOPA has invested a lot of time in the HBS, we do not think that

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

the presented concept is to any degree satisfactory: the parts which are intellectually coherent are impossible for IORPs to comply with given their limited resources (stochastic modelling, also some of the simplifications); where simplifications have been introduced, the appropriateness of those simplified heuristics and the chosen parameters is doubtful and thus the intended goal of comparability of results is highly questionable (see again 4.145 and EIOPA's own analysis in section 4.5.6. stating huge differences between resulting values of sponsor support given different modelling approach). From a practical perspective more simplifications would be better – but even as it stands at the moment it is not clear what the derived figures would show and what they could be used for. This illustrates the dilemma of the HBS: to get the HBS workable simplifications are needed (as apposed to a precise valuation of IORP's security mechanisms), but that would challenge the whole approach. Thus even if we were supportive of the introduction of the HBS, this would not be a suitable approach.

While we recognise that EIOPA has tried to incorporate some of the specific features of occupational pensions into the HBS, the approach remains completely inadequate as an instrument for the supervision of IORPs.

**Regarding example 1:**

Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.

Example 1 is the Solvency II model. In the past as well as in this consultation response we have presented a number of arguments against the application of the Solvency II framework to IORPs. Amongst other things, the omission of pension protection schemes, the Level A funding requirements and the short recovery periods are unacceptable for reasons discussed in this consultation response.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

Generally, we want to emphasise that those examples for the use of the HBS where actually financial assets are required against Level A technical provisions and only SCR may be covered by Sponsor Support or PPS (i.e. example 1) the main driver of the quantitative impact of the proposed regulations will be market consistent valuation and the risk free discount rate used to calculate the best estimate of liabilities. The remaining items are less influential. The consequences would be – as analysed by EIOPA too, see i.e. 5.86, 5.177, 5.179 and 5.188 – an enormous cost increases for sponsors (and not only recognized as balance sheets items for IORPs) as well as detrimental macroeconomic effects result:

- increased call on business funds, due to the role of employers as guarantors of 'defined benefit' pensions in several EU Member States
- Consequences of additional funding: significant negative impact on capital spending, corporate cash flow, corporation tax payments, wages and employment
- more modest impacts on employee pension contributions, procurement, prices and dividend payments

Beyond the economic implications, a material impact on social, co-determination and labour law is not acceptable.

See also our answer to Q85 on this topic.

The answer to Q 85 was:

An HBS-type approach – if at all regarded as suitable - should include all mechanisms. If sponsor support and/or a PPS exist, they can secure the pensions promise. However, a sufficient level of funding with financial assets should be ensured. This should be calculated in a way so that the financial assets are generally sufficient to meet the benefits, without taking sponsor support and PPS into account. Level B technical provisions should therefore be the minimum requirement for the level of liabilities. In the Consultation Paper, EIOPA states that if there is a PPS, Level B should be sufficient (par. 5.85).



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline**  
**13 January 2015**  
**23:59 CET**

The main points in favour of Level B for IORPs are the extremely long-term focus combined with – by German labour law - almost no distortion by cancellations.

We would also like to point out that Level B as it was defined in the technical specifications for the IORP QIS does not fit all pension schemes across Europe. Therefore, Level B should be discussed further, or even, better, its definition should be left to competent national authorities.

Calculating technical provisions on a market consistent basis incl. a risk free interest rate is not necessary and not appropriate for IORPs. A mark-to-market valuation of liabilities for IORPs as envisaged under Solvency II would be extremely damaging for long-term investments. Such a valuation would be extremely volatile, pro-cyclical, and based on a cut-off date; it would use the modelled view of an external investor and would therefore not take into account the specifics of most IORPs. The one-year-perspective and a consequent mark-to-market valuation of liabilities would lead to a completely wrong assessment of the situation. Mark-to-market sets short-term and therefore undesirable incentives for the management. This type of valuation could harm solid and long-term planning, as well as risk analyses and related calculations. It would therefore not contribute to more security for the beneficiaries. And in addition a transfer of liabilities to other market actors (see i.e. EIOPA 5.83) is – unlike within the insurance sector – not relevant because of the existing security mechanisms of IORPs which are actually to be assessed by the HBS. Thus we think that especially in cases where the balancing item approach is justified, a mark-to-market valuation is particularly inappropriate and unnecessary given its damaging consequences as the function of a market valuation (= transfer to other IORP or market actors).

The result would be in addition an **enormous increase in liabilities** (without being a more accurate assessment) **and thus funds to be delivered by sponsor** (for future and eventually for existing promises) will discourage sponsors from occupational pensions. We therefore support EIOPA's analysis (i.e. 5.86, 5.177, 5.179 and 5.188) of the negative consequences of Level A technical provisions as funding requirements for existing promises for sponsors, employees and defined benefits and also with respect to growth and macroeconomic aspects.

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

These **consequences are confirmed by comprehensive studies**, i.e. the study "The economic impact for the EU of a Solvency II inspired funding regime for pension funds" by UK's employer association CBI together with Oxford Economics that analysed economic consequences of a 30% increase of liabilities to be covered by additional delivered funds by sponsors and the SCR covered by sponsor support or PPS (= corresponds to Level A technical provisions to be covered by financial assets). The main results of the study are an increased call on business funds and in consequence significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employment as well as more modest impacts on employee pension contributions, procurement, prices and dividend payments. To give some numbers:

- 30% increase of technical provisions = €440 billion (£350 billion) = cost increase for UK Businesses
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Similar results are given by the Report commissioned by UK's Pensions Minister Steve Webb (Webb-Report) indicating a funding shortfall in the UK of

- £400 billion (i.e. increase in technical provisions of £500 bn, less estimated sponsor support of £350bn, plus a net SCR of £250bn. The net SCR also allows for sponsor support).
- £150 billion (i.e. increase in technical provisions of £500bn, less estimated sponsor support of £350bn)

Q100

No, example 1 is not at all acceptable.

In addition to the points raised in Q99, we would like to emphasise that it is important to take into account all implications the HBS proposals and the supervisory response (in general as well as for the individual examples) will have on what employers offer and how it affects coverage. To us it looks like EIOPA is assuming an occupational

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

pension system where membership is mandatory. In many EU Member States this is not the case, and with further unnecessary burdens being imposed on employers offering occupational pensions, provision in those Member States is likely to go down.

We cannot judge the applicability in other EU Member States.

The answer to Q99 **regarding example 1** was:

Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.

Example 1 is the Solvency II model. In the past as well as in this consultation response we have presented a number of arguments against the application of the Solvency II framework to IORPs. Amongst other things, the omission of pension protection schemes, the Level A funding requirements and the short recovery periods are unacceptable for reasons discussed in this consultation response.

Generally, we want to emphasise that those examples for the use of the HBS where actually financial assets are required against Level A technical provisions and only SCR may be covered by Sponsor Support or PPS (i.e. example 1) the main driver of the quantitative impact of the proposed regulations will be market consistent valuation and the risk free discount rate used to calculate the best estimate of liabilities. The remaining items are less influential. The consequences would be – as analysed by EI-OPA too, see i.e. 5.86, 5.177, 5.179 and 5.188 – an enormous cost increases for sponsors (and not only recognized as balance sheets items for IORPs) as well as detrimental macroeconomic effects result:

- increased call on business funds, due to the role of employers as guarantors of 'defined benefit' pensions in several EU Member States
- Consequences of additional funding: significant negative impacts on capital spending, corporate cash flow, corporation tax payments, wages and employ-

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>ment</p> <ul style="list-style-type: none"> <li>• more modest impacts on employee pension contributions, procurement, prices and dividend payments</li> </ul> <p>Beyond the economic implications, a material impact on social, co-determination and labour law is not acceptable.</p> <p>See also our answer to Q85 on this topic.</p>	
Q101	<p>We generally doubt that the HBS approach would bring additional benefits given the costs and efforts involved in calculating the HBS.</p> <p>It is not clear why the choice for Level B technical provision shall require a market consistent HBS for transparency reasons. The so-called "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. In general, no example can be accepted that does not take pension protection schemes into account. Thus PPS have to be added. Defining considerably long recovery periods by the Member States for underfunding situations is the right approach. Example 2 would have to include generous simplifications (Q111) and transitional measures (Q97 and Q98).</p>	
Q102	<p>Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples. For Germany, see Q101. We cannot judge the applicability in other EU Member States.</p> <p>The answer to Q101 was: We generally doubt that the HBS approach would bring additional benefits given the costs and efforts involved in calculating the HBS.</p> <p>It is not clear why the choice for Level B technical provision shall require a market</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>consistent HBS for transparency reasons. The so-called "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. In general, no example can be accepted that does not take pension protection schemes into account. Thus PPS have to be added. Defining considerably long recovery periods by the Member States for underfunding situations is the right approach. Example 2 would have to include generous simplifications (Q111) and transitional measures (Q97 and Q98).</p>	
<p>Q103</p>	<p>Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>The approach of example 3 with one framework for pillar 1 and another framework for pillar 2/3 is quite complex and bureaucratic, especially if additional national regulation rules also apply. The cost-benefit-relation is not acceptable. As we understand 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.</p>	
<p>Q104</p>	<p>As it would produce a lot of burdens and cost that will negatively influence benefit levels and willingness of sponsors to provide occupational pensions we reject this alternative. See also Q103. We cannot judge the applicability in other EU Member States.</p> <p>The answer to Q103 was: Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>The approach of example 3 with one framework for pillar 1 and another framework for pillar 2/3 is quite complex and bureaucratic, especially if additional national regulation</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>rules also apply. The cost-benefit-relation is not acceptable. As we understand 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.</p>	
Q105	<p>Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. 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. This makes example 4 one of the most complete ones, but also the most complex and bureaucratic.</p> <p>We do not understand why the recovery period shall be 1 year but can be extended through national <i>social and labour law</i>. This opening should also be possible within the national regulatory rules. For German IORPs, the prescriptions of example 4 may result in reasonable trigger points, at least in most constellations. However, the administrative burdens would be unjustifiable and not bearable for most IORPs.</p>	
Q106	<p>For Germany, see Q105. We cannot judge the applicability in other EU Member States.</p> <p>The answer to Q105 was: Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept it is appreciated that under example 4</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>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. This makes example 4 one of the most complete ones, but also the most complex and bureaucratic.</p> <p>We do not understand why the recovery period shall be 1 year but can be extended through national <i>social and labour law</i>. This opening should also be possible within the national regulatory rules. For German IORPs, the prescriptions of example 4 may result in reasonable trigger points, at least in most constellations. However, the administrative burdens would be unjustifiable and not bearable for most IORPs.</p>	
Q107	<p>Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>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, it is a very complex system.</p> <p>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 according to this example. This will lead to mis-interpretations by members and beneficiaries since the results are neither easy to explain nor to understand, especially the effects of "market consistent" discount rates. The disclosure requirement is therefore not acceptable for IORPs and their sponsors. And 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.</p>	
Q108	<p>Not for Germany, see Q107. We cannot judge the applicability in other EU Member States.</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>The answer to Q107 was: Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>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, it is a very complex system.</p> <p>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 according to this example. 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. The disclosure requirement is therefore not acceptable for IORPs and their sponsors. And 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.</p>	
Q109	<p>Any assessment of an example supervisory framework would have to take into account by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.</p> <p>From our perspective Art. 29 of the <a href="#">Council's General Approach regarding IORP II</a> from 10 December 2014 is sufficient. As a risk management tool the full HBS approach is oversized. But if the HBS became part of any regulation, example 6 could be regarded as one of the less damaging ones. Within this context we reject public disclosure for IORPs. Regarding the complexity of the calculations and problems in communicating the results to members, beneficiaries and especially stakeholders of the sponsoring companies the requirement for public disclosure is not acceptable.</p>	



**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>No additional funding requirements occur by staying with the current (Solvency I) rules in pillar 1. However, the application of the HBS and SCR calculations in pillar 2 produce a 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.</p>	
<p>Q110</p>	<p>For Germany, example 6 would belong to the less damaging examples, but would only be applicable in connection with generous simplifications (Q111) and transitional measures (Q97 and Q98). Especially for smaller IORPs even this approach would bring additional costs that are unjustified given the limited benefits. We cannot judge the applicability in other EU Member States.</p> <p>The answers to Q111, Q97 and Q98 were: Q111: We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept we welcome the idea to simplify the HBS in cases where additional security mechanisms are in place (see Q109).</p> <p>The best simplification would be to omit the HBS concept completely, follow the subsidiarity principle and continue using the rules that have been established in the EU Member States. At least, we ask for an exemption from calculating the HBS if there is a strong sponsor guaranteeing a high level of security and/or a strong PPS in place and/or ex-ante benefit reduction mechanisms in place.</p> <p>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 also our General Remarks).</p> <p>If, against our recommendation, an HBS-approach was introduced, at least future en-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

	<p>entitlements would have to be based on the new rules incorporating the higher cost arising from additional prudential requirements. This is likely to result in lower benefits.</p> <p>It has to be avoided that a new regime influences labour and social law: prudential regulation should regard and support national social and labour law, it should not stipulate changes in social and labour law.</p> <p>Q98: If new quantitative elements as discussed in the paper should be introduced than these should only apply to new members. Existing successful IORPs should be able to continue their work as they used to.</p> <p>We would like to emphasise that transitional measure for existing schemes/IORPs are not an alternative to including security mechanisms in a HBS for future schemes/IORPs – security mechanisms need to be included, <i>and</i> adequate transitional measures have to be developed.</p> <p>The application of such new rules will lead to a completely new business model for these new entitlements with considerably reduced benefit levels. Additionally we believe that the introduction of such new rules will lead to closings of several IORPs and will reduce DB promises.</p>	
Q111	<p>We think the HBS approach is unsuitable for occupational pensions and should therefore be omitted. Within this unfitting concept we welcome the idea to simplify the HBS in cases where additional security mechanisms are in place (see Q109).</p> <p>The best simplification would be to omit the HBS concept completely, follow the subsidiarity principle and continue using the rules that have been established in the EU Member States. At least, we ask for an exemption from calculating the HBS if there is a strong sponsor guaranteeing a high level of security and/or a strong PPS in place and/or ex-ante benefit reduction mechanisms in place.</p> <p>The answer to Q109 was: Any assessment of an example supervisory framework would have to take into ac-</p>	

**Comments Template on  
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline  
13 January 2015  
23:59 CET**

count by far more detailed definitions and descriptions, an outline of the transitional measures, and the simplifications. Since these points are far from clear, it is not possible for us to provide a final assessment of any of the presented examples.

From our perspective Art. 29 of the [Council's General Approach regarding IORP II](#) from 10 December 2014 is sufficient. As a risk management tool the full HBS approach is oversized. But if the HBS became part of any regulation, example 6 could be regarded as one of the less damaging ones. Within this context we reject public disclosure for IORPs. Regarding the complexity of the calculations and problems in communicating the results to members, beneficiaries and especially stakeholders of the sponsoring companies the requirement for public disclosure is not acceptable.

No additional funding requirements occur by staying with the current (Solvency I) rules in pillar 1. However, the application of the HBS and SCR calculations in pillar 2 produce a 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.

Frankfurt am Main, 13.01.2015