<table>
<tr><td colspan="2">Comments Template on EIOPA-CP-11/006
Response to Call for Advice on the review of Directive 2003/41/EC: second consultation</td><td>Deadline
02.01.2012
18:00 CET</td></tr>
<tr><td>Company name:</td><td colspan="2">Montana Capital Partners AG
Haldenstrasse 1
CH – 6342 Baar</td></tr>
<tr><td>Disclosure of comments:</td><td>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.</td><td>Public</td></tr>
<tr><td></td><td colspan="2">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).</td></tr>
<tr><td>Question</td><td colspan="2">Comment</td></tr>
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<tr><td>General comment</td><td>Thank you very much for receiving the opportunity to comment on the advice of EIOPA.
The proposed advice regarding the Directive 2003/41/EC for pension funds has many similarities to the Solvency II rules. We believe that it is of utmost importance to reflect the substantial differences between insurance companies and pension funds in the regulatory framework and hence would pledge for a differentiated framework that reflects the long-term nature of pension fund investing.
Pension funds are typically managed by taking a long-term view, which goes hand in hand with the long-term nature of their liabilities and the payments to their pensioners. Therefore, pension funds should receive the possibility to pursue an investment strategy that matches their long-term horizon and that is also reflected in the risk-weightings of their assets.
Due to their nature long-term assets usually generate higher returns than short-term assets as they generate an illiquidity premium, which compensates the holder of the asset for the longer holding period. (refer to the meta-study of the asset class private equity: Diller / Wulff (2011).) Pension funds with liabilities that usually have durations of decades are predestined to generate this excess return for their pensioners.
Taking these aspects into account, an application of the Solvency II rules for the pension fund world can be seen as highly problematic as it would destroy value for the European pensioners by giving the wrong incentives to pension funds to invest their assets; which would be not in line with their liability horizon.
In this context, it is very problematic if an AAA-rated long-term bond has a higher risk weighting than a BBB-rated bond with a shorter life time. The same holds true for longer-term alternative asset classes such as real estate, infrastructure or private equity, which are penalized in that respect compared to public equities.
Hence, we propose to have a more differentiated approach in terms of time horizons, which is based on the different characteristics of the asset classes and which allows for long-term duration matching and an approach which incorporates timing into the liquidity management.</td><td></td></tr>
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37.	**37. Do the stakeholders agree that the confidence level should apply to a one-year time horizon?** Pension funds are typically managed by taking a long-term view, which goes hand in hand with the long-term nature of their liabilities and the payments to their pensioners. Therefore, pension funds should receive the possibility to pursue an investment strategy that matches their long-term horizon and that is also reflected in the risk-weightings of their assets. Hence, risk measures that focus on a one-year time horizon do not reflect the risk profile of pension funds and are consequently counterproductive to the ultimate goals of pension funds. A flexible risk measurement approach could be a possible solution, which reflects the characteristics of different asset classes and their durations and which allows for a duration matching approach. However to clarify, we are not supporting the opinion that the confidence level should apply to a one-year time horizon to measure risk for all asset classes. In this context, it is very problematic if an AAA-rated long-term bond has a higher risk weighting than a BBB-rated bond with a shorter life time. The same holds true for longer-term alternative asset classes such as real estate, infrastructure or private equity, which are penalized in that respect compared to public equities. The experience with risk management in illiquid asset classes shows that it is necessary to use new risk measures which are not based on the traditional equity-markets. These risk measures are based on a longer time horizon which reflects the characteristics of the alternative assets. If a pension fund can show evidence that it can hold the assets over the entire lifetime, the change of the quarterly net asset value during the lifetime gives only an indication, but does not reflect the risk of a true market risk change. Hence, new long-term risk measures have to be taken into account. Hence, we propose to have a more differentiated approach in terms of time horizons, which is based on the different characteristics of the asset classes and which allows for long-term duration matching and an approach which incorporates timing into the liquidity management.	

38.	**38. What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?** Pension funds are typically managed by taking a long-term view, which goes hand in hand with the long-term nature of their liabilities and the payments to their pensioners. Therefore, pension funds should receive the possibility to pursue an investment strategy that matches their long-term horizon and that is also reflected in the risk-weightings of their assets. Due to their long-term nature, calculating the SCR based on Solvency II would penalize asset classes, as they have the potential to generate outperformance for pensioners. Therefore, we believe that the application of Solvency II rules sets the wrong incentives for pension funds, significantly lowers their return potential and potentially even destroys value for pensioners. Long-term assets usually generate higher returns than short-term assets as they generate an illiquidity premium, which compensates the holder of the asset for the longer holding period. (refer to the meta-study of the asset class private equity: Diller / Wulff (2011).) Pension funds with liabilities that usually have durations of decades are predestined to generate this excess return for their pensioners. A sophisticated risk management systems should be implemented to incorporate the specific risks of investing in these asset classes. A well-structured investment program including alternative assets combined with sophisticated risk management controls can lead to superior risk-adjusted returns for pensioners. If pension funds have the possibility – and can demonstrate that they are able and willing to - to fund these investments and hold them over the entire holding period, they should not be penalized for investing in these higher returning assets as they are trying to generate higher returns for pensioners. Under Solvency II, the long-term asset class private equity has one of the highest risk weightings as it belongs to the asset class categories "other equities". Many studies out of the scientific as well as the practitioner's world have shown that a well-diversified private equity portfolio of private equity funds has an extremely low risk when holding it over the entire lifetime of ten years. (See for e.g. Kaplan / Schoar, (2005), Diller / Kaserer (2006), Diller / Herger (2008), Weidig / Mathonet (2004) and Diller / Wulff (2011).) We would be pleased to provide more technical background on the results of the different studies and how to measure risk in private equity.	

	In addition, it should be mentioned that the risk weightings for private equity under the standard approach of Solvency II do not reflect the risks of a pension fund investor appropriately as these are based on the LPX 50 index, which is a listed equity index. This index has a completely different structure than common private equity investments and hence does not reflect the limited partnerships in which pension funds typically invested in. At the outset, the composition of the LPX50 is very distinctive to the investment universe of a private equity limited partnership. Moreover, the volatility of the LPX 50 is completely dissimilar to the risk of a limited partnership as the index is traded on a daily basis while private equity investments are long-term investments held over many years. Taking these aspects into account, an application of the Solvency II rules to pension funds should be considered highly problematic as it significantly harms European pensioners and gives wrong incentives to pension funds.	
39.	A three-year basis would reflect the risk profile more appropriately compared to a one-year time horizon. A more flexible approach of taking the different asset classes into account would incorporate the risk and returns better. See statements under (37.)	
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47.	**47. Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?** Pension funds are typically managed by taking a long-term view, which goes hand in hand with the long-term nature of their liabilities and the payments to their pensioners. Therefore, pension funds should receive the possibility to pursue an investment strategy that matches their long-term horizon and that is also reflected in the risk-weightings of their assets.	

	Calculating the SCR based on Solvency II would penalize asset classes, as they have the potential to generate outperformance for pensioners. Therefore, we believe that the application of Solvency II rules sets the wrong incentives for pension funds, significantlylowers their return potential and potentially even destroys value for pensioners. Long-term assets usually generate higher returns than short-term assets as they generate an illiquidity premium, which compensates the holder of the asset for the longer holding period. (refer to the meta-study of the asset class private equity: Diller / Wulff (2011).) Pension funds with liabilities that usually have durations of decades are predestined to generate this excess return for their pensioners. If pension funds have the possibility – and can demonstrate that they are able and willing to - to fund these investments and hold them over the entire holding period, they should not be penalized for investing in these higher returning assets as they are trying to generate higher returns for pensioners. Even more they should be incentivized to keep the higher returning assets to the benefit of their pensioners. Under Solvency II, the long-term asset class private equity has one of the highest risk weightings as it belongs to the asset class categories "other equities". Many studies out of the scientific as well as the practitioner's world have shown that a well-diversified private equity portfolio of private equity funds has an extremely low risk when holding it over the entire lifetime of ten years. (See for e.g. Kaplan / Schoar, (2005), Diller / Kaserer (2006), Diller / Herger (2008), Weidig / Mathonet (2004) and Diller / Wulff (2011).) We would be pleased to provide more technical background on the results of the different studies and how to measure risk in private equity. In addition, it should be mentioned that the risk weightings for private equity under the standard approach of Solvency II do not reflect the risks of a pension fund investor appropriately as these are based on the LPX 50 index, which is a listed equity index. This index has a completely different structure than common private equity investments and hence does not reflect the limited partnerships in which pension funds typically invested in. At the outset, the composition of the LPX50 is very distinctive to the investment universe of a private equity limited partnership. Moreover, the volatility of the LPX 50 is completely dissimilar to the risk of a limited partnership as the index is traded on a daily basis while private equity investments are long-term investments held over many years. Taking these aspects into account, an application of the Solvency II rules to pension funds should be	

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