

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:	PricewaterhouseCoopers LLP	
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	This is a very important call for advice having potentially far reaching implications; we therefore welcome the opportunity to contribute to the debate. We comment below only on one fundamental point which we feel is critical to simultaneously furthering the objectives of the European Commission and also to	

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protecting the commercial interests of our clients.

The call for advice from the European Commission dated 30 March 2011 states that “The aim of the directive is to create an internal market for occupational retirement provision organised on a European scale.” However, experience since 2003 has been that very few cross border IORPs have so far been established.

In our view a significant reason for this is the requirement that falls on a cross border IORP to be fully funded at all times. This continues to be a significant impediment to the establishment of any cross border IORPs containing defined benefit liabilities.

As noted in paragraph 10.3.190 of the second consultation, EIOPA accepts that a recovery period of 15 years might be acceptable for non cross border IORPs. If the European Commission wishes to promote the development of cross border IORPs we suggest that the same reasoning be applied to them as for non-cross border IORPs.

This is important given the suggestion that the definition of “cross border” be harmonised in a way that is likely to classify some local pension schemes purely for staff in that country as cross border IORPs. It is difficult to understand the logic for not extending the same treatment of recovery periods to the two categories.

In fact, although focus has not yet been strongly on this point we feel that is solely because of a desire to register opposition to the principles in total. At the next stage of considering Level 2 details it should be expected that this issue will come into central view.

Making the change now, so that the change of status of a single country IORP to cross border IORP will not introduce a severe penalty, would be seen as a positive move by the European Commission and would help to remove a very significant barrier to the development of DB cross border IORPs, thus furthering the European Commission’s objective.

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	There are many other aspects of the consultation on which we have views and we would be delighted to share these with EIOPA (either by correspondence or by meeting if required) but at this stage do not want to obscure the centrality of the above issue.	
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