Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation		Deadline 02.01.2012 18:00 CET
Company name:	CEA	
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

The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006).

Please follow the instructions for filling in the template:

- ⇨ Do **not** change the numbering in column "Question".
- ⇨ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty.
- ⇨ There are 96 questions for respondents. Please restrict responses in the row "General comment" only to material which is not covered by these 96 questions.
- ⇨ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below.
  - ○ 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.

Please send the completed template to *CP-006@eiopa.europa.eu*, in MSWord Format, (our IT tool does not allow processing of any other formats).

Question	Comment	
General comment	The CEA welcomes this opportunity to provide its comments on EIOPA's draft response to the European Commission's call for advice on the review of the 2003 IORP Directive. Furthermore, the CEA wants to express its	

gratitude for the extension of the deadline till January 2.

In its core, the CEA believes that the review of the IORP Directive should be based on two key principles:

- Same risks, same rules, same capital
- Substance over form

The CEA took these two principles as the main thread throughout their response to the consultation.
In order to achieve fair competition and consistency in prudential regimes, the CEA strongly supports the application of the ‚**same risks, same rules, same capital**‘ principle to all financial institutions, including IORPs, providing occupational pension products. The Solvency II principles as agreed in the Solvency II Framework Directive follow a risk-based approach and create a sound prudential regime. These principles should serve as the basis for regulating all financial institutions providing occupational pension products provided the economically significant characteristics of the different pension products or schemes are taken into account. Moreover, for the parts of the total liability underwritten by the employer, these characteristics should be taken into account appropriately. Examples of specific occupational pension product characteristics that could be prudentially relevant include the use of sponsoring covenants such as contractually agreed additional payments by the employer payable to the IORP, pension protection schemes, or options to reduce benefit promises or payments. Comparable specificities should be taken into account in a similar way for all providers, including insurers.

In line with the principle of **‚substance over form**‘, the CEA strongly believes that all financial institutions that provide occupational pension products should be regulated not on the basis of the legal vehicle through which products are sold, but rather according to the risks those products present to the provider, members and beneficiaries. As a result, Members’ and beneficiaries’ protection shall neither depend on the legal form of the institution they are affiliated to nor on the supervisory regime.

Additionally, the CEA considers it extremely important that areas of political nature be solved at level 1. Furthermore, it should be ensured that the new rules should be accompanied by EU-wide level 2 implementing measures and level 3 guidance in order to reach a sufficient degree of harmonisation across the EU.

Next, the CEA is surprised by the mention by EIOPA **of three key differences between IORPs and insurers** (2.6.5 – 2.6.7). The CEA acknowledges that there are in some member states differences between some products of IORPs and insurance companies that should be taken into account. However, these key differences defined by EIOPA **tend to generalise** and are therefore **not accurate** for the following reasons:

- Not only IORPs have a social and employment context. Insurers too are active in the occupational pensions business. In 2008, life insurance companies had a market share of 47%[1] in the second pillar provision of pensions. These are subject to similar social and labour laws as IORPs. Furthermore, employers are involved in the funding of their pension plans respective to the insurance undertaking too. Moreover, the CEA highlights that the third pillar provisions also have an important social context. Finally, the CEA underlines that since IORPs have a social context and must ensure an extremely important objective like pension provisions to members' and beneficiaries', protection measures for both insurers and IORPs should offer an adequate level of protection.

- There could be arrangements also for employers with an occupational pensions plan by an insurer where the employer is requested to provide additional funding in case of shortfall of its pension plan, such as for instance in the case of an underfunded Defined Benefit plan.

- The CEA agrees that there are more IORPs than insurers. However, this should not lead to these entities being subject to less attention by the supervisors. In fact, letting up on the supervisory attention towards IORPs would clearly be disadvantageous to the members and beneficiaries. In terms of occupational pension plans, the amount of IORPs and insurers pensions' schemes will be more or less similar and the funding levels of both should be checked in a consistent manner. The proportionality principle should be taken into account in a similar way for both the insurance and the pension funds sectors.

Finally, the 5th quantitative impact assessment of Solvency II revealed that certain parts of the framework may not be entirely appropriate. In the outset of the CfA, the EC states that although the Solvency II Directive should serve

[1] CEA Statistics N°28: The role of insurance in the provision of pension revenue

	as at benchmark for the review of the IORP Directive, the lessons learned from Solvency II also needs to be taken into account. The CEA agrees with the importance of drawing appropriate conclusions from the lessons learned and wishes to highlight that many of the challenges made apparent by e.g. QIS 5 are similar for insurance undertakings and IORPs. Amongst others, these challenges are related to the areas of long term guarantees, including occupational pension products. As a result, the CEA considers that the right approach consist in solving these problems, and introducing appropriate solutions, in both the IORP and the Solvency II Directives, rather than to try and solve issues in one Directive and leave the problems open in the other one.	
1.	The CEA agrees on the EIOPA approach on scope and welcomes the reference to article 4 of the current Directive. The CEA wishes to stress that certain issues will arise for those countries currently applying article 4 and the entry into force of Solvency II and urges the Commission to take the necessary actions. It is also a fact that after the entry into force of Solvency II, there will be two very different regulatory frameworks at the EU level for long term guarantees forming part of occupational pension products. Given the Commission´s clear aim to take into account lessons learnt from Solvency II in relation to long term guarantees in the revision of the IORP Directive, this is not only an issue that affects Member States that have made use of the current article 4 and of article 2.2(b) but also important when it comes to ensuring an adequate level of protection at the EU level for these products regardless of whether they are offered by insurance undertakings our IORPs. In addition, the CEA agrees on the analysis of the options. However, the CEA wishes to point to the fact that **the difference between option 1** – where member states have the option to include those institutions currently falling out of the scope on a voluntary basis - and **option 2** – where partial application would be a Member State option - is very vague and **needs further clarification**. Finally, in line with the key principle of "substance over form", the CEA believes that the **IORP Directive should apply to IORPs providing occupational pension schemes on a funded basis, regardless of how contributions are collected and whether they are subject to a voluntary agreement or legal obligation.** In this context, the CEA welcomes EIOPA's intention not to touch upon the current exclusions of the IORP Directive. These exclusions mentioned in article 2.2 of the current IORP Directive should be retained. Although sufficient protection of these pension rights should be ensured outside the scope of this Directive. Additionally, in line with the OECD definition	

	of occupational pensions, the CEA would suggest to change the sentence in 4.5 EIOPAs advice paragraph 2 as follows: ”For the purposes of this advice EIOPA assumes that 2nd pillar schemes are schemes were the employer**s - or groups thereof (e.g. industry associations) and labour or professional associations, jointly or separately -** have a role in the establishment and/or funding of the scheme.”	
2.	The CEA believes that the options provided by EIOPA are sufficient. Furthermore the CEA supports the Commission’s view that book reserves should not be included in the IORP Directive but that employees’ rights should be regulated on the basis of the Insolvency Directive (2008/94/EC) that should have appropriate supervision. In this regards, the CEA welcomes EIOPA’s recommendation to the Commission to consider the nature of the member protection in pension schemes falling outside the current scope and to take legislative initiative if it concludes that the protection offered by national/EU frameworks is not adequate.	
3.	The CEA suggests excluding option 3 in line with our opposition to either removing or amending the reference to ”occupational”. Should certain countries be willing to include certain products under this Directive, they should do voluntary as a national option. Furthermore, since the difference between option 1 and option 2 is rather unclear, it is not possible for the CEA to decide upon any of these options.	
4.	It is in particular important that Member States that today have opted for providers of occupational pension schemes to be regulated as life insurance - and thus in the future applying Solvency II - retain this possibility also in the future under a revised IORP Directive (maintenance of article 2.2(b)).	
5.	The CEA agrees on the analysis of the options. Moreover, the CEA supports the suggested changes to ‘Sponsoring	

	Undertaking' and 'Host Member State'. However, to avoid confusion the CEA suggests changing the 'institution for the benefit of the employees' by 'institution'. Using **"institution for the benefit of the employees" is not defined** and could imply that this is another institution than the "institution" or the "institution of occupational retirement provision".	
6.	The CEA agrees that there is a distinction between mandatory "ring fencing" in articles 3 and 4 of the current Directive and voluntary "ring fencing" in articles 16.3 and 18.7 of the current IORP Directive. Furthermore, the CEA acknowledges EIOPA's adaptation of Article 74.6 of the Solvency II Framework Directive to IORPs and the CEA fully supports the proposed administrative measures. But, since Article 74 concerns the fundamental separation of the management of life and non-life insurance activities, a strong reference to Article 74 in the IORP Directive might be confusing. In this regard, it should be highlighted that the concept of ring fencing for IORPs is not always comparable with the concept in the Solvency II Directive. Granting different rights to policy holders should be avoided as much as possible, because this reduces risk pooling and diversification. Moreover, granting different rights to policy holders could result in more burdensome administration. This is something that CEA does not agree on. EIOPA notes that there is no need for implementing measures or level 3 measures in this area. The CEA does not believe that such a possibility should be excluded in advance. Finally, the definition, the scope of measures and principles which warrant ring-fencing measures in the case of stress situations should be adopted as implementing measures as this will be the case in Solvency II as well. Therefore, the CEA would also suggest redrafting paragraph 12 of EIOPA's advice as follows:	

	"The Level 1 text should also include requirements inspired by article 74 of the Solvency II Directive while further detailed requirements will be included in level 2."	
7.	In general terms, the CEA agrees on the positive and negative impacts of the introduction of the proposed principles. We would particularly stress the negative impact of granting policy holders different rights to the assets. However, it should be made very clear that there will not be any discrimination between Members based on their location. Finally, there should be a possibility –in exceptional cases- to make transfers between ring fenced funds if agreed by the Supervisors as in article 74.7 of the Solvency II Directive.	
8.	The CEA believes that ring fencing should be avoided as much as possible as ring fencing could lead to less risk spreading. Indeed, more ring fencing would lead to less risk diversification and due to the increase of administrative task could lead to less cross-border activity. Therefore Member States should not be obliged to introduce ring fencing rules for all cross-border activity. However, the CEA acknowledges that in certain cases, ring fencing is needed to split specific risks in Members' interest. In case investment rules are not compatible ring fencing of assets could be needed. But the CEA position is that investment rules should be compatible, see Q48.	

9.	The CEA is fully supportive of the introduction of privilege rules. Similar privilege rules are applied in article 275 and 276 of the Solvency II Framework Directive. Moreover, in Article 275(1)(b)(i) claims by employees arising from employment contracts and employment relationships have the absolute priority. As such, the CEA sees no reason why these articles should not be implemented in the revised IORP Directive.	
10.	The CEA agrees with the analysis of the options. In addition the CEA fully supports option 2 which includes an article in the revised Directive describing the scope of prudential regulation as assigned in the home member state. The CEA agrees that assigning the mentioned list of prudential domains to the home member state will avoid regulatory arbitrage because of the 'social and labour law in the host member state'. Finally the CEA suggests including general governance principles to the list.	
11.	The CEA believes that the impact assessment is correct. The boundaries between social and labour law and prudential regulation are very vague. However, it should be made clear that the relationship between the employer and the employee is subject to the social and labour law, whereas prudential regulation in this context should regulate IORPs.	
12.	The CEA understands the holistic balance sheet proposal as an approach, similar to the economic balance sheet approach of Solvency II but adding the pension funds' specific security mechanisms in the balance sheet. Moreover, due to the fact that this approach is new and to the very short consultation period, the CEA was unable to fully assess EIOPA's approach, especially because for the part of the total liability that is not underwritten by the IORPs, the holistic balance sheet approach does not reflect how to value the part of the liability that is underwritten by the employer. As such, the CEA welcomes EIOPA's commitment to launch a Quantitative Impact	

Study (QIS) in 2012. The QIS should allow the CEA and other stakeholders to understand the functioning and impact of the holistic balance sheet. Furthermore, this exercise should also be used as an opportunity to assess the solutions found under Solvency II to deal with the concerns of excessive volatility and long term guarantees. Finally, the QIS should contribute to better assess the existence of a level playing field between Insurers providing occupational pension products and IORPs. In this regard, the CEA invites EIOPA to not only perform the QIS on pension funds but also to include some insurance companies providing occupational pension products. This would also allow compare the situations of insurers subject to Solvency II and IORPs subject to the revised IORP Directive.

The CEA is of the opinion that a decision can only be taken on some of the key issues addressed in EIOPA's consultation after a carefully executed QIS taking into account the diversity of the different pension schemes across Europe. Amongst others, key issues are:

- The treatment of the sponsor covenant
- The treatment of the insolvency schemes
- The harmonisation of the confidence level
- The starting principle for valuating liabilities
- The consequences of underfunding against the Minimum Capital Requirements
- The maintenance of classification of own funds

	• The treatment of contingent assets The CEA wishes to stress however that **Solvency II should remain the basis - in any approach -** to set the capital requirements for financial institutions providing occupational pension products. Moreover, **where pension funds use similar security mechanisms as insurers a similar approach needs to be taken, especially if the IORP underwrites the liability or parts thereof**. Furthermore, the CEA stresses that some security mechanisms are triggered even if the IORP is not underfunded. For example, in some member states there exist contractually agreed additional payments by the employer even in case the fund is not underfunded. In addition, it should be made clear to supervisors and members/beneficiaries who bears the risk. This should be made clear through the information provided.	
13.	The CEA agrees that the assets of IORPs should be valued on a market-consistent basis and that article 75(1)(a) should be copied directly in the revised IORP Directive. However, if some security mechanisms should be treated as assets, article 75(1)(a) should be amended to allow for the inclusion of them.	
14.	As indicated in its response to question 12, the CEA refrains from answering this question before the results of a carefully executed QIS are known. Such QIS should allow interested parties to make an informed decision.	
15.	The CEA agrees that the own credit standing of IORPs should not be taken into account when valuing liabilities. As such, the proposal of EIOPA with reference to article 75 should be included in the revised IORP Directive.	

16.	The CEA agrees with EIOPA's proposal in option 2, to include a recital – consistent with recital 46 of the Solvency II Directive - in the IORP Directive mentioning that supervisory valuation standards should, to the appropriate extent, be compatible with accounting standards. This can, as EIOPA correctly indicates, ensure that rules relating to accounting standards do no inappropriately impact on solvency rules. In case national GAAP meet the criteria of the solvency rules, then they should also serve as a basis.	
17.	The CEA agrees with EIOPA's view to incorporate Articles 76(1) and 76(5) with the appropriate amendments into the revised IORP Directive. The CEA agrees with removing 'prudent' from Article 76(4) when including in the revised Directive for the reason that it can cause misunderstanding in a market consistent context. However, since the options regarding article 76(3) are closely related to the outcome of the valuation principle – question 14 – the CEA refrains from taking a position before the outcome of the QIS is known.	
18.	Since the three options regarding the inclusion of a risk margin as introduced by article 77 are closely related to the decision of the primary valuation principle – question 14 – the CEA refrains from taking a position before the outcome of the QIS is known.	
19.	Yes, the CEA is supportive of amending article 77(2) of the Solvency II Directive as proposed by EIOPA. However, the CEA invites EIOPA to clarify the possible cases "where there is no direct link between the contributions paid to the IORP and the pension rights accrued in a certain period".	

20.	Yes, the CEA fully agrees with EIOPA that the best estimate of IORPs should be calculated gross without deduction of the amount recoverable from reinsurance contracts and special purpose vehicles. As such, no amendment should be made to article 77(2) subparagraph 4 of the Solvency II Framework Directive when including it into the revised IORP Directive.	
21.	While not excluding option 3 in advance, the CEA favours option 2. Option 2 will lead to more consistency between different IORPs in different countries. In its analysis of the options at page 18, the CEA suggests that EIOPA repeats the statement in paragraph 9.3.69(b) that high volatility can be hedged rather just than mentioning "depending on the asset mix" which makes the analysis too negative in our opinion. The CEA has reservations as regards option 3 as the proposed flexibility might become overly complex, leading to an administrative burden for IORPs and different interpretations in different countries. Furthermore, the CEA believes that there should be a clear guideline on the interest rate, used to establish technical provisions in the level 1 framework. Option 3 would move the discussion to level 2. As pointed out by the Commission in its Call for Advice, the lessons learned from Solvency II should be taken into account. The CEA wishes to highlight that many of the challenges made apparent by e.g. QIS 5 are similar for insurance undertakings and IORPs. Amongst others, these challenges are related to the areas of long term guarantees, including occupational pension products. As a result, the CEA considers that the right approach consists in solving these problems, and introducing appropriate solutions, in both the IORP and the Solvency II Directives. However, the CEA can only decide on a final position after a carefully executed QIS.	
22.	Yes, the CEA agrees that expenses incurred by the IORP in servicing accrued pension rights should be taken into	

	account in technical provisions as introduced by article 78 of solvency II. This will lead to adequate technical provisions. However, again clarification – as in question 19 - is needed on the cases in which the costs, relating to future accruals should not be considered.	
23.	The CEA favours option 3. The provisions corresponding to Articles 78 and 91 of Solvency II should apply.	
24.	The CEA fully agrees with EIOPA's view of introducing Article 79 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive.	
25.	The CEA agrees with EIOPA's view of introducing Article 80 of the Solvency II Directive, including the amendments proposed by EIOPA in its Advice in the revised Directive. The CEA does not favour the reference to Article 15 of the current IORP Directive since it is too vague and leaves room for interpretation.	
26.	The CEA believes that an introduction of Article 81 of Solvency II in the revised IORP Directive with minor amendments in order to address IORP specificities is the most appropriate. While the use of special purpose vehicles is rather rare, the use of reinsurance contracts is widely spread eg to cover against death benefits. As such, the CEA believes that at least appropriate default risk of the counter party should be included in the revised IORP Directive as well as the loss arising from this. Within Solvency II, there is a possibility to use the solvency ratio from a regulated insurer. The solvency ratio should act as a benchmark to define the counterparty default risk.	

27.	The CEA fully agrees with EIOPA's view of introducing Article 82 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive.	
28.	The CEA believes that introducing Article 82 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive is necessary. According to the CEA, comparison of the assumptions against experience should always take place on a regular basis. As such, the CEA sees no argument why this article should not be applicable to IORPs.	
29.	The CEA fully agrees with EIOPA's view of introducing Article 84 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive to demonstrate to the supervisor on request, the appropriateness of the level of their technical provisions and the applicability of the methods used. This will also lead to less interpretation than the Article 14 of the current Directive in this regard.	
30.	As EIOPA correctly indicates, it is important that supervisors are able to ensure that IORPs set an appropriate level of technical provisions. As such, the CEA fully agrees that Article 85 of the Solvency II Framework Directive should be included in the revised IORP Directive without the need for specific amendments.	
31.	The CEA strongly supports the view that the new IORP Directive should allow the Commission to adopt level 2 implementing measures regarding the calculation of technical provisions as introduced by Article 86 of the Solvency II Framework Directive. Not only would this lead to greater harmonisation, but also is it necessary to maintain a level playing field with providers of similar risks and to ensure greater and consistent consumer	

	protection. The fact that implementing measures could be too complex or result in too high costs considering the nature, scale and complexity of IORPs could be avoided by giving due consideration to the proportionality principle in the implementing measures. Exactly the same problems of complexity and costs arise for insurers under the Solvency II Directive and these too are solved by applying the proportionality principle. However, it is vital to clarify how this proportionality will be applied in practice.	
32.	As the aim should be to facilitate cross border activities and - as highlighted by the Commission -, to attain a level of harmonisation, additional requirements at national level (paragraph 7.1 of the CfA), article 15(5) are no longer required. However, this provision can only be removed provided sufficient harmonisation has been achieved which properly reflects the nature of IORPs across the Member States.	
33.	The concrete method of valuation should be the outcome of a carefully executed QIS. As such, the CEA will express a preference for any of the options after such a QIS and on the basis of additional information on the valuation under the different options. In any case, it is important that the solution ensures security for the members and beneficiaries and is consistent with Solvency II principles. Transitional periods may be needed in this regard. Additionally, the CEA supports the view that the sponsor covenant payable to the IORP should be taken into account but only if the sponsor covenant is legally enforceable. Moreover, evaluation methods that avoid technically complicated calculations should be chosen.	
34.	In general, the CEA agrees that the articles 87-92 & 97-98 of the Solvency II Framework Directive on own funds should be applied to IORPs. The CEA supports the proposed amendments.	

	However, the CEA is hesitant about including the articles on the classification of own funds (articles 93-96 of the Solvency II Framework Directive). On these articles the CEA can only take an informed decision after the outcome of a carefully executed QIS.	
35.	The CEA fully agrees with EIOPA that contractually agreed subordinated loans from employers to IORPs should be allowed in the revised IORP Directive. As such, valuation of subordinated loans should be settled in the level 2 implementing measures.	
36.	The CEA stresses that the settlement of the confidence level should lead to equal consumer protection, independent of the Member State, the security mechanisms or the pension provider. The CEA refrains from taking a final position on the harmonisation and the threshold of the confidence level before a carefully executed QIS is done. Furthermore it should be compared with an insurance undertaking to assess the maintenance of the level playing field taking into account the valuation of all security mechanisms of IORPs.	
37.	As EIOPA has correctly indicated, there were no clear superior alternatives to the one year time horizon for Solvency II. The CEA believes that a similar conclusion can be drawn for IORPs. Thus, the CEA agrees that the confidence level should apply to a one-year time horizon.	
38.	The CEA believes that the process for insurers and IORPs should be similar. As such the Solvency Capital Requirement should also be applied to IORPs but taking into account the specific security mechanisms, including benefit adjustments of IORPs which could affect the level of security. For example, firstly, this means that where	

	there is a contractual ability to reduce claims levels, this could be treated as a risk absorbing liability and so reduce or, depending on the level of flexibility legally given to the IORP, even eliminate the capital requirement. (This feature of the pension would have to be appropriately communicated to the employee.) Secondly, where an IORP has legally enforceable sponsor covenants payable to IORPs then these could be able to support the capital requirements (the form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles). This would lead to increased consumer transparency and confidence. However, to fully assess the impact of these measures, the CEA is supportive of an objective impact assessment amongst IORPs.	
39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, the CEA supports an annual calculation. However, the frequency should be determined based on the principles of proportionality and materiality. More detailed measures should be included in the level 2 implementing measures.	
40.	In principle a two level approach with the SCR as a strong target and the MCR as minimum target would be needed in order to cope with the risk based nature of the system. However, the consequences of falling below the threshold of the MCR should be defined. The CEA believes that the threshold and consequences of a minimum capital requirement should be decided on the basis of a carefully executed QIS.	
41.	It shall completely depend on the nature of the pension protection scheme and this will determine whether it can be taken into account. Comparable pension schemes should be treated in a comparable way in order to avoid an	

	unlevel playing field between different institutions providing occupational pensions.	
42.	The CEA fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members. This should be done in a similar way as is done for the capital requirements for unit-linked life insurance products where the investment risk is completely borne by the insured. In this context it should however be noted that in some Member States DC schemes will contain several investment alternatives for the contributions agreed in the scheme, including alternatives (products) where the plan members are offered guarantees and therefore do not bear the investment risk. See also Q49 and Q91.	
43.	The CEA agrees with EIOPA that these measures are suitable for IORPs provided the proportionality principle is duly taken account of.	
44.	According to the CEA the general principles of the Articles 138 and 139 should apply to IORPs. However, the recovery periods agreed by the Supervisors should be flexible, based on the nature of the IORP, the specific characteristics of the IORP and the national system it operates in. As such the CEA agrees on option 3.	
45.	Yes, the CEA agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.	
46.	The CEA strongly supports EIOPA's view that the content of Article 142 of the Solvency II Directive should be	

	included in the revised IORP Directive.	
47.	In general the CEA believes that the **prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient**. In this context – given that solvency II regulations should be the benchmark – the CEA Secretariat believes that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the investment risks are reflected in the capital requirements following a solvency II like approach. Furthermore, the prudent person principle as described in the solvency II Framework Directive should be integrated in the revised IORP Directive without specific amendments. This prudent person principle highlights: • To only invest in assets whose risk can be identified, measured, monitored, managed, controlled and reported • To invest in a manner which guarantees the security, quality, liquidity and profitability of the portfolio as a whole • To invest in assets covering the technical provisions in a manner appropriate to the nature and duration of the liabilities. These should be invested in the best interest of all policy holders and beneficiaries.	

	This does not preclude that investment decisions can be outsourced.	
48.	According to the CEA there should be no exception of the freedom of investment principle, even for pension schemes providing multi-funds, default options or life styling as long as the prudent person principle is retained.	
49.	The CEA does not believe that it is necessary that investment provisions of the Directive should differ between defined benefit and defined contribution pensions as long as the prudent person and freedom of investment principles are taken into account. In this context it should be noted that in some Member States DC schemes will contain several investment alternatives for the contributions agreed in the scheme, including alternatives (products) where the plan members are offered guarantees and therefore do not bear the investment risk. See also Q42 and Q91.	
50.	The CEA does not agree with the suggested options from EIOPA. Whereas EIOPA starts from the current IORP Directive, the CEA suggests taking the investment principles as described in the **Articles 132 – 135 of the Solvency II Directive as a benchmark**. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.	
51.	The CEA agrees with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, **it should be made clear that subordinated loans are exempted from the prohibition of borrowing**.	

52.	As far as the CEA is concerned the objective of the review of the IORP Directive is to create an internal market for pensions and to reflect the true risk of pension funds. These have as goals the protection of members and beneficiaries. Therefore, the CEA strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries. Regarding the measures to avoid pro-cyclical behaviour, the CEA agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, the CEA agrees that there is a need for Pillar I and Pillar II dampeners in the revised Directive. However, the CEA wishes to stress that the issue of counter-cyclical adjustment to the risk free interest rate should be solved in Solvency II and then be applied in a similar fashion to IORPs. In general, there is broad consensus that short-term fluctuations in financial markets should not lead to significant volatility where this would incentivise actions that are counter-productive with the long term nature of the business. Providers of long term guarantees have limited vulnerability to short term risks and as such should not be subject to a regulatory framework that is volatile. Furthermore, amongst others, the main reasons why providers of long term guarantees in a solvency II-type framework would not “chase the premium” are: • The proposed mechanisms in Solvency II are independent of the change in assets. • Undertakings would still be penalised for investing in potentially risky assets through the Solvency Capital	

	Requirements. For providers of long term guarantees being forced to move away from long term products, to maintain a traditional long term investment horizon and to avoid pro-cyclical behaviour, the counter cyclical premium must include part of predictable features to be applied in a timely way.	
53.	The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. Therefore the CEA is **fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs**. Moreover, the provisions in articles 29 and 31 could be applied without substantial amendments as they generally make sense and apply to all types of pension schemes. Furthermore, the CEA stresses to take into account the proportionality principles.	
54.	The CEA acknowledges that there are some differences between the various Member States in data availability and disclosure formats and comparability. However, as EIOPA correctly indicates in paragraph 14.3.16, these concerns are in relation to the current situation regarding IORPs across Member States. The **aim of the revised Directive** should be to **increase harmonisation** of practice and therefore result in reporting in a common format that would be both useful and comparable across Member States. In addition, the proportionality principle should be consistent for insurers and IORPs. Only where IORPs and insurers are not comparable, a different treatment should apply.	
55.	The CEA believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs. Furthermore, although there is some overlap between the provisions of Art. 13 and 14 of the IORP Directive and the **remaining provisions of Article 34** of the Solvency II Directive, all provisions of the latter Article **should apply to IORPs directly** for consistency reasons. This applies in particular to the proportionality of supervisory powers and supervision of outsourced activities as stated in Art. 34(6) and 34(7) respectively.	

56.	The CEA strongly disagrees on using article 36 as a starting point. It is unclear, why the Commission is taking Art. 36 of Regulation No 1060/2009 on credit rating agencies as a starting point for the provisions on administrative sanctions. To ensure a level playing field, equivalent provisions should be sought in the Solvency II Framework Directive in articles 155(3) – 155(6).	
57.	The CEA believes that the publication of a penalty or measure imposed should be restricted. Only in extraordinary circumstances – to be decided at level 2, a sanction should be made public. However, the scheme members should be informed about penalties, if appropriate. Furthermore, future beneficiaries should be provided with the necessary information, if appropriate, so they can make an informed decision whether or not to transfer their past pensions savings.	
58.	Yes, the CEA agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive. In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation. Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.	
59.	The CEA fully agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, the CEA believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about. Finally, the CEA can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.	
60.	According to Art. 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: “risk-profile add-ons” (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency	

	Capital Requirement) and "governance add-ons" (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies that solvency II like (risk based) quantitative requirements are imposed to IORPs.	
61.	The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance). Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.	
62.	The CEA is of the opinion that the IORP should always be responsible for their outsourced activities. The CEA also shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision and administrative burden, especially where there are two regulators responsible for pension regulation and financial regulation. The advice should therefore be amended to make clear that where the entity performing the outsourcing function is itself regulated, the supervisor of the IORP should not set overlapped provisions and, in case of request of information, should collaborate with the supervisor of the outsourcer in order to obtain the same data already sent from the outsourcer entity to its supervisor. The primary supervisory authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to facilitate access to data etc. In any case, the CEA highlights that even if different supervisors follow have different objectives, duplication of work for the insurers should be avoided.	
63.	The CEA strongly supports EIOPA's view that the governance requirements for IORPs should be similar to those of	

	insurance and reinsurance undertakings according to the "same risks, same rules" principle whilst taking into account the specific characteristics of the pension products or schemes. Indeed, as correctly indicated by EIOPA, the governance system of an IORP should be aligned with the aims of the insurance industry which: (i) ensure that management is sound and prudent, (ii) secure a high standard of Members' and Beneficiaries' protection and (iii) assist the management board if appropriate. Additionally, pillars 2 and 3 of the Solvency II Framework Directive offer useful principles that are also applicable to IORPs, particularly in areas around governance, risk management supervisory reporting and public disclosure and as such, **certain pillar 2 and 3 provisions should be directly applied to IORPs, such as Art. 41** of the Solvency II Framework Directive on the general governance requirement. As a general approach, pillar 2 and 3 principles should be used at least as a basis; and where appropriate for those areas that seem less appropriate for IORPs adjustments could be made. Regarding proportionality, the CEA does not agree with the exclusions from the revised IORP Directive by means of membership size - as is currently the case in Art. 5 and as indicated in paragraph 18.3.9 of the draft response to the Call for Advice. Other criteria for exclusion from the scope of the IORP Directive should be considered in order to ensure that exclusions are based on risk. For example, this could be done by the use of a benchmark on technical provisions and premium income – similarly to article 4 of the Solvency II Framework Directive - rather than by the amount of members and beneficiaries, provided that these are calculated in a transparent and harmonised basis. In any case, this benchmark should be balanced in a fair and transparent way against the need to ensure security for members and beneficiaries based on a quantitative impact study The CEA agrees on the other principles of proportionality.	
64.	The CEA agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that insurance companies should have similar requirements when	

	they have a similar structure as IORPs. For instance, the CEA supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Art. 8 of the IORP Directive. This principle should be retained in the revised IORP Directive. Furthermore, consistent with solvency principles; the CEA believes that written policies should be subject to prior approval by the administrative management or supervisory body. Again, where this would be overly burdensome for IORPs with a very small risk profile, the proportionality principle should provide the necessary flexibility. In addition, the CEA agrees that the revised Directive should not prevent Member States from requiring or permitting IORPs to allow for the participation of members in their governance board. However, as EIOPA correctly indicates, this should be appropriate. In addition, allowing members in the governance board should not harm the fit and properness of the governance board of the IORP. Finally, the CEA can support that an annual review is not necessary annually if this is based on proportionality to allow the necessary flexibility.	
65.	The CEA welcomes the protection of Members and Beneficiaries in the best possible way, as described in Articles 42 and 43 of the Solvency II Framework Directive, to have fit and proper requirements by those really performing the function. These are critical requirements for persons running any kind of business and should be legislated in a way that explicitly reflects the specific responsibilities associated with taking care of the retirement interest of members and beneficiaries. Key functions can have a major impact on the activities of IORPs and as a result on Members' security. The CEA considers fit and proper requirements as necessary to ensure that an effective government system is in place. Therefore the CEA strongly suggests including the full solvency II framework Directive articles 42 and 43 in the revised IORP Directive.	

	However, requirements for professional qualifications could also be applied to those running the IORP as a group in order to ensure that members can still nominate their own representatives. Additionally, proportionality should be taken into account	
66.	Yes, the CEA fully supports these principles	
67.	The powers should be substantially the same as the powers used under the Solvency II regime, subject to the principle of proportionality. In any case, the supervisory authorities should have the power to refuse that a person is appointed to run the IORP or be in a key function or to require the replacement of individuals that do not meet these criteria as EIOPA correctly indicated in paragraph 19.3.24. However, the CEA strongly supports EIOPAs suggestion including these in the level 2 implementing measures.	
68.	The CEA believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, the CEA strongly suggest deleting the proposed amendments regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As such there is no need for a statement "all risks". Moreover, the CEA sees no reason to introduce specific rules for cases where members and beneficiaries bear the risks as this implies that the IORP should somehow be responsible for the investment choice of the employer or, as regards member-directed DC plans, the employees.	
69.	The CEA fully agrees with EIOPA that ORSA is suitable for IORPs Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All	

	pension providers should be able to manage the risks, inherent to its business. However, how this ORSA should be applied in practice will depend on the approach followed as regards quantitative requirements. Less sophisticated approaches as regards capital requirements make it even more important that the ORSA process captures all risks in adequate risk-based economic manner. In addition, the CEA suggest EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.	
70.	Firstly, since the ORSA is the undertakings own analysis, maximum flexibility should be allowed in their assessment. In addition, the CEA highlights that the main purpose of the ORSA is not to monitor the compliance with regulatory capital requirements or to quantify the solvency needs. The ORSA has to ensure a comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy. Hence, the ORSA could also be suitable or IORP's where members bear all risk. All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.	
71.	According to the CEA, introducing ORSA will only provide its usefulness if Solvency II like quantitative capital requirements – risk based - are imposed to IORPs.	

	The CEA believes that there is a necessity to perform ORSA in the case such risk based capital requirements are imposed to check: • whether the objectives of the IORP are in line under different economic scenarios, even on a long term horizon • Assess the adequacy of the security mechanisms As such, the ORSA is not only an approach for determining capital needs but has to form an integral part of the risk management process and decision taking framework of the undertaking. Therefore, the holistic balance sheet approach cannot be a substitute for the ORSA process. Off course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.	
72.	EIOPA proposes that the supervisory authority should at all times have the power to require reports from the compliance function of the IORP. This recommendation conflicts with the allocation of rights and duties in the field of corporate law. The addressee of the compliance obligations is the board of management, which involves the compliance officer having to fulfill these obligations in the interest of the company. Therefore, the compliance officer is subject to information and reporting requirements only vis-à-vis "his principal", i.e. the board of management. As such, it should be clarified that due to corporate law **Supervisory authorities are only entitled to request reports from the board of management** but not from the compliance function itself. As part of the "fit and proper" requirements, any person effectively managing the organisation or part of the key functions will be required to "go" to their superiors if policies are endangering the interests of the policyholders and the IORP does not want to adjust their policies accordingly. Finally, the CEA objects a member state option to introduce a whistle	

	blowing function.	
73.	EIOPA´s change is an improvement, but could cause confusion in relation to the exact content of "all legislation". We suggest that it is made clear that SLL is not included in the scope but that a possible way out could be to introduce and obligation for the financial supervisory authority and the relevant authority in the field of SLL to cooperate. As such the CEA suggest using the wording "all **regulatory** legislation relative to the operations of the IORP".	
74.	The CEA believes that an internal audit function should include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance of the IORP as indicated in Article 47 of the Solvency II Framework Directive. As such, the CEA can fully support EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Framework Directive and that the implementation should be proportionate.	
75.	The CEA is not supportive of any whistle blowing functions at all. However; CEA believes that if any rules on whistle-blowing are to be introduced they rightly belong within the scope of the compliance function and should not be mandatory.	
76.	In general the CEA believes that there is no reason why the material elements for Art. 48 should be removed or amended. Specific tasks in the context of IORPs could be specified when specific tasks from insurance undertakings cannot be transferred to IORPs. However the general system of governance including the actuarial function should be implemented in the same way. Only proportionality should be used to scale the requirements for IORPs.	

	In general, the CEA agrees on EIOPAs suggestions. However, the CEA does not support on changing the word 'ensuring' by assessing in 24.3.14. The CEA believes that the task of the actuary should be to ensure that the calculation of the technical provision is correct. This does not remove any decision making powers from the board/trustees. Moreover, it only makes that calculation of the technical provision is a correct representation of the reality and this should be the actuary main task. Finally, the CEA is not supportive of any whistle blowing functions at all. However; CEA believes that if any rules on whistle-blowing are to be introduced they rightly belong within the scope of the compliance function and should not be mandatory.	
77.	The CEA agrees that Solvency II is a correct starting point for the actuarial function. Moreover, the CEA can agree on the suggested changes.	
78.	The CEA fully agrees that independence is necessary for the actuarial function. The CEA believes that retaining "ensuring" in 24.3.14 is a minimum to obtain independence rather than assessing the calculation of the technical provisions. The CEA believes that the task of the actuary should be to ensure that the calculation of the technical provision is correct. This does not remove any decision making powers from the board/trustees. Moreover, it only makes that calculation of the technical provision is a correct representation of the reality and this should be the actuary main task. Furthermore, the CEA considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.	

79.	The CEA can agree on the analysis of the options and prefers option 2.	
80.	The CEA agrees with EIOPA's view that the material elements of Article 49(1 &2) of Solvency II are generally applicable to IORPs – if applied proportionate. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA. Furthermore, the CEA is fully supportive of including more detailed requirements such as the outsourcing of key functions to the sponsoring undertaking in the level 2 implementations measures. Finally, the CEA stresses that the particularities of IORPs should be taken into account appropriately.	
81.	The CEA can agree on EIOPA's suggestion to ensure a minimum standard in how to inform/notify the Supervisory authority on outsourced functions or activities.	
82.	The CEA would not suggest introducing minimum contract elements. The IORP is the final responsible for outsourcing while the employer is the final responsible for the commitment made towards his employees. In addition, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision and administrative burden, especially where there are two regulators responsible for pension regulation and financial regulation. The advice should therefore be amended to make clear that where the entity performing the outsourcing function is itself regulated, the supervisor of the IORP should not set overlapped provisions and, in case of request of information, should collaborate with the supervisor of the outsourcer in order to obtain the same data already sent from the outsourcer entity to its supervisor. The primary supervisory	

	authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to facilitate access to data etc. In any case, the CEA highlights that even if different supervisors follow have different objectives, duplication of work for the insurers should be avoided.	
83.		
84.		
85.		
86.		
87.		
88.		
89.	In general, the CEA agrees with the analysis of the options made by EIOPA. However, it should be stressed that sufficient proportionality and flexibility for supervisors to determine specific information relevant to their supervision requirements are taken into account. In addition to the previous, the CEA would like to comment on the paragraph 28.3.9. What is stated in there could also be relevant for insurers, see General remarks	
90.	The CEA suggests using article 35 of the Solvency II Framework Directive also for IORPs. Moreover, the provisions in article 35 should apply without amendments as they generally make sense and apply to all types of pension schemes, e.g. to DB; DC and hybrid schemes. Proportionality and the specific risk profile of IORPs should be taken into account in the Level 2 implementing measures and level 3 guidance to ensure effective supervision. Specifically, content and frequency should be dealt with at a later stage. Furthermore, sufficient flexibility for supervisors to determine specific information relevant to their supervision requirements is taken into account. In this context, the CEA notes that uniform reporting formats could pose a problem when it comes to occupational pensions, given the diversity of pension arrangements (schemes, products, and institutions) throughout the EU.	

91.	The CEA is of the opinion that even though there are some articles on information requirements already in the IORP Directive, they are not sufficient for certain products. As regards the additional contractual information to be provided, this is something specific to the type of product, and as such it should be tailored to capture the relevant features of different pension products to enable members and beneficiaries to understand their product or the possible choices that they can make for example regarding investment options offered in DC schemes. As such we support the EIOPA views that additional information requirements are not necessary where the employers/IORPs carry the investment risks and members are not asked to make choices regarding the investing decisions of their pension schemes.	
92.	In this regard, pre-contractual information requirements are very important and similar principles need to apply across Member States in order to ensure a level playing field. However, the KIID for UCITS funds does not provide an appropriate starting point for information to members and beneficiaries of IORPs for the following reasons: • The occupational pension landscape in the 27 Member States is very heterogeneous. Also each Member State has various types of occupational pension schemes with each of them having particular national characteristics. Compared to this, the investment funds offered by UCITS have been harmonised at European level. Thus, a unifying key information document is possible for the latter but not for the former products. • The characteristics of pension products differ from those of UCITS. The latter comprise of collective investment schemes, whereas the former provide long-term contracts, and could offer protection against biometric risks and insurance guarantees that serve as retirement benefits. • As rightly pointed out by the Commission, members and beneficiaries of occupational pension schemes are	

neither retail investors nor consumers.

- Investment funds, retail structured securities and structured term deposits do not provide any risk coverage, while, in contrast, occupational pension products often do.

The CEA wants to highlight that it is difficult to provide pre-contractual information to the Members/Beneficiaries, since it is the employers who disclose the contracts and in most cases also should be the one responsible for disclosing information about the scheme to the members and beneficiaries. The employees do not always need to compare different pension schemes or products and a summary or overview is not directly needed in these situations. In general there is a need for adequate communication about the risk for the scheme members and beneficiaries of the products for both DB and DC schemes. This information should be simple and understandable and take the differences of the products offered into account making sure that the risk is explained appropriately. The CEA agrees with EIOPA that in the case of DB schemes, the contents of information requirements under the current Directive are appropriate and that the KIID for UCITS funds does not provide an appropriate starting point for information to members and beneficiaries where they do not bear the investment risk.

However, where relevant, at least the following additional information should be provided to the members supplementary to articles 9c, 9f by the conclusion of the contract:

- Information on the provider of the benefit

- Information on who bears the risks: it is of utmost importance that members and beneficiaries are well-informed on how much of the risks are borne by the IORP, the sponsoring undertaking and how much of the risk is shifted to the member.

- Information on whether the IORP is allowed to reduce benefits or claim additional payments from the employer. Also give a probability based on assumptions on the likelihood of reducing benefits.

- In case the sponsoring undertaking bears some of the risks: Information on how pension benefits are protected in case of the insolvency of the sponsoring undertaking.

- In case the IORP bears some of the risks: information on how pension benefits are protected in case of the insolvency of the IORP.

- Information regarding the governing body of the plan

- Information on the risk coverage provided and the options Members/beneficiaries have

- Information about the consequences of leaving the plan early - when needed - or consequences of early retirement

But the situation could be different as regards DC schemes where the members (that is, the employees) are asked to choose between different investment options. All in all, there is a need for flexibility as regards whether the IORP or the employer should be responsible for the provision of information to members and beneficiaries. We believe it is important to have information on certain key issues, similar to the CEA's Key Information Checklist (KIC), to help with understanding for those individuals participating in the scheme. But again, as has already been pointed out above and in our responses to Q42 and 49, some Member States have DC schemes where the members of the scheme can choose between different investment alternatives. These alternatives will consist of products with different design features as regards for example the existence of guarantees. In these cases it is

	important to make a distinction between the scheme itself and the product alternatives offered. There needs to be a certain amount of flexibility regarding the format of the complete information, or it would become very extensive and difficult for members and beneficiaries to digest. Therefore it should in these cases be possible to include references to the different product alternatives. **In any case, the CEA is fully supportive of increased transparency to the Members and Beneficiaries under the condition that this would not lead to a setback of Member States requirements.** Furthermore, maximum harmonisation should be avoided as this might cause an administrative burden.	
93.	The CEA strongly suggests at least the inclusion of a narrative explanation in plain simple language of elements reducing the risk, eg risk mitigation aspects such as maturity guarantees and or the existence of pension protection schemes. But again, as has already been pointed out above and in our responses to Q42 and 49, some Member States have DC schemes where the members of the scheme can choose between different investment alternatives. These alternatives will consist of products with different design features as regards for example the existence of guarantees. In these cases it is important to make a distinction between the scheme itself and the product alternatives offered. It would be unduly burdensome to include this product information in a KIID about the scheme. Instead there needs to be a certain amount of flexibility regarding the format of the complete information, or the KIID would become very extensive and difficult for members and beneficiaries to digest. Therefore it should in these cases be possible to include references in the KIID to the different product alternatives. In any case, the CEA considers the synthetic risk indicator used by UCITS-Funds as inappropriate for the following	

	reasons: • Too many classes • Unstable classification • Wrong risk measure (Volatility -> return above average is considered as a risk) • No consumer perspective	
94.	This information should be consistent between the different providers and easily understandable by the scheme members. Furthermore depending on the pension scheme more information should be provided for example DC schemes with investment options, as described in our response to Q93. Further inspiration might be sought when the IMD II comes out as it might possibly involve information requirements on costs for life insurance companies providing occupational pensions. Thus similar information on the costs actually levied will also be relevant for Members of a DC scheme that will be regulated by the revised IORP Directive.	
95.	Public disclosure requirements are important to enhance market discipline, if appropriate, and complement requirements under Pillars I and II. In the Solvency II framework the rules on public disclosure are addressed in Articles 51-56. These provisions should apply to IORPs without amendments, although the disclosure of	

	confidential information about the sponsoring undertaking should be avoided. In addition a high level of transparency for employers is needed to be able to find the product that fits his and the needs of his employees best if this is relevant. In particular should the employer information contain the employers' responsibilities in case of underfunding (e.g. additional funding) and the general solvency conditions of the IORPs." Finally, concrete measures on information requirements should be dealt with at the level 2 implementing measures after a proper assessment from the information required for the scheme members.	
96.	Yes, the CEA can agree on the preliminary impact assessment of EIOPA. However, there is still a need for a full impact assessment including quantitative aspects. As such the CEA welcomes the commitment of EIOPA to undertake a QIS in 2012.	