

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

Name of Company:	RPTCL Railways Pension Trustee Coompany Limited	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment/response in the relevant row. If you have <u>no response</u> to a question, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments/responses which do not refer to the specific numbers below. <p>Please send the completed template, <u>in Word Format</u>, to CP-14-040@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to Consultation Paper on Further Work on Solvency of IORPs.</p>		
Reference	Comment	
General Comment	As background information to our response, Railways Pension Trustee Company Limited (RPTCL) is the Trustee of four private sector pension schemes serving employees, pensioners and employers involved in the UK railways industry. In total, these schemes have around 350,000 members, including around 85,000 active members who are accruing defined benefits. Over 150 private sector employers, including a number with non-UK parent companies based elsewhere in Europe, are involved in sponsoring RPTCL's schemes, as are also the UK's Department for Transport and the British Transport Police Authority. Total scheme assets are some £20bn.	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

As an overarching comment, we very much disagree both with the concept of the “holistic balance sheet” and also attempts to reference IORPs to insurance companies. We believe that the framework for the ongoing funding of IORPs should reflect current practice which, in our view works satisfactorily.

In particular, for reasons we set out in this consultation paper – and in previous consultation responses – we believe that the concept of placing a “value” on sponsor support at a point in time will, for a very substantial proportion of IORPs be costly, time-consuming and most likely of little value. There are so many variables affecting both the future cash flows of sponsors – but also, importantly, how these cash flows might fall to IORPs (for example, to mention but a few, inter-creditor arrangements and structural priorities, pension contributions vs sponsor investment decisions, intra-group arrangements, contingent support arrangements) – that we believe that any attempt to place a “value” on them (particularly for unquoted sponsors) will in a great many cases be contrived and potentially subject to manipulation – particularly using some of the bases set out in the consultation paper. The position of IORPs and their sponsors is dynamic, and investing time and cost in seeking to arrive at point-in-time sponsor support “valuations” is not appropriate for the IORP environment.

In the sectionalised Railways Pension Scheme (“RPS”) – with more than 150 employers supporting more than 100 stand-alone sections – our experience over a number of years is that sponsor support must be looked at “in the round” as part of an overall integrated and dynamic funding process considering sponsor support and contributions, investment strategy (including risk, return and liquidity) and benefit design. In the RPS, this must be done in the context of a shared cost scheme. These are matters requiring skilled and professional judgement and, in our view, there are significant risks of using a formulaic-type exercise “trying to make the numbers balance” for scheme funding purposes or regulatory reporting within a tool such as the holistic balance sheet. Over the lifetime of an IORP, investment income and returns will usually far outweigh contributions.

We strongly believe that it would be far more appropriate to move to a mindset of requiring

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>IORPs to “assess” sponsor support “in the round” as part of an appropriate funding strategy, rather than “value” sponsor support on a holistic balance sheet. The former approach provides a platform for a sensible, and dynamic, consideration of investment strategy, benefit design and contribution scheduling. That is what we do as part of an integrated approach to funding the various IORPs for which RPTCL is responsible.</p> <p>We also believe that the comparison with many insurance companies and IORPs is misguided. The nature of IORPs’ activities is almost always very “long tail”, dynamic and subject to evolution over many years (with key evolving variables including, for example, longevity). A skill of IORPs and sponsors is to keep funding towards a perpetually moving target in a volatile world.</p>	
Q1	<p>We do not think that the term ‘contract’ works particularly well in the context of our IORPs and do not consider it necessary or desirable to use aspects of the framework of Solvency II for insurance. IORPs and insurance companies are very different entities in many member states.</p> <p>The term contract implies that the IORP itself is one of the key parties to the agreement to provide benefits but it is commonly the case that the principal ‘agreement’ is between the sponsor and the employee, with the IORP acting as a delivery vehicle for the benefits outlined in that agreement, as set out in the IORP’s legal documentation.</p>	
Q2	<p>We do not think that the term ‘boundary’ works particularly well as the scope of benefits which may need to be covered by technical provisions will be variable by time, whereas the term ‘boundary’ implies something less flexible.</p> <p>As with our answer to question 1, we do not consider it necessary or desirable to use aspects of the framework of Solvency II for insurance. IORPs and insurance companies are very different entities in many member states.</p>	
Q3	<p>We have no alternative terms to suggest that may work across all members states. However, whatever terminology is chosen, we feel it is important that national regulators are provided with sufficient flexibility to determine the set of rules on benefits to be covered by that terminology. For example, using the example of our IORPs, we would consider it inappropriate for benefits associated with future service to be covered by the chosen terminology but we appreciate and</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	accept that there may be member states where inclusion of this type of benefit may be appropriate.	
Q4	Factors that need to be taken into account in addition to what is described in the section are: the action of stopping a promise to provide benefits often rests with more than one party (the IORP, its trustees, the IORP's sponsor, members of the IORP, trade unions and other employee representatives are typical parties involved in the process, in our experience); and decisions to stop promises are often made following consultation with all the relevant parties, taking into account factors such as affordability.	
Q5	Additional cases that need to be taken into account here are any unilateral rights of other parties (such as the sponsor) as well as those of IORPs.	
Q6	Liabilities can arise in various ways depending on the rules of the IORP and, although it would cover most scenarios, the analysis is potentially an over-simplification. Consequently, it may be overly rigid to express liability scenarios in these terms.	
Q7	<p>The nature of funding IORPs is such that making an accurate assessment of "regular contributions" will be in constant flux depending, for example, on investment market conditions and developments in longevity expectations. From a practical perspective, focus is generally given to the overall contribution rate calculated at each actuarial valuation (taking account of the market value of assets) and any shortfall addressed through a recovery plan agreed with the sponsor, taking account of reasonable sponsor affordability.</p> <p>Therefore contributions to IORPS are not always considered in the terms of "regular contributions" and sponsor support by sponsors and members (as focus is made on the aggregate rate) and there may be practical difficulties in doing so. These issues aside, the proposed distinction is acceptable, assuming there is a need for such a distinction.</p>	
Q8	The nature of funding IORPs is such that making an accurate assessment of "regular contributions" will be in constant flux depending, for example, on investment market conditions and developments in longevity expectations. From a practical perspective, focus is generally given to the overall contribution rate calculated at each actuarial valuation (taking account of the market value of assets) and any shortfall addressed through a recovery plan agreed with the sponsor, taking account of reasonable sponsor affordability.	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>Therefore contributions to IORPS are not always considered in the terms of “regular contributions” and sponsor support by sponsors and members (as focus is made on the aggregate rate) and there may be practical difficulties in doing so.</p> <p>However, if these practical difficulties could be overcome, we believe that it would be appropriate for “regular contributions” to be recognised in technical provisions with other contributions being considered separately. However, this approach may not be suitable where liabilities build up due to continued service, as increases in technical provisions should be based on changes in the benefits accrued. In addition, we believe that account needs to be made of the scenario whereby the payments made by the sponsor (whether they are regular contributions or not) serves to limit the availability of future contributions, whilst recognising that contributions received provide more certainty to an IORP than contributions promised.</p>	
Q9	<p>The scenario of payments from our IORP to the sponsor are not applicable to our IORPs. However, as with our answer to Q8, it should be recognised that any such payments may have an impact on the sponsor’s ability to provide future support to the IORP.</p>	
Q10	<p>Benefits paid out of our IORPs are not dependent on contributions received but are instead governed by the rules of the IORP which focus on service, not contributions, and set out the level of benefit to be provided. An example of where we may have an obligation to pay out benefits without receiving contributions in respect of a member is where the member dies shortly after joining the IORP. In this scenario, there may be an obligation to pay out benefits to the member’s spouse or children.</p>	
Q11	<p>We believe that an approach based on future benefit payments is more appropriate but, as covered in our answers to Q1 to Q3, we do not consider that the term ‘contract boundaries’ works particularly well in the case of our IORPs and do not consider it necessary or desirable to use terminology from the framework of Solvency II for insurance for the purpose of IORPs.</p>	
Q12	<p>We interpret this section as meaning that, from a benefit payment perspective, it is necessary to recognise all the potential benefit cashflows before considering the value of these for technical provisions purposes. However, it is important that these cashflows only relate to obligations to benefits that have already built up by the valuation date. Subject to these, we agree with this</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	approach and this is what we currently do in practice when assessing technical provisions.	
Q13	We agree with the overall comments here. However, the calculation of technical provisions for our IORPs can already make an allowance for any policy of providing future discretionary benefits that may be provided from surplus, to the extent they are benefits habitually granted by the IORP. Consequently, we see no benefit in trying to apply the structure of Solvency II to address the issue of this type of benefit.	
Q14	We would classify our IORPs as being under approach (b) per Page 21. Therefore, we have little to comment on the type (a) approach and are not in a position to judge whether the proposed adaption of contract boundaries would be sufficient to cover all IORPs in all member states	
Q15	In the context of the IORPs where we are the trustee, the approach proposed seems reasonable for benefits built up to the valuation date, as there are provisions within both the IORP and in national law for these obligations to be provided. However, for benefits accrued after the valuation date, the implicit agreement of the IORP and the sponsor need to be given for these to be provided but we are concerned that these may not be covered by the exclusions set out in (b)2 of 4.2.8. We think it would be better to exclude benefits earned in the future unless a member has a unilateral right for these to be provided at a known fixed future cost.	
Q16	We cannot think of any scenarios where additional scenarios need to be added.	
Q17	We would consider it appropriate for the wording to be adapted so that it better caters for the scenario of the IORP involving a three-way agreement between the sponsor, the IORP's members and the IORP itself.	
Q18	Yes, in our experience, powers relating relating to provisions of additional obligations can be very different to those involved with the reduction or termination of those obligations. Therefore, it would be more appropriate to retain the distinction between a and b, if contract boundaries were considered necessary to apply. Given the complexity of the relationships between IORPs, sponsors and members, future obligations and cashflows should only be recognised once all conditionality in relation to future benefit accrual has been removed i.e. once the benefit has been accrued.	
Q19	In the event that it were considered appropriate to pursue such an approach, we would suggest something to cover the distinction between the reduction and termination of future obligations, as the balance of powers between the IORP and its sponsor can be different under these	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	scenarios.	
Q20	No, this is not fully clear and it would be preferable to explicitly stipulate reference to incoming and outgoing cashflows.	
Q21	We believe there will be some IORPs where some obligations are dependent on payment of contributions and others which are established independently. In the case of our IORPs, most obligations are established independently of contributions but there are some obligations (such as benefits that are augmented at the sponsor's request) which are arguably dependent on payment of contributions.	
Q22	It is difficult to split obligations merely into those which are covered by unilateral rights of the IORP and its sponsor. Many rights of IORPs are covered by joint powers.	
Q23	The results appear to be consistent with the descriptions provided elsewhere. However, none of the examples are particularly close representations of the obligations provided by our IORP, so we have not studied the examples in great detail. Example 8 seems to be the closest except that the IORP does not have a unilateral right to terminate the contract. We consider that only past service benefits already accrued should be recognised within technical provisions.	
Q24	We consider that allowance should be made for elements of discretion where there are multiple parties involved in exercising that discretion. For example, an IORP's rules may refer to the ability of the IORP's trustees to provide for additional benefits but only with the consent or agreement of the sponsor. Where such complexity exists, no account should be taken of the discretion unless and until the discretionary element has been removed and the benefits become contractual.	
Q25	We agree with the overall view that the level of obligations provided by an IORP can be influenced by its funding position. However we see no merit in including conditional or discretionary elements within technical provisions unless and until the discretionary element is replaced by certainty and the benefits become contractual.	
Q26	We consider that it would be difficult to quantify the relation between the funding position of the IORP and elements of discretionary decision making as the balance of powers (between the IORP and the sponsor) in this area can be very different from one IORP to another. We also believe that discerning a meaningful "pattern" could be extremely difficult.	
Q27	In general, we do not feel that pure discretionary benefits should be recognised in the balance	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	sheet.	
Q28	To the extent that mixed benefits have an extremely strong likelihood of being paid, we agree with the approach suggested for mixed benefits.	
Q29	We see considerable difficulty in providing a universal approach for taking account of non-legally binding sponsor support given the huge variety of circumstances where it might be applicable. There are some circumstances in our IORPs where we place a value on non-legally binding support and others where we do not. Consistent with our overall views on the holistic balance sheet and sponsor support generally, we believe that non-legally binding sponsor support should be considered “ in the round” by sponsors, IORPs and national regulators as part of an integrated approach to IORP funding.	
Q30	Off-balance sheet capital instruments are not relevant to our IORPs, so we do not have comments to add on this question.	
Q31	Off-balance sheet capital instruments are not relevant to our IORPs, so we do not have comments to add on this question.	
Q32	We agree that any surplus funds should be taken at their nominal value.	
Q33	Subordinated loans are not relevant to our IORPs, so we do not have comments to add on this question.	
Q34	Subordinated loans are not relevant to our IORPs, so we do not have comments to add on this question.	
Q35	We believe that the benefit reduction approach applicable to our IORPs are ‘benefit reduction in the event of sponsor default’. This would be covered by the UK’s Pension Protection Fund system. As benefit reductions are set out in UK law, the direct approach would seem to be the applicable route.	
Q36	We might be able to be supportive of a principle-based approach – but only where the principles are reasonable. In practice, what seems to be being proposed is a principle of “market consistency” which 4.106 suggests is some form of discounted cash flow (“DCF”) approach reflecting a range of variables. However, 4.110 acknowledges some of the difficulties with this (but by no means all).	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>We reiterate that any forward looking DCF calculation – to the extent that forecast cashflows are even available – is subject to a vast range of uncertainties and variables and very potentially a degree of manipulation. Further, it would only be a “point in time” assessment of an enterprise when set against liabilities which may extend for decades. Like share prices, the assumptions underpinning this highly time-consuming and expensive exercise would be rapidly superseded as there were further developments in market conditions and commercial circumstances.</p> <p>We see no meaningful value in this exercise: for quoted sponsors, there are market capitalisations available reflecting publicly available information ; for unquoted sponsors, the DCF approach would require the expensive and time-consuming generation of long term cash-flow forecasts and then the conduct of the valuation exercise itself for what is only a “point in time” purpose and subject to a huge range of assumptions.</p> <p>In the sectionalised Railways Pension Scheme – with more than 150 employers supporting more than 100 stand-alone sections – our experience over a number of years is that sponsor support must be looked at “in the round”.</p>	
Q37	<p>If “market consistent” means a discounted cash flow (“DCF”) approach, then we do not agree with the overarching principle.</p> <p>We think it is highly preferable to think of “assessing” rather than “valuing” sponsor support. An “assessment” can take account of the very many variables which are typically found when considering sponsor support whereas “valuing” sponsor support is constrained by the factors within the valuation method.</p> <p>If “market consistent” means that IORPs and sponsors would be obliged to consider sponsor support “in the round” when arriving at technical provisions – without any DCF or similar prescriptive obligations – then we would be supportive of this approach (which is consistent with the existing UK approach).</p>	
Q38	<p>No – we do not believe that a a discounted cash flow approach is practicable, valuable or proportionate unless the information is already available (for example, many – but not all –</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	quoted companies). We believe that the approach for assessing (not valuing) sponsor support should be left for the IORP and sponsor to determine together considering all relevant factors “in the round”.	
Q39	<p>We believe that the approach for considering sponsor support should be left for the IORP and sponsor to determine together considering all relevant factors “in the round”.</p> <p>Notwithstanding that we believe that the use of a holistic balance sheet for scheme funding purposes or regulatory reporting is fundamentally flawed as it pertains to sponsor support, if it were to be enforced, then the “balancing item” approach may be applicable if it is (i) simple and straightforward to implement and (ii) meaningful. The approach in “Principle 1” appears to us to apply to rated sponsors – and the vast majority of the 150 employers sponsoring sections of the Railways Pension Scheme are not rated. Further, even after the application of the formula, 4.122 still requires demonstration of the sponsor being able to meet the value for sponsor support on the holistic balance sheet. “Principle 2” would be subject to huge potential variations depending on the values ascribed to assets and liabilities (for example, intra-group items). In our view, it is impossible and meaningless to stipulate a value for M without considering the value, nature, quality and recoverability of the relevant assets and liabilities. In addition, this does not address the issues of sponsors with multiple IORPs or the other complexities noted at 4.100.</p>	
Q40	We believe that the approach for considering sponsor support should be left for the IORP and sponsor to determine together considering all relevant factors “in the round”.	
Q41	Notwithstanding our views on sponsor support generally, if the “balancing item” approach is to be a simplified approach to cover situations where there is no / negligible risk, then the balancing item approach could be used for cases where the Loss Given Default is zero (due to regulatory or contractual terms prevalent within an industry that demands a replacement sponsor will assume all pensions obligations in a default scenario).	
Q42	It is impossible and meaningless to stipulate a value for M without considering the value, nature, quality and recoverability of the relevant assets and liabilities. In addition, this does not address the issues of sponsors with multiple IORPs or the other complexities noted at 4.100.	
Q43	The answer to this question depends on what EIOPA are seeking to achieve and the behaviours they are seeking to encourage. In the UK, Trustees of IORPs are explicitly not permitted to	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>consider the support provided by the UK’s Pension Protection Fund (“PPF”) in their funding decisions. There is a perceived risk that if the PPF were to be “valued” or treated as a “balancing item”, this might encourage IORP Trustees to take sub-optimal funding decisions which, in turn, might place undue strain on the PPF in the case of defaults. Clearly, the PPF does provide a degree of backstop protection to members’ benefits, subject to certain limits. However, this question brings into sharp focus the nature, value and objectives of any holistic balance sheet.</p>	
Q44	<p>We agree with the principle of “valuing” the protection offered by a protection scheme if it is an arm’s length commercial insurance body. If the protection scheme is an arm’s length commercial insurance body, then any value should reflect the benefits actually protected.</p> <p>We believe that it may be appropriate to give credit for the cover provided by the UK PPF – provided that this does not in turn encourage decision-making which places strain on the PPF and which in turn increases the levies payable by IORPs to the PPF.</p>	
Q45	<p>This will depend on the requirements of the protection scheme and its creditworthiness.</p>	
Q46	<p>We might be able to be supportive of a principle-based approach – but only where the principles are reasonable. In practice, what seems to be being proposed is a principle of “market consistency” which 4.106 suggests is some form of discounted cash flow (“DCF”) approach approach reflecting a range of variables. The document acknowledges some of the difficulties with this (but by no means all).</p> <p>We reiterate that any forward looking DCF calculation – to the extent that forecast cashflows are even available – is subject to a vast range of uncertainties and variables and inevitably a degree of potential manipulation. Further, it would only be a “point in time” assessment of an enterprise when set against liabilities which may extend for decades. Like share prices, the assumptions underpinning this highly time-consuming and expensive exercise would be rapidly superseded as there were further developments in market conditions and commercial circumstances.</p> <p>We see no meaningful value in this exercise: for quoted sponsors, there are market capitalisations available reflecting publicly available information ; for unquoted sponsors, the DCF</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>approach would require the expensive and time-consuming generation of long term cash-flow forecasts and then the conduct of the valuation exercise itself for what is only a “point in time” purpose and subject to a huge range of assumptions.</p> <p>If “market consistent” means a DCF approach, then we do not agree with the overarching principle.</p> <p>If “market consistent” means that IORPs and sponsors would be obliged to consider sponsor support “in the round” when arriving at technical provisions – without any DCF or similar prescriptive obligations – then we would be supportive of this approach (which is consistent with the existing UK approach).</p> <p>In the sectionalised Railways Pension Scheme – with more than 150 employers supporting more than 100 stand-alone sections – our experience over a number of years is that sponsor support must be looked at “in the round”.</p>	
Q47	<p>If “market consistent” means that IORPs and sponsors would be obliged to consider sponsor support “in the round” when arriving at technical provisions – without any discounted cash flow or similar prescriptive obligations – then it might be helpful for EIOPA to highlight some of the potential issues and approaches IORPs and their sponsors could consider in their deliberations, such as possible bases for asset valuation ; consideration of inter-creditor issues including security ranking; and issues relevant to groups of companies – to mention but a few.</p>	
Q48	<p>We believe that these are of little value in the vast majority of circumstances and are likely to be overly-complex, time-consuming and ultimately not reflective of reality. If IORPs or their sponsors want to undertake stochastic modelling as part of considering sponsor support “in the round”, then they should be able to discuss and agree the scope and approach to this in their relevant circumstances.</p>	
Q49	<p>It seems that EIOPA has already had stakeholder feedback on this – but is asking again. (“In light of these difficulties, most stakeholders felt it was more important for EIOPA to develop more principles-based approaches rather than conduct further work on simplifications.”)</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>The premise to this approach seems to be that if one inputs some seemingly arbitrary variables – such as annual probability of sponsor default – then somehow “an answer” is generated. This simply does not reflect commercial reality where sponsors’ businesses are reflective of major contract wins and losses ; technological and market changes ; industry consolidation and shifts ; changes in market value conditions for assets etc.</p> <p>We do not believe that a meaningful calculation of an “annual probability” of sponsor default would be calculated for an unquoted or unrated sponsor. Furthermore, the “probability of the default of the sponsor” will typically not be constant over time.</p> <p>In our view, any approach needs to move away from suggesting the use of arbitrary formulae and encourage IORPs and their sponsors to use measured judgement to consider sponsor support – and other aspects of IORP funding – “in the round”.</p>	
Q50	<p>In our view, any approach needs to move away from suggesting the use of arbitrary formulae and encourage IORPs and their sponsors to use measured judgement to consider sponsor support – and other aspects of IORP funding – “in the round”.</p>	
Q51	<p>The approach put forward is over simplistic and uses such arbitrary variables as to be most likely of no substantive value. It appears that where LGD is zero, there is no risk, but this is not allowed due to the <50% rule. Further, the setting of return on assets at the risk free interest rate ignores a huge source of future cash in reality. Investment returns and realisations represent a very substantial portion of IORP funding.</p>	
Q52	<p>In our view, any approach needs to move away from suggesting the use of arbitrary formulae and encourage IORPs and their sponsors to use measured judgement to consider sponsor support – and other aspects of IORP funding – “in the round”.</p>	
Q53	<p>This seems to be a question where stakeholder feedback has already been received. We simply cannot see how this approach would reflect the commercial realities of many IORP sponsors and see it as complex, time-consuming and most likely of no substantive value.</p>	
Q54	<p>This approach would only be suitable if IORPs explicitly asked for them</p>	
Q55	<p>This seems to be an area where stakeholders have already received feedback in previous</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>exercises.</p> <p>The document itself states :</p> <p>“[the ASA] is not suitable for more complex sponsor arrangements or IORPS that are currently fully funded.</p> <p>4.185 A number of detailed criticisms or observations were made on the ASA, in particular on the cliff edges between different levels of assessed financial strength and the possibility of using further or different metrics, where credit risk assessments are assured”.</p> <p>The list of “Advantages” and “Disadvantages” in the document also indicates a heavy weight towards the disadvantages.</p> <p>We see little value in sponsor support assessments based on the usage of standardised tables and, again, we believe that the approach for considering sponsor support should be left for the IORP and sponsor to determine together considering all relevant factors “in the round”.</p>	
Q56	<p>It is unclear to us from the document what the “proposed adaptations” referred to are.</p> <p>EIOPA should only produce spreadsheets if these are specifically requested by IORPs or sponsors as part of a process of assessing sponsor support “in the round”.</p>	
Q57	<p>We completely agree that a “one-size-fits-all” approach to sponsor support and affordability assessment is entirely inappropriate. However, the “M” based approach in our view is simplistic and we simply do not believe that a meaningful single “value” for sponsor support can be arrived at for a great many sponsors.</p>	
Q58	<p>We do not believe that any parameters can meaningfully define a value for maximum sponsor support. Sponsor support derives from a range of factors, many of which are future-looking in nature and therefore uncertain. One sponsor may have a strong balance sheet but weak trading position; another strong cash-flow generation but a comparatively modest balance sheet (for example a service-related company). Both companies may benefit from some form of contingent</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	asset or be part of a wider group with substantial inter-company balances. The variables are so broad as to render any attempt to define parameters of little value. The level of sponsor support needs to be looked at “in the round” as part of an integrated approach to funding the IORP.	
Q59	We reiterate our view that affordability, alongside other aspects of sponsor support, needs to be looked at by IORPs and their sponsors “in the round” taking account of the specific circumstances of the sponsor. We do not believe that it possible to place a meaningful “value” on sponsor support in a wide number of cases.	
Q60	<p>We reiterate that simplistic attempts to calculate default probabilities for – for example – unquoted, non-rated enterprises are of little value. There are so many variables at play that we cannot see how any “number” can have a robust basis for all but the very weakest (Pd = 1) or very strongest (such as government-backed credits where Pd = 0).</p> <p>As an illustration of this issue, the UK’s Pension Protection Fund has built an approach to estimate sponsor default probabilities. We are aware that there are a number of aspects of that approach which do not truly reflect the position of a number of sponsors who sponsor our IORPs. Further, the purpose of the approach is to assist in the determination of levy payments – considerably different to and less significant than this exercise.</p>	
Q61	The appropriate time will vary massively from sponsor to sponsor: one judgement that is needed, for example, is the extent to which it is beneficial for the sponsor – and thereby the IORP – to invest in the sponsor’s business (which may be ultimately beneficial to the IORP). Another issue – relevant for the RPS – is the “shared cost” nature of contributions. These are but two of a range of variables which in our view mean that the “ appropriate time” should be left to the judgement of the sponsor/IORP with oversight from the national regulatory authority.	
Q62	Apportionment across IORPs will very often be overly-simplistic given the different sub-groups of sponsoring employers that sponsor different IORPs within a group. They will also have different benefit structures, funding positions, maturities and investment strategies. Further, some may benefit from intra-group support or contingent assets whereas others may not. An additional complexity would be shared cost schemes and balance of cost schemes sponsored by the same company. A practical issue is that there would need to be full transparency and disclosure between all the IORPs of a sponsoring employer, which rarely exists. The situation needs to be	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	looked at “in the round” and judgement applied to the specific circumstances of the sponsor/IORPs.	
Q63	Our suggestion – consistent with our suggested approach generally for sponsor support – is that the consideration of multiple IORPs with a single sponsor should be evaluated using judgement and a meaningful assessment of the sponsor’s position “in the round”. This is the current approach used in our schemes which we believe works satisfactorily.	
Q64	The approach does not appear to deal with sectionalised industry-wide schemes like the Railways Pension Scheme, which has around 350,000 members and 150 sponsoring employers. In terms of the sampling type approach, this seems to multiply a number of the flaws we already perceive in the general approach to valuing sponsor support set out in the document. We believe that the sponsor support circumstances of industry-wide schemes are likely to be so idiosyncratic as to be best left for the schemes and their sponsors, with oversight from national regulatory authorities to determine.	
Q65	We believe that the sponsor support circumstances of industry-wide schemes are likely to be so idiosyncratic as to be best left for the schemes and their sponsors, with oversight from national regulatory authorities to determine.	
Q66	We agree that guarantees should be taken into account in assessing sponsor support “in the round”. However, as indicated elsewhere, these need to be looked at alongside other obligations of guarantors and any value ascribed to them reflective of the specific terms of the guarantee, including payment terms and duration. Our experience is that a number of IORP guarantees are not provided by a quoted or rated parent (although some are). The consideration of guarantees would form part of an approach of considering sponsor support “in the round” and is something we consider when evaluating sponsor support for our IORPs (a significant number of Railways Pension Scheme sections benefit from guarantees).	
Q67	Extreme care needs to be taken in assessing support for not-for-profit entities : in many cases (such as some trade bodies) the most extensive support derives from contractual commitments made by member bodies to support the organisation (and an associated IORP) – and such commitments may not be visible from the body’s financial accounts. We believe that the sponsor support circumstances of not-for-profit bodies may well be so idiosyncratic as to be best left for the schemes and their sponsors, with oversight from national regulatory authorities, to	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	determine.	
Q68	We believe that the sponsor support circumstances of not-for-profit bodies may well be so idiosyncratic as to be best left for the schemes and their sponsors, with oversight from national regulatory authorities to determine.	
Q69	The approach to considering pension protection schemes will value markedly depending on the type of scheme and sponsor. In the example of the UK's Pension Protection Fund, it may be appropriate to make allowance for it but establishing how this is done might prove more difficult, as benefits are not compensated in full. However, where support is from an insurance company under an arm's length commercial arrangement (a "buy-in" type structure for example), making an allowance may be less problematic. We believe that the sponsor support arrangements offered by insurers and national protection funds are likely to be so idiosyncratic as to be best left for the schemes and their sponsors, with oversight from national regulatory authorities, to determine.	
Q70	The approach to considering pension protection schemes will vary markedly depending on the type of scheme and sponsor. In the example of the UK's Pension Protection Fund, it may be appropriate to make allowance for it but establishing how this is done might prove more difficult, as benefits are not compensated in full. However, where support is from an insurance company under an arm's length commercial arrangement (a "buy-in" type structure for example), making an allowance may be less problematic. We believe that the sponsor support arrangements offered by insurers and national protection funds are likely to be so idiosyncratic as to be best left for the schemes and their sponsors, with oversight from national regulatory authorities, to determine.	
Q71	We believe that the concept of the holistic balance sheet incorporating "values" for sponsor support is flawed and unnecessary and will result in undue expense, management distraction and regulatory effort for no real benefit (and very probably considerable cost). If a holistic balance sheet were to be created, any pension protection mechanism should be considered on the basis of its very specific circumstances and taking account of the approach of national regulators – we do not believe it is possible to generalise as to how they should be treated.	
Q72	We do not consider it appropriate or necessary to establish EU capital/funding requirements for IORPs, as part of pillar 1. The existing funding and supervisory regimes in individual member states should already provide sufficient protection for members/participants and we are not	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>aware of any major deficiencies in the system used by our IORPs, for example, that need addressing in this way.</p> <p>The majority of the IORPs where RPTCL is a trustee are shared cost arrangements with 40% of total contributions, including in many cases those required to meet any shortfall of assets relative to technical provisions, being met by contributing members to the schemes. In our case, there are around 85,000 such members and RPTCL has concerns that any EU capital/funding requirements for IORPs and the adjustment mechanisms could have a very significant and adverse financial impact on these people (and the sponsors themselves). Indeed, some may effectively be forced to leave the scheme.</p>	
Q73	<p>We believe that IORPs should be able to develop risk-assessment and risk-management tools that are appropriate to the specific circumstances of their arrangements. For some IORPs and some member states, the holistic balance sheet may be deemed an appropriate tool and for others it will not be.</p> <p>At an EU-level, we believe it would be appropriate for any requirements under pillar 2 to be principles-based and not stipulate the holistic balance sheet as the only appropriate risk management tool.</p>	
Q74	<p>We do not believe that public disclosure of the outcomes of a pillar 2 assessment should be a requirement. The holistic balance sheet is a complex tool (and in our view of unclear value) and it is difficult to see how its disclosure would facilitate members making any informed decisions. Disclosure also risks the information being misunderstood and mis-used, with potential adverse implications for share prices, especially for those cases where the IORP is relatively large in the context of the sponsor. It may also have adverse impacts on sponsors seeking to raise funds – in turn placing greater stress on the sponsor and the IORP.</p> <p>Therefore, the issue of commercial sensitivity is likely to be a further good reason why public disclosure of the outcomes of a pillar 2 assessment should not be a requirement.</p>	
Q75	<p>At present, many member states (such as the UK) already have a supervisory authority which can take appropriate action on scheme funding issues. Therefore, there does not appear to be a need</p>	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	to base supervisory actions on holistic balance sheet trigger points.	
Q76	We do not believe it appropriate to use the holistic balance sheet as a supervisory response tool. In our experience there are vastly different types of non-legally enforceable sponsor support and it is just not possible to generalise about how these should be treated.	
Q77	We do not believe it appropriate to use the holistic balance sheet as a supervisory response tool. However, if the use of the holistic balance sheet were to be pursued, we would have a preference for 'Option 1 : Include pension protection schemes. Such an approach would seem to be more transparent than to apply an adjustment to the credit risk of the sponsoring employer.	
Q78	Pure discretionary benefits are not currently applicable to our IORPs. However, the proposal of not including them on an IORP's pillar 1 balance sheet seems reasonable to us.	
Q79	We would consider that treating mixed benefits in a country-specific way (i.e. Option 3) would be the most appropriate option, although we should add that such benefits are not applicable to our IORPs.	
Q80	Within our answer to Q77, we have expressed a preference for the inclusion of pension protection schemes. Within the context of our IORPs, any benefit reductions will tend to be associated with sponsor default or insolvency and, therefore, it is important that benefit reductions can be dealt with in a consistent way to pension protection schemes. We interpret either Option 2 or Option 3 as being able to accommodate such reductions. However, on the basis that Option 3 may be the most flexible approach to deal with a variety of scenarios, we have a preference for this.	
Q81	No, we believe that the options put forward should suffice. The required level of transparency for the use of Option 3 in Q80 could be achieved through additional specific representations in pillar 3.	
Q82	Off-balance sheet capital instruments are not relevant to our IORPs. However, we would agree that enforceable instruments to which the IORP has access – such as « buy in » insurance arrangements – should be taken account of in assessing the strength of an IORP.	
Q83	Yes, we believe that surplus funds should be included in the consideration of the financial position of an IORP.	
Q84	Subordinated loans are not relevant to our IORPs, so we do not have comments to add on this	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	question.	
Q85	We would have a strong preference for the use of Level B best estimate of technical provisions as we believe that the use of a discount rate based on expected return on assets would support investment in long-term assets (whereas Level A will tend not to); and the approach is most consistent with the requirements of the current IORP Directive, so any disruption should be minimal.	
Q86	We believe that the approach to be adopted for IORPs within each member state should be set by the national regulator.	
Q87	We believe that it would be most appropriate for the Level B best estimate of technical provisions to be the amount to be covered with assets, as such an approach is the most consistent with the requirements of the current IORP Directive. Further, this approach to funding works in our experience and avoids a tendency towards excess prudence with IORPs derisking their investment strategies at very considerable long term cost.	
Q88	Subject to approval by each national regulator, we would consider it most appropriate (for reasons of flexibility) to allow the use of a Level B best estimate approach for all cases, irrespective of security and adjustment mechanisms.	
Q89	We have a preference for member states to be able to specify additional requirements for funding on the basis that any EU wide funding requirements should be minimal. We also have a preference for any additional requirements to be introduced via national prudential regimes rather than national social and labour law.	
Q90	We do not consider it sensible to harmonise the recovery period relating to the level of technical provisions to be covered with financial assets. Harmonised recovery periods are not appropriate when there are such major differences between national pension systems, so any guidelines or rules for recovery period should be left for the national supervisor to set.	
Q91	We do not consider it appropriate to apply a 'one size fits all' approach to setting the length of the recovery period regarding the level of technical provisions to be covered with financial assets, even at a member state level. An appropriate length of recovery period for a particular IORP should depend on the circumstances of that IORP and its sponsor(s).	
Q92	We would not consider it appropriate to prescribe the length of an extensive recovery plan period	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	without knowing the individual circumstances. An appropriate length should be left to the IORP to agree this with sponsors, with appropriate powers for the national supervisor to oversee the suitability of the recovery period length and intervene where it deems it necessary.	
Q93	We do not consider it appropriate to harmonise the recovery period for meeting the SCR at an EU level. Any requirement to meet the SCR and the length of the associated recovery period should be left to the discretion of member states.	
Q94	As per our response to Q93, we believe that any requirement to meet the SCR and the length of the associated recovery period should be left to the discretion of member states. Therefore, if a member state does not apply an SCR, non-compliance with the SCR becomes irrelevant. Consequently, it should be left to national supervisory bodies to determine the approach to non-compliance with the SCR.	
Q95	As per our response to Q93 and Q94, we believe that any requirement to meet the SCR and the length of the associated recovery period should be left to the discretion of member states. Therefore, if a member state does not apply an SCR, non-compliance with the SCR becomes irrelevant. Consequently, it should be left to national supervisory bodies to determine the approach to the length of the SCR recovery period and the types of IORP it applies to.	
Q96	We believe that any requirements set at an EU level on supervisory responses should be purely principles-based and the detail of how supervisory responses will be implemented (which may include, but is not limited to, submitting a recovery plan) should be determined by the relevant national supervisor. Specification of supervisory responses at an EU level are unlikely to be appropriate, as such an approach will not capture all of the key aspects of the local environment in which IORPs operate.	
Q97	We believe the impact of a possible future European prudential framework would be significant if it applied to existing IORPs, such as ours, and will have a significant adverse effect for long term investment growth and job prospects. We therefore suggest that any such framework is not applied to either the accrued rights or future rights of any IORPs established before any such rules potentially come into force.	
Q98	As per our answer to Q97, we suggest that any framework is not applied to either the accrued rights or future rights of any IORPs established before any such rules potentially come into force.	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	In the absence of such an approach, we would strongly support the use of lengthy (minimum 10 years) transitional periods to reduce the impact of any future possible EU prudential regime. This will allow IORPs, investment markets and labour markets to adapt to a new framework and develop appropriate responses in as cost-efficient a manner as is possible.	
Q99	We do not have any general comments on the description of example 1, as we are not in a position to analyse it from a pan-European perspective. However, we have considered the suitability of the approach set out in example 1 in Q100 below.	
Q100	<p>We do not believe that example 1 would be appropriate to use for all EU member states. We believe that the example 1 approach would cause massive stress to our IORPs, their sponsors and their members. In the case of our IORPs, we believe that the approach would be damaging to the IORPs, their 350,000 members and the UK railways industry.</p> <p>For our reponse to EIOPA-CP-11/006, we had estimated that the use of risk-free interest rates for the schemes to which RPTCL is a trustee would increase the technical provisions by 13 billion euros. Of this increase, the shared cost nature of the schemes to which RPTCL is a trustee could mean that 40% of this increase in technical provisions (i.e. more than 5 billion euros) could fall on the active members of these schemes, of which there are around 85,000. This equates to some 60,000 euros for each active member on a <i>pro rata</i> basis – albeit that in a small number of cases sponsors themselves meet members’ shares of shortfalls.</p> <p>We have not updated the above impact or revisited the above calculations but envisage that an example 1 approach would have a similar impact to our previous assessment.</p>	
Q101	We do not have any general comments on the description of example 2, as we are not in a position to analyse it from a pan-European perspective. However, we have considered the suitability of the approach set out in example 2 in Q102 below.	
Q102	Although preferable to example 1, we believe that the example 2 approach would not be appropriate at an EU level. In particular, we note that there is no allowance for pension protection schemes within this mechanism and we struggle to see how such an approach would provide for meaningful answers where the likelihood of a claim on a pension protection scheme is high.	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

Q103	We do not have any general comments on the description of example 3, as we are not in a position to analyse it from a pan-European perspective. However, we have considered the suitability of the approach set out in example 3 in Q104 below.	
Q104	<p>We do not believe that example 3 would be appropriate to adopt at an EU level. In particular, we have concerns about the complexity and bureaucracy involved with the approach, with one framework being used for pillar 1 and another framework for pillar 2/3.</p> <p>We also have concerns about:</p> <ul style="list-style-type: none"> • the impact of the approach of example 3 on the costs of our IORPs, especially those costs that fall on members in the way of increased contributions. We have not quantified any impact at this stage but the shared cost nature of our IORPs would mean that 40% of this increase in technical provisions would fall on the active members of these schemes, of which there are around 85,000. • the impact of the approach of example 3 on investments, as we believe that it would discourage investment in long-term assets. 	
Q105	We do not have any general comments on the description of example 4, as we are not in a position to analyse it from a pan-European perspective. However, we have considered the suitability of the approach set out in example 4 in Q106 below.	
Q106	<p>We believe that example 4 is marginally better than the example 3 approach, due to the allowance for benefit reductions on sponsor default and lesser reporting requirements. However, we still do not consider the approach in example 4 would be appropriate to adopt at an EU level due to concerns about:</p> <ul style="list-style-type: none"> • the impact of the approach of example 3 on the costs of our IORPs, especially those costs that fall on members in the way of increased contributions. We have not quantified any impact at this stage but the shared cost nature of our IORPs would mean that 40% of this increase in technical provisions would fall on the active members of these schemes, of which there are around 85,000. 	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<ul style="list-style-type: none"> the impact of the approach of example 3 on investments, as we believe that it would discourage investment in long-term return-seeking assets. 	
Q107	We do not have any general comments on the description of example 5, as we are not in a position to analyse it from a pan-European perspective. However, we have considered the suitability of the approach set out in example 5 in Q108 below.	
Q108	<p>We do not believe that example 5 would be appropriate to use for all EU member states. We believe that the example 5 approach would have a significant impact on our IORPs, their sponsors and their members. In the case of our IORPs, we believe that the approach would be damaging to the IORPs, their 350,000 members and the UK railways industry.</p> <p>We have not quantified the impact of example 5 at this stage but consider that it would be similar to the example 1 approach. For our response to EIOPA-CP-11/006, we had estimated that the use of risk-free interest rates for the schemes to which RPTCL is a trustee would increase the technical provisions by 13 billion euros. Of this increase, the shared cost nature of the schemes to which RPTCL is a trustee could mean that 40% of this increase in technical provisions (i.e. more than 5 billion euros) could fall on the active members of these schemes, of which there are around 85,000. This equates to some 60,000 euros for each active member on a <i>pro rata</i> basis – albeit that in a number of cases sponsors themselves meet members’ shares of shortfalls.</p> <p>We have not updated the above impact or revisited the above calculations but envisage that the impact of an example 5 approach would not be dissimilar to the above.</p>	
Q109	We do not have any general comments on the description of example 6, as we are not in a position to analyse it from a pan-European perspective. However, we have considered the suitability of the approach set out in example 6 in Q110 below.	
Q110	<p>We note that, within the example 6 approach, the holistic balance sheet is intended to only be used as a risk management tool. However, we do not consider it necessary or appropriate to develop it for this purpose. Our particular concerns are:</p> <ul style="list-style-type: none"> the implementation of such an approach would carry with it large costs which will 	

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

	<p>ultimately tend to fall on IORPs and their sponsors. These costs will be disproportionately high compared to the value, if any, of using the holistic balance sheet as a risk management tool, given that adequate tools that are already available to IORPs for risk management purposes.</p> <ul style="list-style-type: none"> • we do not consider it necessary or appropriate to include an SCR within a risk management assessment. • any disclosure of holistic balance sheet results to members would serve to confuse rather than educate members, as per our answer to Q74. <p>We also have fears that, if implemented as a risk management tool, the direction of travel may be to implement the holistic balance sheet as a scheme funding approach. Our comments under Q100, for example, would then be relevant.</p>	
Q111	<p>We believe that any holistic balance sheet could be significantly simplified by applying the principle of proportionality and allowing the sponsor support items to act as a balancing item (where the IORP believes the level of sponsor support is sufficient to do so having used judgement and analysis to assess the level of sponsor support “in the round”).</p>	