

<b>Comments Template on EIOPA-CP-11/006</b> <b>Response to Call for Advice on the review of Directive 2003/41/EC: second consultation</b>		<b>Deadline</b> <b>02.01.2012</b> <b>18:00 CET</b>
Company name:	The Association of Pension Foundations (Finland)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.  <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word <b>Public</b> in the column to the left and by inserting the word <b>Confidential</b>.</i>	Public
<p>The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006).</p> <p><b>Please follow the instructions for filling in the template:</b></p> <ul style="list-style-type: none"> <li>⇒ <u>Do not change the numbering</u> in column "Question".</li> <li>⇒ 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>.</li> <li>⇒ 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.</li> <li>⇒ 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"> <li>○ 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.</li> <li>○ If your comment refers to parts of a question, please indicate this in the comment itself.</li> </ul> </li> </ul> <p><b>Please send the completed template to <a href="mailto:CP-006@eiopa.europa.eu">CP-006@eiopa.europa.eu</a>, in MSWord Format, (our IT tool does not allow processing of any other formats).</b></p>		
<b>Question</b>	<b>Comment</b>	
General comment	Occupational pension scheme differs in many terms from insurance undertaking. It doesn't offer pension scheme benefits to public at large but only to its employees. Occupational pension scheme is not business activity nor it is organized to make profit for shareholders.	

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	<p>There should keep in mind not to demotivate the contemporary sponsors to shut down plans or cut benefits nor give disincentives to future sponsors to rather take company book reserves or other vehicles less regulated which evidently would not give more secured and larger benefits.</p> <p>The review of IORP should not cover the pillar I issues of solvency II as this would considerably raise the costs of pension provision, overly complex and burdensome administration, lead to overfunding and very volatile assets and liabilities and therefore de-risking of investment portfolios. It would hurt whole European economy by increasing labor costs in difficult financial situation and therefore affect the competitiveness of European Economy.</p> <p>Pure DC-plans are arranged in co-operation with personnel and sponsor. Personnel have representation in it's board. It should be made a careful impact assessment before increasing information requirements that similar arrangements in insurance companies would not be left out with less requirements and less secured position to insured members as in member countries may already have stipulated extra information requirements for IORP's. Such legislation has been made in Finland.</p> <p>Taking in consideration the principle of proportionality, the article 4 of exclusion of regulation due to size should be clearly stated in IORP. At the moment Finland has taken no exceptions due to size. Then it would be reasonable to leave out pension funds with less than 100 members and pension fund which meet the requirements laid down in article 4 of SII.</p> <p>The revision of IORP Directive should be linked to EC White Paper and macro-economic , and growth-related initiatives.</p>	
1.	<p>Clarification on 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> pillars would enhance dividing lines of application but it is very difficult political question to be made which features along or with other minor features are crucial to determine whether pension scheme belong to 2<sup>nd</sup> pillar and fall under directive 2003/41/EC.</p>	

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	We are in favour of not to leaving the scope of directive as it is.	
2.		
3.	We prefer the option 1. not to change current IORP directive.	
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11.		
12.	<p>We don't think that holistic balance sheet would be suitable to be used for supervision purposes. We favour using the current IORP Directive which allows choice and diversity between member states. Holistic balance sheet is unnecessary complex model for small, sponsor guaranteed Pension fund, which do not operate offering pensions at large public and IORP's are not organized to make profit.</p> <p>Holistic Balance sheet model would lead considerably higher labor costs, probably lower pension benefits and de-risking of investments. Holistic Balance model would favor big insurance companies as they have large resources to carry out needed calculations and decrease amount of Pension Funds as sponsors would feel required administration too burdensome.</p> <p>We favour keeping distinction with sponsor backed pension schemes and IORP's without sponsor guarantees.</p>	
13.	Assets should be valued on market-consistent basis.	
14.	Transfer value is not good starting point. It emphasizes the feature that pension fund is only mid-term arrangement and finally pensions would be arranged in insurance company. Taking into characteristics of IORP, it doesn't fit to pension funds.	

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15.	Pension funds have no credit standings, so it should not be taken into account when valuing liabilities.	
16.	Best possible solution would be if it would be up to sponsor of pension scheme to decide whether or not valuation standards of IAS-standards is being used. Only some of pension funds are obliged to compose IAS-calculations. Some sponsors would like to decrease administrative work of doing calculation on two different ways. In that sense we are in favour of option 1. not to change IORP Directive.	
17.	Article 76 (1) resembles with IORP article 15 (1). Therefore there is no obstacles. EIOPAS suggestion of Article 76 (4) is also applicable. <b>Starting point that valuation of pension fund liabilities would not be based on market assumptions is very important. Market consistent valuation makes rapid changes in liabilities and therefore it would be very undesirable and very harmful for pension funds.</b> Market consistent valuation would lead dismantling process of pension funds and growing expenses. Proposed wording without any link in market consistence is acceptable.	
18.	We favour calculating risk margin in technical provisions according to the IORP directive as also EIOPA suggested.	
19.	Discretionary benefits should not be included in technical provisions.	
20.		
21.	Technical interest rate in IORP should be maintained. Yet it should be more clearly stated that an IORP has possibility to use higher interest rate because of actual investment returns. Current practise allows different member countries to use different interest rates.	
22.	Article 78 is not appropriate for pension funds. According to national law, Pension funds do not calculate future inflation in pension liabilities. Such claim would raise pension liabilities considerably and might be in conflict with guaranteed accruals.	
23.	Discretionary benefits should not be included in best estimate technical provisions. If so, pension funds would remove all discretionary benefits by changing their rules, so eventually pensions would be lower. Only unconditional benefits should be included.	
24.	There is very little gain for pension funds. Proportionality should be taken in consideration.	
25.	No changes is needed. Proper segmentation is already in use.	
26.	We are in favour of 1. option – not to include article 81 to IORP.	

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27.		
28.	Proportionality should be taken in consideration.	
29.		
30.		
31.	IORPs differ from insurance company in size, by their characteristics and resources. It is not possible sufficiently to take consideration principle of proportionality. Different calculations might need considerable amount of workforce which would fully load pressure to pension funds with mostly outsourced services. Therefore calculation principles should be as simple as possible. We oppose implementing article 86.	
32.		
33.	<p>Sponsor support should be valued as an asset and also act as a risk mitigation mechanism reducing capital requirements. We do not see it appropriate that supervisory approval would be required for approval of ancillary own funds in case that sponsor bears the risk. In Finland supervisors see it fit in statutory 1. pillar pensions that value of sponsor bearing the risk only 4 % of sponsors annual payroll. The amount accepted is minimal and would give in effect different approaches in different countries which would not serve purposes of harmonizing or balanced treatment.</p> <p>Current IORP Directive allows simpler way to take in consideration sponsor support. We are in faour to optimise current IORP directive and not to apply solvency I pillar requirements.</p>	
34.	<p>Tiering of assets is too complicated and superfluous for IORPs. We oppose application of articles 87-99.</p> <p>We see it also problematic to leave valuation of sponsor quarantee to supervisors of different member countirie as it would to different value in different countries. Sponsor quarantee should not be left to be dependent of prior supervisory approval. On the contrary there should be universal application of sponsor support which could evidently be taken out or restricted by Pension fund's own board or supervisors by careful prudence. Prior approval would be burdensokme for both IORP's and supervisors.</p> <p>As an example Finnish supervisors see it fit in for statutory 1. pillar pensions which do not fall under IORP-directive that value of sponsor support is only 4 % of annual payroll. Magnitude of that kind of</p>	

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	value is very limited.	
35.	Subordinated loans should be allowed.	
36.	There should not be uniformed level of security for IORPs.	
37.	We oppose harmonized confidence level because as we don't see that pillar I of Solvency II is unfit to IORPs.	
38.	We oppose calculating SCR mechanism for IORPs as it involves significant costs and administrative burden. On the basis of Solvency II, there is not suitable model to be applied.	
39.	We don't see SCR calculation technique suitable for pension funds. It is too complicated, massive and expensive and it doesn't take in consideration the characteristics of IORPs.	
40.	We don't see MCR calculation technique suitable for pension funds. It is too complicated, massive and expensive and it doesn't take in consideration the characteristics of IORPs.	
41.	We don't support applicance articles 87-99, but pension protection scheme should be regarded as assets.	
42.	We don't agree with the suggestion that pure DC schemes should be required to have capital requirement for operational risks. It is not relevant. It is not clear who should pay those assets and to whom those assets should belong in case of dismantling. Where would possible yield be steered. It would encourage to dismantle pension fund and transfere assets to pension insurance company. Otherwise it would then be reasonable that same kind of exclusion would be used as it is used in 4 article of solvency II directive. This would take consideration proportionality.	
43.	Article 136 is suitable for IORPs.	
44.	We support option 1. for it's flexibility. Current recovery periods for IORPs are longer and occupational pensios are linked to member countries Social and Labour laws, so we see it appropriate to leave this issue to Member countries consideration. For insurance companies a shorter recovery period is perceivable because in shortage of assets and without sponsor support benefits may be endangered.	
45.	Management expenses and estimates of income and expenditure in respect of direct business have no relevance in IORP.	
46.		
47.	Prudent person rule should be sufficient basis for investment rules. Investements are made to serve	

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	the best interests of participants and beneficiaries.	
48.	Limitations in Finland are outdated and rational investing is made difficult. For instance it's allowed to invest in USA corporation bond directly but not via investment fund. Limitations in Finland doesn't take in consideration of starting pension fund either. In starting phase it is difficult to place minor assets in different asset classes. We do not support option to impose limitations on investments if Solvency II is largely implemented. This would endanger level playing field with insurance undertakings.	<b>Confidential</b>
49.	Investment regulation should not be different for DB and DC funds. Prudent person rule should be the basic guideline for both systems.	
50.	Prudent person rule combined with ultimate responsibility of the board and obligation to invest assets in the best interests of members and beneficiaries enables firm base for investment activity.	
51.	Subordinated loans should be exempted on prohibition of borrowing.	
52.	All Finnish DB-Pension funds are closed so they don't take new members. Nowadays regulations strengthens the pro-cyclical behaviour as there is no proper means to react. Counter cyclical measures should be implemented into current IORP directive.	
53.	Investigatory and enforcement rules should always be proportional to the size of IORP and risks taken to avoid excessive administration.	
54.	IORPs differ from insurance undertakings in many relation. Differences may justify different treatment. Both members and sponsors are represented in governance body of IORP at least in Finland. IORP doesn't offer pension scheme benefits to public at large public and IORP is not organized to make profit for shareholders.	
55.	The principle of proportionality should be stressed and laid down in level I regulation.	
56.		
57.	Imposition of penalties should not be public as pension fund doesn't offer services outside its members (to large public).	
58.		
59.	We are in favour of option 3 which enables member states necessary powers.	
60.	Requirements for the capital additions for insurance undertakings are not directly applicable to IORPs.	
61.	It's very difficult question as some outsourced services can be under a different supervisory power.	

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	Multiple layers of supervisory powers should be avoided. Article 38 (2) should not be applied to IORPs.	
62.	In the case of subcontracting, it should be the IORP which is responsible for the activities of outsourced activities.	
63.	We agree with EIOPA on importance of proportionality in governance requirements.	
64.	Investment policy requirement is good example of differences between insurance company and pension fund. It should be very carefully studied that leaving investment policy as it should doesn't bring aspects of solvency II mechanism with overlapping functions for IORPs as there is no investment policy in insurance company.	
65.	It is agreeable to apply same kind of requirements for IORPs as for insurance undertakings. The nature of IORP differs fundamentally from insurance undertaking and for that reason it should be accept a certain kind of differences in government requirements. Fit and proper requirements should not technically prevent participation of members and beneficiaries in governance bodies of IORP. Requirements for small IORP should not be the same as large scale insurance undertaking. We suggest that adequate level of expertise should not be required for each Board member but rather on Board as in its entirety. There is still many IORPs with barely enough insured members or beneficiaries together to meet the minimum requirements of government body to fill positions in the Board of directors. With new requirements such IORPs are facing final closure. If governance requirements are broadened to persons who have other key functions, the specifics of IORP should be taken into account and not to require extra proof of good repute from such expertises who already must fulfil their professional competence requirements as auditor and attorney at law.	
66.		
67.	National laws already make it possible for authorities to react if fit and proper requirements are not fulfilled. According to principle of subsidiarity this should be left to the discretion of member states supervisors.	
68.	Risk management function must be implemented in a reasonable and proportionate manner and it should be up to each IORP to define a consistent and adequate solution to carry out risk management. Positive impacts of proposed principles is increased security for members and beneficiaries. Negative impact relate to increasing expenses as more or least of proposed principles are going to be	



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	carried out by outsourcing and buying services from service providers. That stresses the importance of proportionality.	
69.	<p>As EIOPA already estimates, suitability of ORSA for IORP's can be questioned with several arguments. It is not desirable to turn small IORP's into large pension insurance nor it is desirable to apply rules made for large-scale insurance purposes to be applied to IORP's with simpler and smaller function and guaranteed by sponsor only to its own personnel without business activity.</p> <p>New rules which generate either little value or possibly no added value at all, inevitably contribute the willingness of sponsors to carry on current pension provision but also to their willingness to start a new one. We fear that principle of proportionality is not capable of taking into account in adequate proportion. Therefore we prefer the option 1.</p>	
70.	As we are in favour of option 1, we see that an accumulation of legislation and requirements is building up too burdensome.	
71.	see above.	
72.		
73.	Compliance function should be left to the discretion of IORP.	
74.		
75.		
76.	Actuarial function should not be obligated to inform the supervisory authority.	
77.	We see that current IORP Directive should be the starting point.	
78.	The independence of actuarial function is of most importance.	
79.		
80.	The starting point of explanatory text doesn't take into consideration that outsourcing is done to operate more efficiently and cost-effective. As EIOPA presents, most of member countries allow most of activities to be outsourced to service providers. Most of IORP's function on the contrary to pension insurance as general rule for pension insurance is not outsourcing of its activities. Therefore it is questionable whether or not paragraph fits to insurance as useful starting point to IORP with adverse starting point.	

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	Wording of directive should not limit outsourcing of activities as is has been currently acceptable in member countries.	
81.		
82.		
83.	IORPs are not UCITs or AIFM. The principle of subsidiarity must be maintained.	
84.		
85.		
86.		
87.		
88.		
89.	<p>We mostly agree with the analysis, but not quite with the claim of positive impact of option 2 by providing comparable information. Information with totally different pension providers will never be comparable. As earlier mentioned IORP differ from pension insurance by representing less systemic risk, sponsor guarantee, non-profitable operation and not offering pension benefits to large public. As all DB-IORPs in Finland are closed generally already by early 1990's, range of members of IORP's are small compared to pension insurance companies.</p> <p>Level II and II implementing measures would not be moderate for IORP's because of extra costs and extra burden. Extra information requirements would be seen in tendency of shutting down pension plans and this wouldn't serve the best interests of insured members, sponsors and already weak competition.</p> <p>We strongly favour option 1. laid down in policy option. Leaving IORP directive as it is. As it already provides all the necessary information. Material elements of article 35 should not be altered or removed to IORP-directive.</p>	
90.	For the reasons above, we would not see it usefull nor moderate to convergence provision of information.	

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91.	Additional information is not needed. Information regulation in pension funds and pension insurance companies are quite alike. If only requirements for pension funds would be increased then pension insurance companies would avail in competition for not having to do that.	
92.	<p>We should keep in mind that scheme member is not consumer. Consumer makes always individual choices and with correct information he can make correct choices on individual basis between different service providers. As pension scheme is collective agreement and collective by nature. Different member countries may have regulated issues of choices to be made inside pension scheme taking in consideration of its national laws. In explanatory text EIOPA highlights that scheme members should be provided only useful information. In Finland scheme members may choose to join or not to join collective DC-scheme and scheme members may terminate their membership in pension scheme. And if a sponsor makes all contributions, it doesn't seem rational to decline of membership. Different member countries have already regulated information needs of DC-pension as this is situation in Finland. Any new requirements of information would exceed the amount of information provided for the same kind of pensions in insurance companies. If new requirements is seen important, same kind of requirements should be applied to insurance companies also. Occupational pension are not investment products.</p> <p>As what comes in DB-pensions we highly oppose KIID-kind of information as occupational pension are linked to national pensions and the more scheme member works, the less amount of occupational pension is as whole pension is seen as pension promise. So given information of the amount of occupational pension is irrelevant and impossible. Scheme members in Finland don't make choices at individual level.</p> <p>Would costs and expenses would be relevant information to scheme member if plan sponsor pays administration costs?</p> <p>There are no potential members in occupational pensions.</p> <p>SIPP has overlapping functions with suggested KIID-document (investment objectives and investment policy).</p>	

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	<p>Pension insurance companies doesn't provide information on public of expenses and investment returns of II pillar pensions. On the other hand sponsor of the pension scheme already knows figures of DC-pension scheme without KIID-document. We don't see any use of KIID-kind of document for sponsor of the plan.</p> <p>We see that information requirements could best be taken care with subsidiarity principle and by national laws. In that way we support the option 1: No required common format at EU level for the pre-enrolment document and annual statement.</p>	
93.		
94.	<p>As highlighted, information should be linked to the choices that members may make. Taking in consideration of different schemes in different member countries we do not see it possible to have too strict harmonisation. Accurate information should take into account the specificities of national legislation and practise as EIOPA has stated.</p> <p>In preliminary impact assessment EIOPA explains that functioning of the pension market would benefit form enhanced comparability and competition. This argument fails to notice that competition and comparability in occupational pensions are limited even if information on occupational pensions in pension funds would be increased. Information is provided to schme members who cannot at individual level contribute where pension scheme is arranged or how investments are placed. On the other hand sponsor follows very carefully expenses of scheme, receives all crucial information via sponsor nominated board members and may allways decide to transfere assets and liabilities to pension insurance company. On the other hand sponsor doesn't receive crucial information on pension provision expenses or investment returns in pension insurance company. Choices are made more or less information provided by pension insurance company as an advertisement which may not be accurate information.</p> <p>EIOPA fails to notice that in some countries competition between pension provision in pillar II may be limited or one-sided. In Finland sponsor may allways transfere assets and liabilities to pension</p>	

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	insurance compay, but at least DB-pensions assets and liabilities may never be trasfered to pension fund even if would be seen as desirable by sponsor.	
95.	As suggested articles 51-56 of solvency II should not be applied to occupational pensions.	
96.		