

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 Association of Finnish Pension Foundations	
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	Unlevel playing field has been used as justification for harmonisation. However that doesn't take in consideration that circumstances inside each member countries can differ a lot. Level playing field can hardly exist if competition between insurers is one-sided. IORP directive is only applied to Finnish pension funds with occupational voluntarily pensions. However situation in Finland is that occupational pensions and assets covering liabilities may only be transferred to insurance companies operating under life insurance directives and thus it is not possible to transfer pension liabilities and assets to pension fund. Extra regulation such as quantitative regulagtion of solvency 1. pillar may be	

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	<p>harmful and counterproductive to the sector and eventually to beneficiaries and policy holders because of diminishing competition and alternatives. Solvency 1. pillar regulation is not appropriate to occupational IORP-pensions.</p> <p>The conclusions in Draft Advice is based on incomplete information. This may have serious consequences also in pension systems that have not been considered by the OPC and thus neither by the EIOPA. The Finnish statutory earnings related pension system falls within the EU social security co-ordination rules and thus is at present time outside the scope of the IORP directive. According to Article 9 (3) of solvency II directive the directive does not apply to the pension activities of pension insurance undertakings prescribed in the Employees Pension Act (TyEL) and other related Finnish legislation. This article in SII is based on the Treaty of Accession of Finland to the EU. The reason for this legislation is that these Finnish pensions and their providers are an integral part of Finnish statutory social security system that is to fall outside the scope of EU life insurance directives even though they are administered by private entities (special authorised pension insurance companies and company as well as industry wide pension funds). These are already subject to risk based solvency framework as well as comprehensive prudential legislation.</p> <p>The reform of IORP directive should not put in any way into question the present position of the Finnish statutory pension system and this should be made very clear.</p>	
1.	The implementation of options 4 and 5 could pose serious and perhaps unsurmountable problems for the Finnish statutory pension system which is for the most part PAYG and for a smaller part funded.	
2.		
3.	Option 1 is the most preferable. On base of Draft Advice it is evident, that the intention is not to regulate the Finnish statutory pension system in relation to EU level legislation as a part of the reform of the IORP directive, but the formulation of options 4 and 5 could have very serious consequences for the Finnish pension system.	
4.	Pension systems in different member countries vary a lot by their nature and features. It is of highly political issue to determine what kind of features should a compulsory employment-related pension scheme consist to fall outside IORP-directive. As changes to wording of option 4 could pose a serious threat to Finnish statutory pension system, we find it most preferable that no changes would be made.	
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6.		

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7.	Option 2 is preferable.	
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12.		
13.	General governance principles already apply to IORP for a large part. Taking into account of different IORP's across member states, it is important not to impose burdensome requirements which in fact would not be favourable neither for beneficiaries nor policy holders. Proportionality is the most important feature to be taking into account. It should be written inside directive.	
14.	Current wording of art. 9.1 sets out principles of fit and proper. Dir. 2003/41/EC allows appointing scheme members to board of directors which is required according to Finnish law and using highly skilled service providers. Personal fit and proper requirements would made impossible to appoint ordinary scheme members to the board of directors and as many pension funds operate with small number of scheme members this would considerably weaken the possibilities for pension fund to meet the requirements of the law. We do not support same wording of fit and proper requirements for insurance undertakings and pension funds as they operate under different legislation and differ considerably by size, form of activity and objectives (insurance undertaking primary goal is to make profit). Proportionality needs to be applied on every aspect.	
15.	It's very important to permit pension funds to outsource important activities to different service providers. The principle of proportionality should be written down inside directive.	
16.	IORP itself should be able to determine how to meet general principle of internal audit. The principle of proportionality is best achieved by flexibility.	
17.	Revised IORP directive should include principle that IORP remains responsible for the outsourced activities.	
18.	The general tendency is to outsource more and more. The fact is even more true with pension fund as it cannot have all the technical skills and abilities needed to run IORP. Too many prescriptive rules and monitoring of the outsourced activities may be harmful for pension fund.	

