

Comments Template on EIOPA-CP-11/001 Draft response to Call for Advice on the review of Directive 2003/41/EC Scope, cross-border activity, prudential regulation and governance		Deadline 15.08.2011 18:00 CET
Company name:	The Bulgarian Association of Supplementary Security Companies (BASPSC)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the left and by inserting the word Confidential.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in column "Reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. <p>Please send the completed template to firstconsultationiorpcf@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p> <p>The question numbers below correspond to Consultation Paper No. 01 (EIOPA-CP-11/01).</p>		
Reference	Comment	
General Comment	The Bulgarian Association of Supplementary Pension Security Companies (BASPSC) strongly relies on this opportunity to share the Bulgarian pension industry opinion on the Consultation Paper No. 01 (EIOPA-CP-11/01). The BASPSC will readily participate in drafting the EU legislative framework on occupational pensions intended to remove the obstacles to cross-border activity of IORPs. At the same time we oppose to regulatory "patching up", i.e. changing the fundamental rules of the play, defined by the current IORP Directive and Regulation 883/2004, for the sole purpose of "fitting" the	Public

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	CEE mandatory pension funds into the occupational concept prevailing in the EU before the accession of the new MS. The particular comments outlined below were made respecting both the well-operating local pension regulation and the EU principle that "pensions are largely the responsibility of member states", and taking into account the need to foster the development of the occupational retirement provision which is to contribute to the adequate, sustainable and safe pension systems in the EU.	
1.	<p>The EIOPA analysis of the options regarding the scope of the IORP Directive wrongly presumes that the amendments to the directive are needed because of the fact that there are pension arrangements in the CEE countries which "have fallen outside the scope of any EU prudential regulation". The founding EIOPA assertion about schemes "left out of regulation" is unacceptable. Mandatory pension funds in BG are within the scope of Regulation 883/2004, and the occupational pension funds – under the IORP Directive. If the proposed amendments are really aimed at pension fund members' safety, it should be taken into account that the current local prudential regulations for pension providers are stricter than the corresponding IORP rules. The IORP Directive was fully transposed in the Bulgarian legislation in 2007, and thus Bulgaria is not an obstacle for the free EU market in occupational pensions. The lack of strong market interest by sponsoring undertakings in occupational schemes is rooted in the overall social, economic and political environment, and it is not a reason for the redefinition of the whole concept of mandatory funded retirement provision.</p> <p>In brief, the BASPSC does not see a problem for the EU occupational pension market, as the CEE legal framework allows for IORPs to manage CEE occupational schemes on a cross-border basis. Reading the EIOPA document, we come to the conclusion that the problem EIOPA is trying to address in its analysis is different: The current provisions of the IORP Directive does not allow Western European IORPs to manage CEE mandatory pension funds in the way analogous to the occupational schemes. However, it does not lead to the conclusion that mandatory funded provision should become "occupational". The founding concept of mandatory funded provision is pillar 1bis (part of the social security).</p>	Public
2.	Currently, Western European countries still lack a legislative framework analogous to the mandatory funded provision in CEE (pillar 1bis). On the contrary, during the accession to the EU, the CEE countries established the legal framework for the operation of occupational schemes, which are typical for the Western European countries (the transposition of the IORP Directive was a prerequisite for EU membership). Accepting the occupational concept of Western Europe, the new member states	Public

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	<p>allowed for a level playing field in occupational pensions throughout the EU. The lack of pillar 1bis in the old member states, however, deprives their citizens of the possibility to avail of the diversification of pension income financing in the first pillar (PAYG plus mandatory funded provision) as CEE citizens do. So, an option for harmonization of the retirement vehicles offered to EU citizens could be for Western Europe to apply the CEE approach (rather than re-modulate the CEE mandatory funded provision in its own likeliness and image). However, we fully respect the fact that it is the old member states' prerogative to decide whether such mandatory funded system is applicable to them.</p> <p>In brief, instead of "distorting" the texts of the existing IORP Directive, so that CEE mandatory funded provision could also be "pulled" into its scope, it is logical for the CEE mandatory retirement provision specific matter to be regulated separately, taking into account its very nature. Last year a detailed description of CEE mandatory retirement provision was provided in the Opinion on the CEE Green Paper, supported by 6 pension associations from Bulgaria, Croatia, Czech Republic, Lithuania, Litva, Poland and a bank from Ukraine.</p>	
3.	<p>We share the opinion of the Romanian and Polish associations that any option can be supported as long as the mandatory private pension schemes in the new member states are not wrongly considered as "occupational". Any options regarding the change of scope which consider CEE mandatory funded system as "occupational" are prerequisites for legislative arbitrage and retreat of CEE governments from pension reforms. Clarity on the nature of the CEE mandatory funded provision in the whole context of adequate, sustainable and safe pension systems is necessary in the EU.</p>	Public
4.	<p>If the pension scheme is mandated by law and there is no agreement between employers and employees stipulating which retirement benefits are granted and under which conditions, the scheme is to be considered as a social security scheme covered by Regulation 883/2004.</p> <p>Besides, each member state is to define explicitly which scheme is to be treated as social security.</p>	Public
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