

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:	Transport for London / TfL Pension Fund	
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	Transport for London (TfL) is the integrated body responsible for the UK capital's transport system. It is accountable for both the planning and delivery of transport facilities. TfL is directed by a management board whose Members are appointed by the Mayor of London who chairs the Board.	

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	The majority of TfL staff belong to TfL Pension Fund ("the Fund") which is a defined benefit arrangement. The Fund has 83,000 members and assets of over £5 billion (Euro 6 billion) putting it in the top 30 of UK pension plans.	
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6.	We agree on the need for there to be a clear legal separation between the IORP and sponsor. In the UK legislation and the Pensions Regulator already provides for this. Further protection is already provided through Article 8 of the current IORP.	
7.	As stated in our Answer 6, we agree on the need for there to be a clear legal separation between the IORP and sponsor. In the UK legislation and the Pensions Regulator already provides for this. Further protection is already provided through Article 8 of the current IORP.	
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12.	<p>We would not support the proposal for a holistic balance sheet as with a wide diversity of pension arrangements across the EU, it would be impossible to find a single regulatory arrangement that would work satisfactorily. The current high level framework of the current IORP Directive works well in our view, as it allows individual states to develop regimes best suited to their own pension structures. In particular, in the UK we already have a very strong regime through the Pensions Regulator for protecting members' benefits together with a safety net provided by the Pension Protection Fund where sponsoring companies fail.</p> <p>If a holistic balance sheet were introduced, we would support in principle the inclusion of the sponsor covenant as an asset. However the methodology for valuing the employer covenant should feature in the framework Directive and not be left for subsequent implementation measures.</p>	

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14.	The starting principle for valuing liabilities in pension funds is that it is not necessary to have sufficient financial assets at all times to transfer liabilities, because there exists intergenerational risk-sharing. In terms of the holistic balance sheet, technical provisions may be covered on the asset-side by future contributions or liabilities may be lowered by reducing future benefits.	
15.	We would not support the approach of not taking into account the credit standing of the IORP as we consider that there should be scope for taking into account a wide range of factors in assessing how liabilities will be met. One of these factors will be the credit rating of the IORP and those with a strong rating should be able to make use of it when valuing liabilities.	
16.	We would strongly oppose any changes being made to the valuation rules so that these are consistent with the accounting rules used by the sponsoring employer. These respective rules serve fundamentally different purposes for the respective organisations.	
17.	There is no need to adopt Article 76(1) as the obligations are already covered by Article 15 (1), so a change is not needed. Article 76 (4) amended to require technical provisions to be calculated in a "reliable and objective" manner is a reasonable statement, but its practical purpose needs explaining.	
18.	The inclusion and calculation of a risk margin is appropriate for insurance companies which can suffer a "one off" extreme event. It is not appropriate for pension schemes whose liabilities are paid over the long term with fairly predictable cash flows	
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21.	The inclusion of only two options for the interest rates to be used for establishing technical provisions is too limiting and the diversity of pension arrangements would suggest a wide range being available to accommodate this diversity. As the discount rate used is critical in pension scheme funding, a restriction to using one of these two options would have an extremely negative consequence for our scheme.	
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25.	We do not believe it would be useful to introduce Article 80 of Solvency II as the text in Article 15 of	

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	the current IORP Directive is sufficient.	
26.	As the two options concern provisions which are specific to insurers, we do not believe they should be included in the IORP Directive.	
27.	The current Article 15 for certification by an actuary in line with national standards already covers this point satisfactorily and therefore importing Article 82 of Solvency II is unnecessary.	
28.	The current Article 15 already covers the issue and the introduction of Article 83 of Solvency II is unnecessary.	
29.	The current Article 14 already covers the issue and the introduction of Article 84 of Solvency II is unnecessary.	
30.	The current Article 14 already covers the issue and the introduction of Article 85 of Solvency II is unnecessary.	
31.	We believe that all the key issues, such as calculation of technical provisions covered here, should be dealt with at the level 1 stage, not at level 2. This is in order that there is sufficient accountability in the policy making process and avoids uncertainty for IORPs.	
32.	We do not agree that individual Member states should be prevented from setting additional rules in relation to the calculation of technical provisions. The proper supervision of the diversity of pension arrangements is supported by giving national supervisors sufficient powers not by stopping them exercising these powers.	
33.	We are in agreement that sponsor support should be seen as an asset and its risk mitigating effects taken into account.	
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38.	As the assumption on which the technical provisions are calculated are already designed to cover the risks which IORPs and their sponsoring employers face, there is no need to introduce the Solvency Capital Requirement.	
39.	A three-yearly assessment is appropriate, but for the reasons given in response to 38, we believe it is unnecessary to introduce a Solvency Capital Requirement.	

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43.	The existing IORP Directive gives adequate coverage to IORPs monitoring their financial position and notifying significant deteriorations to their supervisory authorities. So there is no need for Articles 136 and 141 of Solvency II to be introduced.	
44.	We concur with EIOPA's view that it is appropriate for IORPs to have longer and more flexible recovery plans than insurance companies are allowed under Solvency II.	
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47.	We agree that the prudent person principle is a sufficient basis for the investment of IORPs.	
48.	We are in agreement with EIOPA's advice that there is no need for limitations on investments in addition to those in the existing IORP Directive.	
49.	Our view is that the prudent person principle should apply to both defined benefit and defined contribution schemes.	
50.	The prudent person principle is the primary support for ensuring good outcomes from investment.	
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54.	In terms of supervision there are key differences between insurance companies and pension schemes. In particular there is the involvement of lay members and trade union representatives on the Trustee Board together with the role played by the sponsoring employer.	
55.	We are concerned that introducing additional tests will involve significant additional cost and administrative burdens.	
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63.	Any new governance clause should not undermine or replace those governance arrangements that already operate at a national level	
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65.	We disagree with EIOPA's recommendation that the "fit and proper" definition of Article 42 of Solvency II should be copied across into the IORP Directive. The requirement for "professional qualifications" does not recognise the critical role played by lay trustees in UK pension schemes in protecting member benefits. These lay trustees are in any case subject to requirements under UK legislation and regulation which ensure they have sufficient "knowledge and understanding".	
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72.	In many IORPs such as ours, the representation of scheme members on the Trustee Board provides an additional check on ensuring compliance.	
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74.	The introduction of an internal audit function for IORPs, as currently applies to insurers, would significantly increase costs and without, in our view, adding any equivalent member security.	
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