

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 Czech National Bank (CNB)	
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		
1.	The CNB can not agree with the inclusion of Option 5 on the list of possible amendments to the scope of the IORP Directive for the following reasons: <ul style="list-style-type: none"> i) Proposal to extend the scope also to <u>personal pension schemes</u> goes far beyond the EC Call for Advice. It is clear from the extract from the Call for Advice (point 6.1) that the EC is considering only possibilities how to cover other occupational pension funds that operate on a 	

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	<p>funded basis.</p> <p>ii) Any extension to personal pension schemes would have fundamental impacts on member states pension systems, which are not mentioned in the Draft response, eg. application of single passport rules, compulsory technical provisions etc. We can not agree with inclusion of option 5 until all potential negative impact are properly analysed and taken into account.</p> <p>iii) As there was no analysis of national personal pension schemes, it is not clear which provisions of the IORP Directive shall be amended in order to allow application of the Directive to all pension funds. Having in mind new member states that joined the EU after the IORP directive into force, we doubt whether any review of this nature is even possible.</p> <p>iv) Potential extension is not only of a high political nature, but it has also several legal consequences. It should be noted that the area of pensions fall within exclusive competences of member states. With regard to the IORP directive, the ECJ confirmed in its Judgment C-343/08 that „under the first indent of Article 137(4) EC, the provisions adopted pursuant to that article shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof.“ Although the Union has competences to adopt measures in the field of social security to coordinate the payment of benefits to persons resident in the territories of Member States, it is not necessary to further regulate national personal pension schemes.</p> <p>Based on the aforesaid justification, we suggest deleting option no. 5 from the Draft response.</p>	
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3.	We prefer a flexible option that would fit with pension systems in all member states. In our view, this can be achieved by options 1 or 3.	
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