

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:	MAN SE	
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 Public in the column to the left and by inserting the word Confidential.</i>	Public
<p>The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006).</p> <p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Question". ⇒ 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>. ⇒ 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. <ul style="list-style-type: none"> ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. <p>Please send the completed template to CP-006@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p>		
Question	Comment	
General comment		
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5.	<p>We do not think that EIOPA has understood how serious the effect is of amending the IORP Directive to establish that cross border activity exists when an employer is located in a country different from its employees, even when the pension scheme is registered in the same country as the employees. The MAN UK Group Pension Scheme is registered in the UK and covers employees of our UK companies but MAN SE in Germany is the Principal Employer under the Scheme. It does not contribute directly but it has provided a form of guarantee that could lead to contributions in certain circumstances. We have gone to some lengths to design the occupational schemes we offer to our employees so that they could not inadvertently be considered cross border under current legislation. If the legislation is changed in the way that is proposed then, to maintain existing provision, we would have to incur further expense to reorganise our arrangements to ensure they continue to meet with our objectives. The likelihood is that we could not justify this expense, particularly in the current financial climate, and so we would replace the provision we have with different schemes that impose a lighter regulatory burden on us, as provider, and lesser pensions security for our employees. At the same time, we are likely to reduce the level of provision that we make, to restore the balance of cost between our shareholders and our employees that was intended when the schemes were first established.</p> <p>We have been told that EIOPA's role in relation to the Call for Advice is just to help the commission achieve its objectives, rather than advise on the appropriateness of the objectives themselves. However, we understand that the Commission views EIOPA as its source of expert advice on occupational pension provision. If EIOPA does not point out to the Commission the financial impact on employers and shareholders of its advice and the likely impact on the level of employee retirement provision then how is the Commission able to form an educated view on how to legislate for voluntary employer sponsored retirement provision?</p> <p>We consider strongly that EIOPA should revise its advice in relation to the definition of cross border schemes so that the status quo in relation to [the XYZ Ltd Pension Scheme], which we understand applies in nearly all member states where cross border schemes have been established, is maintained.</p>	
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12.	<p>We strongly recommend to maintain the clear distinction between Article 17(1) IORPs, 17(3) IORPs and sponsor-backed IORPs (policy option 1).</p> <p>As a consequence we reject the undifferentiated usage of the holistic balance sheet as a catch-all approach because it doesn't fit the diversity of European IORPs: In our opinion, the holistic balance sheet approach doesn't meet the characteristics of sponsor-backed IORPs and to some extent Article 17 (3) IORPs.</p> <p>IORPs should only be bound to hold additional assets above the technical provisions to the extent they are not sponsor-backed.</p>	
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21.	<p>We strongly oppose both options presented by EIOPA. The use of a market-consistent risk-free interest rate leads to results which are too volatile for the management of an institution that covers long-term obligations spanning generations. It would also not make allowance for the specific investment policy of the IORP. The possibility to use only an interest rate based on expected returns on assets to calculate technical provisions must remain.</p>	
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33.	For sponsor-backed IORPs with additional PPS, Component 7 should not be interpreted as a calculated (by evaluation) asset position, instead it has to be interpreted as a flexible compensation position. Regardless of the definition of capital requirements, Component 7 has to be regarded as an asset to fulfil any solvency capital requirement the IORP might face. In any event Component 7 has to be qualified as an equivalent to financial assets.	
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38.	<p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p>	
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