

**Summary of Comments on Consultation Paper: Response to the Call for Advice on
the review of the IORP Directive 2003/41/EC: second consultation - EIOPA-CP-
11/006
Q47-Q51**

**EIOPA-BoS-12/016
15 February 2012**

EIOPA would like to thank OPSG; AbA; ABI_IT; ABI_UK; Abvakabo_FNV_NL; ACA_UK; ACT; ADEPO_ES; AEIP; AFG; AFPEN; AFTI; Alecta; ALFI and ALFP; AMICE; AMONIS; ANIA; Aon_Hewitt; APL_UK; Association of Pensioner Trustees in Ireland; Assoprevidenzia IT; Assuralia; ATOS_FR; Atradius; Balfour Beatty plc; BASF; BAVC; Bayer; BDA; BIPAR; BlackRock; BNP Paribas Cardif; BNP Paribas SS; Bosch Group; Bosch Pensionfonds AG; BP; BT Group plc; BT Pension Scheme Management Ltd; BusinessEurope; BVCA; BVI; BVPI-ABIP; BW; CBI; CEA; Charles Cronin from OPSG; Chris Barnard; CMHF; CNV NL; CWC; DATA; De Unie; Derek Scott of D&L Scott; Deutsche Post AG; Deutsche Post Pensionfonds AG; DG Treasury FR; DHL NL; DHL Services Limited UK; DHL Trustees; DIIR Germany; Dutch Labour Foundation; Dutch Ministry of Social Affairs; EAPSPI; ECB; ecie vie; ECIIA; EEF; EFAMA; EFI; EFRP; ESY FI; European Metalworkers Foundation; EVCA; FAIDER; FairPensions; FBIA; German Federal Ministry of Finance; Federation Dutch Pension Funds; FFSA FR; Finland; Finnish Centre for Pensions; FNMf; FNV; FNV Bondgenoten; FRC; Gazelle; GCAE; Generali Vie; Gesamtmetall; HM Treasury; Hundred Group; Hungarian Financial Supervisory Authority; HVB; IBM Germany Pensionskasse and Pensionsfonds; ICAEW; IMA; ING; Institute and Faculty of Actuaries; IVS DE; Keills; KPMG; Le cercle des epargnants; LTO Netherlands; LTTP; LV 1871 Pensionfonds AG; Macfarlanes; MAN Pensionsfonds AG; MAN SE; MCP; Mercer; MHP; NAPF; NEST; Nordmetall; OECD; PEIF; Pensioen Stichting Transport NL; Pensionskasse der Mitarbeiter der Hoechst Gruppe VVaG; PFZW NL; PMT_PME_MnServices NL; Predica; Prof.Pelsser Maastrich University; PSV aG; PTK; Punter Southall; PwC LLP UK; Reed Elsevier Group; Rio Tinto; RNLI; RPTCL; RWE AG; Sacker and Partners LLP; SAI; Siemens AG; Social Partners Bosch Group Germany; SPAG; SPC UK; Standard Life plc; State Street; TCO; TESCO; Transport for London; TUC; TW; UNI Europa; USS UK; vbw DE; VFPK; VHP2; VvV NL; Whitbread; ZIA; ZVK Bau.

The numbering of the paragraphs refers to Consultation Paper No. EIOPA-CP-11/006

No.	Name	Reference	Comment	Resolution
1.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	47.	<p>The OPSG has discussed three questions:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is a prudent person principle sufficient? <input type="checkbox"/> Do MS need an option for quantitative restrictions? <input type="checkbox"/> Should there be a difference between DB, DC and hybrid schemes? <p>The OPSG has come to the conclusion that the prudent person principle <input type="checkbox"/> is generally sufficient and should therefore remain the basic principle in a revised IORP Directive.</p> <p>With regard to quantitative restrictions to be embedded in the investment rules applicable to the IORPs, the OPSG has noted the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> At international level (OECD) there still exist quite a few quantitative restrictions, primarily on asset allocation and exposure to foreign currencies; and also with regard to "guidance" for the development of "young markets" <input type="checkbox"/> Quantitative restrictions do not sit well with the prudent person principle; quantitative restriction on self-investment is accepted. <input type="checkbox"/> Quantitative restrictions have a cost in terms of performance of the pension funds and stifle innovation and competition. 	Noted

		<ul style="list-style-type: none"> <input type="checkbox"/> Removing quantitative restrictions on investments needs to be done simultaneously with solid governance and risk management requirements – allowing national specificity –and qualitative supervision. <input type="checkbox"/> Quantitative restrictions, if left as a MS competence, may stifle some more the already reduced number of cross-border IORPs and deserve being removed except for “self-investment” <input type="checkbox"/> Question was raised whether the ‘duty of loyalty’ should be written into the IORP Dir. and reference was made to Australia (i.e. DC environment). <input type="checkbox"/> Related to quantitative restrictions for DC schemes; the OPSG notes that while quantitative restrictions per se are not desirable, experience has shown that default investment options for DC schemes could be useful (they seem to pool the majority of pension fund members that are not clearly focusing a specific risk profile in their investment choice). <p>In general, the OPSG supports the differentiation between DB and DC schemes for investment rules, yet keeping in mind that the liabilities of the scheme should be the starting point for developing the investment policy and the consequential supervision of the fund. The OPSG supports option 2, 1st bullet point in relation to the inclusion in the revised IORP Directive of suitably amended text from Art. 132 (2), 1st subpar. of the Solvency II Directive.</p> <p>Whether MS should have an option for quantitative restrictions depends in the end on a political evaluation. But MS should use that option in a prudent and consistent way.</p>	
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			With regard to Article 18(2), the OPSG believes that subordinated loans should be exempted from the prohibition of borrowing.	
2.	AbA Arbeitsgemeinschaft für betriebliche Altersver	47.	Yes, as a basis the prudent person principle, as laid down in Article 18(1) gives all IORPs the necessary flexibility to tailor the investment strategy to the objectives of the scheme and the structure of the liabilities. Invariably the objectives of the scheme will be defined by the sponsor or social partners, who bear the ultimate risk in DB or hybrid schemes. The prudent person principle also gives IORPs the flexibility to adapt the investment strategy to reflect ongoing developments in academic research.	Noted
3.	ABVAKABO FNV	47.	In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management. Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.	Noted
4.	AEIP	47.	102. In most member states IORP's are operated or controlled	Noted

			<p>by the social partners or the representatives of the members and beneficiaries. They are not commercial financial institutions, because their aim is not selling investments in a market, but providing social protection to their beneficiaries. This control structure and this objective, combined with good governance rules and the obligation to invest all assets in the best interests of the members and beneficiaries, constitutes a strong mechanism to make sure that investments are done in a sound way. Investment rules should be consistent with the retirement objective of the IORP, and should therefore be based on the future liabilities and on the asset-liability context, with appropriate internal risk management procedures.</p> <p>IORP's are important long time investors, and are important suppliers of risk-bearing capital. This should remain, and investment or prudential rules should not interfere with this role. In this respect, more macro-economic analysis on the role of IORPs for the EU economy is desirable.</p>	
5.	AFPEN (France)	47.	<p>105. The goal of any investment rules for IORPs should be consistency with the retirement objective of IORPs. Therefore we accept the abandoning of rule-based regulation aspects with quantitative limits on several types of investments and the emphasis of the prudent person principle, as it offers in general the possibility for a reasonable and long-term oriented asset management in the specific asset-liability context of IORPs. No further provision on investment decisions is needed.</p> <p>106. In addition AFPEN wants to point out the difficulties of imposing quantitative provisions to different schemes from different Member States with varied and heterogeneous pension systems, with different pillar compositions and different retirement provision aims.</p> <p>However: Although there might be less limiting quantitative rules</p>	Noted

			in place, under a principle-based supervision the disclosure requirements to the supervisor are likely to increase and it is left to the supervisor's discretion if the goal of a prudent and appropriate asset management is sufficiently adhered to. Therefore we want to accentuate that a general change-over to a principle-based supervisory system must not lead along the way to more interventions in investment decisions.	
8.	AMICE	47.	AMICE agrees that the application of the prudent person principle as such is a sufficient basis for IORPs' investments.	Noted
9.	AMONIS OFP	47.	<p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>AMONIS OFP considers that the prudent person principle should remain the basic principle in a revised IORP directive. The prudent person principle is however a necessary but not a sufficient condition that the IORP makes investments which serve the best interest of the affiliates of the pension fund. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and maturity of the) liabilities, and be based on appropriate risk management; however a basic diversification rule set is in our view appropriate. Here we refer to e.g. the minimum diversification rules applicable in national regulation, or on the European level applied in the UCITS directive.</p>	Noted
10.	ANIA – Association of Italian Insurers	47.	<p>In general the ANIA believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient.</p> <p>In this context – given that solvency II regulations should be the</p>	See CEA

			<p>benchmark – the ANIA believes that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the investment risks are reflected in the capital requirements following a solvency II like approach.</p> <p>Furthermore, the prudent person principle as described in the solvency II Framework Directive should be integrated in the revised IORP Directive without specific amendments. This prudent person principle highlights:</p> <ul style="list-style-type: none"> <input type="checkbox"/> To only invest in assets whose risk can be identified, measured, monitored, managed, controlled and reported <input type="checkbox"/> To invest in a manner which guarantees the security, quality, liquidity and profitability of the portfolio as a whole <input type="checkbox"/> To invest in assets covering the technical provisions in a manner appropriate to the nature and duration of the liabilities. These should be invested in the best interest of all policy holders and beneficiaries. <p>This does not preclude that investment decisions can be outsourced.</p>	
11.	Association Française de la Gestion financière (AF	47.	<p>The review of the Directive should be taken as an opportunity to strengthen the application of the prudent person principle across Europe.</p> <p>If EIOPA decides to propose to retain the option of restrictions “to protect members who bear the investment risk” (option 3 from page 271), we strongly believe that the Directive should</p>	Noted

			<p>not allow Member States to prevent IORPs/pension schemes from investing in UCITS or UCITS like products.</p> <p>For instance, in France, Perco invest in FCPE (Fonds Communs de Placement d'Entreprise). These investment funds have the same rules as UCITS with two differences :</p> <ul style="list-style-type: none"> o They have a Supervisory committee composed of employers and employees representatives, o They can invest in AIF in the frame of the 10% ratio (for instance in capital investment funds or in "fonds solidaires"). 	
12.	Association of British Insurers	47.	<p>The ABI believes the prudent person principle provides a wide-ranging and effective basis for ensuring appropriate investment decisions for IORPs and therefore no additional provisions are necessary. We consider that this focus on a clear principle accords with the reasonable expectations of those who are saving for retirement. It also helps to avoid undue reliance on detailed rules.</p>	Noted
13.	Association of Consulting Actuaries (UK)	47.	<p>In our view the existing prudent person principle is sufficient. However it is essential that the regulations make clear that it is permissible for an IORP to delegate some of the risk measurement and controls to third parties. If additional requirements were imposed this would likely create the adverse consequence of plans below €1bn having insufficient internal resource to invest in more complex asset classes and this is likely to result in higher levels of risk taking and/or lower levels of investment return, due to inability to access the full range of investments.</p>	Noted
14.	Association of French Insurers (FFSA)	47.	<p>69. In general the FFSA believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient.</p>	Noted

			<p>70. In this context – given that solvency II regulations should be the basis – we believe that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the valuation of assets and calculation of the technical provisions follows a solvency II like approach.</p> <p>71. Riskiness of the assets should be taken into account in the capital requirement.</p>	
15.	Association of Pensioner Trustees in Ireland	47.	See response to question 49.	Noted
16.	Assoprevidenza – Italian Association for supplement	47.	<p>Prudent person principle is a sufficient basis.</p> <p>1. In most member states pension funds are operated or controlled by the social partners or the representatives of the members and beneficiaries. They are not commercial financial institutions, because their aim is not selling investments in a market, but providing social protection to their beneficiaries. This control structure and this objective, combined with good governance rules and the obligation to invest all assets in the best interests of the members and beneficiaries, constitutes a strong mechanism to make sure that investments are done in a sound way. Investment rules should be consistent with the retirement objective of the IORP, and should therefore be based on the future liabilities and on the asset-liability context, with appropriate internal risk management procedures.</p>	Noted
17.	Assuralia	47.	The extremely short delay for responding to the technical	Noted

			consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	
18.	Belgian Association of Pension Institutions (BVPI-	47.	<p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>BVPI-ABIP considers that the prudent person principle should remain the basic principle in a revised IORP directive. The prudent person principle guarantees that the IORP makes only investments which serve the best interest of the affiliates of the IORP. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of the) liabilities, and be based on appropriate risk management.</p>	Noted
19.	BNP Paribas Cardif	47.	<p>In general BNP Paribas Cardif believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient.</p> <p>In this context – given that solvency II regulations should be the basis – we believe that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the valuation of assets and calculation of the technical provisions follows a solvency II like approach.</p> <p>Riskiness of the assets should be taken into account in the capital requirement.</p>	Noted

20.	Bosch Pensionsfonds AG	47.	<p>The prudent person principle must remain the basic principle for the investment of IORPs. It should be reinforced and protected under IORP II and not be undermined by quantitative mechanisms:</p> <p>The prudent person principle in the existing IORP Directive offers IORPs a superb basis for an investment structure that is optimal both according to the retirement objective - based on the nature and duration of future liabilities - and risk management requirements of the IORP. It ensures a qualitatively oriented, "prudent" correlation between obligation and assets.</p> <p>Nevertheless, a trend exists in some MS to evade this reasonable concept through an excess of quantitative regulations. The prudent person principle is thus practically undermined. MS options in Art. 18 (5),(6) and (7) of the existing Directive make this practice in the MS possible. These MS options should be removed for a number of reasons: they prevent investments that are optimal according to the retirement objective and risk management of the IORP, constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p>	Noted
21.	Bosch-Group	47.	<p>The prudent person principle must remain the basic principle for the investment of IORPs. It should be reinforced and protected under IORP II and not be undermined by quantitative mechanisms:</p> <p>The prudent person principle in the existing IORP Directive offers IORPs a superb basis for an investment structure that is optimal both according to the retirement objective - based on the nature and duration of future liabilities - and risk management requirements of the IORP. It ensures a qualitatively oriented,</p>	Noted

			<p>“prudent” correlation between obligation and assets.</p> <p>Nevertheless, a trend exists in some MS to evade this reasonable concept through an excess of quantitative regulations. The prudent person principle is thus practically undermined. MS options in Art. 18 (5),(6) and (7) of the existing Directive make this practice in the MS possible. These MS options should be removed for a number of reasons: they prevent investments that are optimal according to the retirement objective and risk management of the IORP, constitute obstacles for cross-border activity, allow “gold plating” through additional national regulation and could give rise to supervisory arbitrage.</p>	
22.	BT Pension Scheme Management Ltd	47.	<p>Yes, we believe that the prudent person principle is a sufficient basis for IORP investment - indeed we believe that it is the only appropriate basis because we regard it as vital that governance structures of IORPs are sufficiently robust to ensure that beneficiary interests are protected. Given that this must be the case, those governance structures should be empowered to take decisions on beneficiaries’ behalf without facing strict rule-based controls on their investment decisions. The principle basis which is proposed hits the right level, we believe.</p> <p>We would note that while we understand and support the philosophy which underlies the localisation principle which EIOPA is proposing should be included in the new Directive - it is clearly right that IORPs be able to access their investments - we are concerned that this standard might be read narrowly in a way which was unhelpful. The aim must be that all assets are available over time, and that there is sufficient availability at any given time, so in our view the localisation principle should apply not to individual assets but to the portfolio as a whole, just as the prior investment principle is stated to be in the context of the</p>	Noted

			portfolio as a whole. Perhaps the wording might be "In addition the localisation of the assets in the portfolio as a whole shall be such as to ensure their availability over time".	
23.	BVI Bundesverband Investment und Asset Management	47.	<p>BVI considers the prudent person principle a fully sufficient basis for the investments of IORPs. In our view no additional provisions are required.</p> <p>If EIOPA nevertheless decides to propose to retain the option of restrictions "to protect members who bear the investment risk" (option 3 from page 271), we strongly believe that the Directive should not allow that Member States</p> <ul style="list-style-type: none"> <input type="checkbox"/> prevent IORPs from investing in UCITS, as UCITS are consistent, highly regulated and recognized across Europe and in other parts of the world. As a long-term investment product, UCITS offer the required quality in terms of portfolio diversification, professional management, level of investor protection and transparency, and liquidity; <input type="checkbox"/> impose portfolio limits that inhibit adequate diversification or impede the use of asset-liability matching or other widely-accepted risk management techniques and methodologies. <p>EIOPA should also require that any legal provisions setting forth quantitative portfolio limits be regularly assessed to determine whether they are unnecessarily inhibiting the ability of pension fund asset managers to implement optimum investment strategies and amended to the necessary extent.</p>	Noted
24.	CEA	47.	<p>In general the CEA believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient.</p> <p>In this context – given that solvency II regulations should be the benchmark – the CEA Secretariat believes that the prudent person principle together with the freedom of investment</p>	Noted

			<p>principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the investment risks are reflected in the capital requirements following a solvency II like approach.</p> <p>Furthermore, the prudent person principle as described in the solvency II Framework Directive should be integrated in the revised IORP Directive without specific amendments. This prudent person principle highlights:</p> <ul style="list-style-type: none"> <input type="checkbox"/> To only invest in assets whose risk can be identified, measured, monitored, managed, controlled and reported <input type="checkbox"/> To invest in a manner which guarantees the security, quality, liquidity and profitability of the portfolio as a whole <input type="checkbox"/> To invest in assets covering the technical provisions in a manner appropriate to the nature and duration of the liabilities. These should be invested in the best interest of all policy holders and beneficiaries. <p>This does not preclude that investment decisions can be outsourced.</p>	
25.	Charles CRONIN	47.	<p>Article 18 of the current IORP Directive is in need of modernisation to reflect the increased complexity of the markets and the growth of dependency by IORPs on their outsourced service providers in the field of investment services. My concern is that due to a lack of resident investment knowledge within the IORP that it can and in some cases probably has become captured by the latent agent/principal conflicts of outsourced service providers.</p>	Noted

			<p>I suggest tackling this issue through three measures:</p> <ol style="list-style-type: none"> 1. Introduction of a duty of loyalty 2. Greater guidance on prudent investing 3. Agreeing with EIOPA's advice to require a raising of investment expertise at IORPs through option 2. <p>The prudent man standard needs to be balanced with a duty of loyalty (i.e. to act in the sole interest of M & B), in order to act effectively in the best interests of scheme M & B. Regrettably the benchmark of prudent behaviour has fallen to the measurement of conforming with the crowd. Apart from creating systemic risk, this does not serve the 'best interests' of M & B. For example to offer the defence that you acting prudently by following the crowd, as your portfolio falls off a financial cliff, does not demonstrate that you were acting in the M & B best interests. Using conformity to illustrate prudence neglects the expected duty of controlling conflicts in the delegation of duties to third parties. Hence the need to introduce the concept of loyalty.</p> <p>Loyalty and prudence are an instrumental couplet in the phrase fiduciary duty under English Common law. It describes the trust relationship between those who run the pension scheme and its M & B. I believe that it is important to include the word loyalty in this Directive because pillar II pension schemes are probably the only investment vehicle where people on low to middle incomes can have some assurance that the people in charge of the scheme are indeed acting in their best interests. Note that</p>	
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		<p>the term best interests appears in MiFID and covers a multiple of service providers including independent financial advisors. Hence given the special circumstances of IORPs, I believe it is important to hold the managers of IORPs to a higher standard through the inclusion of the word loyalty. This could be further expanded to mean that in the presence of a conflict the boards of IORPs must act in the sole interests of scheme M & B.</p> <p>In addition to problems of IORP crowd following (herding), many investment strategies encourage short term investment behaviour, which naturally does not match the investment horizon of the scheme. The investment rules section of the IORP could benefit from the preamble of the recently adopted revision to Regulation 28 of the South African Pension Funds Act 1956. The preamble below titled "Asset spreading requirements" could substitute the current text in Article 18(1)a of the current IORP Directive.</p> <p>A fund has a fiduciary duty to act in the best interest of its members whose benefits depend on the responsible management of fund assets. This duty supports the adoption of a responsible investment approach to deploying capital into markets that will earn adequate risk adjusted returns suitable for the fund's specific member profile, liquidity needs and liabilities. Prudent investing should give appropriate consideration to any factor which may materially affect the sustainable long-term performance of a fund's assets, including factors of an environmental, social and governance character. This concept applies across all assets and categories of assets and should promote the interests of a fund in a stable and transparent environment.</p>	
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			<p>The above text does not endorse any particular investment style, it emphasises the need to consider the longer term interest and draws in consideration of environment, social and governance issues. Though not perfect, I believe it goes a long way to addressing my concerns on herding, systemic risk and short termism, thereby delivering better outcomes for scheme members.</p> <p>Given my concerns on the deficit of investment expertise within IORPs, I support EIOPA's option 2 where the IORP is made responsible for its investments through the text, "With respect to the whole portfolio of assets, IORPs shall only invest in assets and instruments whose risks the institution concerned can properly identify, measure, monitor, manage, control and report ..."</p>	
26.	Chris Barnard	47.	<p>Ideally, the prudent person principle should be a sufficient basis for the investment of IORPs. This is a generally accepted and understood principle, and is enshrined in the Solvency II Directive.</p> <p>In reality this principle has to take into account the wide-ranging characteristics of IORPs and pension arrangements, and their interaction with different Member State's SLL, and so some additional provision may be needed. But this should only be used where absolutely necessary.</p>	Noted
27.	CMHF (Centrale van Middelbare en Hogere Functionar	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer'</p>	Noted

			<p>investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	
28.	De Unie (Vakorganisatie voor werk, inkomen en loop	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	Noted
29.	Ecie vie	47.	We believe that the prudent person principle together with the freedom of investment principle are sufficient basis.	Noted
30.	EFI (European Federation of Investors)	47.	The prudent person principle could be sufficient if solvency rules are strong enough. Nevertheless supervisors could have the right	Noted

			to ban certain types of investments like “subprimes” or restrict the use of some others like derivatives.	
31.	European Association of Public Sector Pension Inst	47.	<p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>The goal of any investment rules for IORPs should be consistency with the retirement objective of IORPs. Therefore EAPSPI accepts the abandoning of rule-based regulation aspects with quantitative limits on several types of investments and the emphasis of the prudent person principle, as it offers in general the possibility for a reasonable and long-term oriented asset management in the specific asset-liability context of IORPs. No further provision on investment decisions is needed.</p> <p>In addition EAPSPI wants to point out the difficulties of imposing quantitative provisions to different schemes from different Member States with varied and heterogeneous pension systems, with different pillar compositions and different retirement provision aims.</p> <p>However: Although there might be less limiting quantitative rules in place, under a principle-based supervision the disclosure requirements to the supervisor are likely to increase and it is left to the supervisor’s discretion if the goal of a prudent and appropriate asset management is sufficiently adhered to. Therefore we want to accentuate that a general change-over to a principle-based supervisory system must not lead along the way to severe disturbances with respect to the long-term investment horizon (see argumentation in the answer to question #50).</p>	Noted

32.	European Federation for Retirement Provision (EFRP)	47.	<p>The prudent person principle should according to the EFRP remain the basic principle in a revised IORP Directive. The prudent person principle forces IORPs to make only investments which serve the interest of participants and pensioners. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p>	Noted
33.	European Fund and Asset Management Association (EFAMA)	47.	<p>EFAMA believes that the review should not lead to giving more powers to Member States to impose detailed rules. The review of the Directive should be taken as an opportunity to strengthen the application of the prudent person principle across Europe to ensure greater harmonization in investment rules among Member States. It is clear that any restrictions that are applied by individual Member States restrict the ability of offering or creating pan-European retirement plans. We also feel that legislating or restricting the ability to design appropriate investment options for DC schemes could operate to stifle innovation and restrict member choice.</p> <p>If EIOPA decides nevertheless to propose to retain the option of restrictions “to protect members who bear the investment risk” (option 3 from page 271), we strongly believe that the Directive should not allow that Member States to</p> <p><input type="checkbox"/> prevent IORPs from investing in UCITS, as UCITS are consistent, highly regulated and recognized across Europe and in other parts of the world. As a long-term investment product, UCITS offer the required quality in terms of portfolio diversification, professional management, level of investor</p>	Noted

			<p>protection and transparency, and liquidity;</p> <p><input type="checkbox"/> impose portfolio limits that inhibit adequate diversification or impede the use of asset-liability matching or other widely-accepted risk management techniques and methodologies.</p> <p>EIOPA should also require that the legal provisions setting forth quantitative portfolio limits be regularly assessed to determine whether they are unnecessarily inhibiting the ability of pension fund asset managers to implement optimum investment strategies and amended to the extent necessary.</p>	
34.	European Metalworkers Federation	47.	<p>7. In most Member States IORPs are operated or controlled by the social partners or the representatives of the members and beneficiaries. They are not commercial financial institutions because their aim is not to sell investments in a market but to provide social protection to their beneficiaries. This control structure and this objective, combined with good governance rules and the obligation to invest all assets in the best interests of the members and beneficiaries, constitute a strong mechanism to make sure that investments are made in a sound way. Investment rules should be consistent with the retirement objective of the IORP, and should therefore be based on the future liabilities and on the asset-liability context, with appropriate internal risk management procedures.</p> <p>IORPs are important long-term investors, and are important suppliers of risk-bearing capital. This should remain, and investment or prudential rules should not interfere with this role. In this respect, more macro-economic analysis on the role of IORPs for the EU economy is desirable.</p>	Noted

35.	European Mine, Chemical and Energy workers' Fede	47.	<p>7. In most Member States IORPs are operated or controlled by the social partners or the representatives of the members and beneficiaries. They are not commercial financial institutions because their aim is not to sell investments in a market but to provide social protection to their beneficiaries. This control structure and this objective, combined with good governance rules and the obligation to invest all assets in the best interests of the members and beneficiaries, constitute a strong mechanism to make sure that investments are made in a sound way. Investment rules should be consistent with the retirement objective of the IORP, and should therefore be based on the future liabilities and on the asset-liability context, with appropriate internal risk management procedures.</p> <p>IORPs are important long-term investors, and are important suppliers of risk-bearing capital. This should remain, and investment or prudential rules should not interfere with this role. In this respect, more macro-economic analysis on the role of IORPs for the EU economy is desirable.</p>	Noted
36.	European Public Real Estate Association (EPRA)	47.	<p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>The response to this question is also relevant to questions 48, 49, 50 and 68</p> <p>EPRA believes that the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs</p>	Noted

		<p>only to participate in investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in asset classes such as government bonds which are labelled as 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. This area of discussion is particularly relevant to the role of real estate and real estate equities.</p> <p>Principles based supervision is therefore preferable to quantitative requirements and we believe that the prudent person principle is a sufficient basis for the investment of IORPs. We have concerns that over-regulation at either an EU or national level could restrict the development of an efficient pension fund sector in Europe.</p> <p>Nevertheless, EPRA recognize the differences that arise between DB and DC schemes and believe that the European Commission could and should play a very influential role in developing a code of practice, rather than regulation, that identifies best practice guidelines, particularly for DC schemes, that are consistent with the prudent person principle. These guidelines should be particularly applicable "...where pension schemes provide for....default options (where members in a multi-fund do not make a choice)" [Response to Call for Advice (RCfA) 7.8.2].</p> <p>Such a European level code of best practice should be relatively simple and recognize the 4 distinct asset classes of Stocks, Bonds, Cash and Real Estate and the need to include a minimum, or a range of allocations to these asset classes in any</p>	
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			<p>properly diversified portfolio. The extent to which these could take the form of 'safe harbors', (i.e. categories of default options of a defined standard that, when adopted by IORPs, provide immunity against litigation) suggests a higher level of regulation than a code of practice and is not something we feel comfortable opining on at this stage without further consultation.</p> <p>We are therefore broadly supportive of EIOPA's comments at 11.3.1.in the RCfA that: "when members bear the investment risk, the regulation should not discourage IORPs from offering different investment options, including a low-risk option (and possibly a default option – see below). These options may be defined by bands within which the investment in certain securities have to be kept"</p> <p>And we fully support the objective described at 11.3.2. of the RCfA as follows:</p> <p>"An alternative to a change to 18(5) is to encourage best practice among Member States in the investment alternatives offered to IORP members who bear the investment risk."</p> <p>It is our view that the prudent person principle, combined with the EU based best practice guidelines on pension fund design, will achieve an optimal investment result.</p>	
37.	FAIDER (Fédération des Associations Indépendantes	47.	The prudent person principle could be sufficient if solvency rules are strong enough. Nevertheless supervisors could have the right to ban certain types of investments like "subprimes" or restrict the use of some others like derivatives.	Noted

38.	FairPensions	47.	<p>Our work on fiduciary duty in a UK context, on which Article 18 of the IORP directive is partly based, suggests that it may be insufficient to ensure that assets are invested in the long-term interests of beneficiaries. Indeed, we conclude that interpretations of the principle may actually be driving perverse outcomes.</p> <p>There are two inter-related problems with interpretations of the prudent person rule:</p> <p>1) It is generally interpreted narrowly as a duty to maximise risk-adjusted return and to ignore non-monetisable factors. This is potentially dangerous because, as is pointed out in the OECD guidance referred to in para 20.2.8 (page 376) of the consultation paper, intangible factors such as environmental or regulatory risks can have a significant impact on long-term investment outcomes. This interpretation of the law also contributes to short-termism, since pension fund trustees believe that their fiduciary duty can only be fulfilled by frequent monitoring of their asset managers' performance against the benchmark, leading to an over-emphasis on quarterly returns.</p> <p>2) 'Prudence' is interpreted by reference to the behaviour of other investors, making trustees wary of departing from market norms even if the market itself is behaving irrationally or exuberantly. This has the potential to exacerbate market volatility, which is clearly not in the best interests of savers. See also our response to Q52.</p> <p>These factors combined mean that, for example, a manager who</p>	Noted
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			<p>refuses to invest in an asset bubble may be sacked for short-term underperformance against the benchmark, even if his strategy might be prudent in the long run. This clearly does not serve the long-term best interests of beneficiaries.</p> <p>In the UK context, we have recommended statutory clarification of fiduciary duties to overcome these narrow interpretations. We recommend that EIOPA or the European Commission may wish to investigate whether the problems we have identified in a UK context are replicated in other Member States. There is little formal evidence on this issue, although anecdotally we believe that this may not be solely a UK problem. If it is concluded that a wider problem exists, steps to clarify Article 18, or to issue additional guidance, may be useful.</p>	
39.	Federation of the Dutch Pension Funds	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	Noted

40.	Financial Reporting Council	47.	We have not considered this question.	Noted
41.	FNV Bondgenoten	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	Noted
42.	Generali vie	47.	We believe that the prudent person principle together with the freedom of investment principle are sufficient basis.	Noted
43.	Groupe Consultatif Actuariel Européen.	47.	Although the underlying prudent person principle is a good general basis for IORP investment, we believe there is merit in some additional specific provisions. To this end the general thrust of EIOPA's revised wording under option 3 seems appropriate. However, we think additional consideration should be given as to whether the precise wording of article 132(2) of the Solvency II Directive is appropriate. In particular, the wording suggests that the managers of the IORP must 'control' the investment risks. Many of the risks are outside the control of those managers but are an inherent element of the particular investment (for example, some asset classes are at risk in	Noted

			<p>inflationary times and managers cannot control that risk). EIOPA should either consider removing the word 'control' from the proposed revised wording or amend the wording to say that the IORP must be "in control" meaning the IORP knows and understands the risks and is capable of managing them when they occur. Furthermore, we do not believe that this should be in relation to the assessment of its overall solvency needs. Rather we think this should be changed to "funding needs".</p> <p>We broadly support the continued specification of a quantitative limit(s) to investment in the sponsoring undertaking (and in a group of associated undertakings) in particular, and the need for diversification in general. However, recent events have illustrated the peril of permitting Member States to derogate from the diversification requirement in relation to investment in government bonds. We strongly urge EIOPA to consider recommending that this easement (and that relating to the 'self-investment' in sponsoring undertakings) is removed. Furthermore, we support EIOPA's contention (in the text, if not the 'blue box' advice) that it is important to distinguish between direct investment in the securities of a sponsoring undertaking and the operation of the employer covenant.</p> <p>We believe that it is appropriate to retain article 18(1)(d), though there should be no special provision for the valuation of derivatives 'on a prudent basis'. All assets should be valued on a market consistent and prudent basis.</p> <p>Finally, we agree that introduction of a specific provision to avoid geographical concentration is a welcome adjunct to the 'prudent person' principle.</p>	
44.	Groupement Français des Bancassureurs	47.	In general FBIA believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient.	Noted

			<p>In this context – given that solvency II regulations should be the basis – we believe that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the valuation of assets and calculation of the technical provisions follows a solvency II like approach.</p> <p>Riskiness of the assets should be taken into account in the capital requirement.</p>	
45.	PMT-PME-Mn Services	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	Noted
46.	HM Treasury/Department for Work and Pensions	47.	<p>We believe that the prudent person principle has served IORPs well and should be retained in its current form</p>	Noted

47.	IMA (Investment Management Association)	47.	Yes. Prudent person should be a starting point, but effective investment decision-making at the level of the IORP or its appointed agents is also essential. This is a governance (ie. process) issue and not one that requires substantive prescriptive intervention. As we comment further in our answer to Q.49, the issue of governance is one that arises in both DB and DC pensions, and is one that is likely to grow in importance as the transition to DC accelerates.	Noted
48.	Institute and Faculty of Actuaries (UK)	47.	<p>Making explicit the principle of 'ensuring knowledge and understanding of the assets in which to invest' would be in line with current UK practice.</p> <p>Option 2 (for 7.1) suggests an extended responsibility of the IORP to " identify, measure, monitor , manage and control and report" while option 3 emphasises the oversight and supervision responsibilities. In the UK IORPs operate under a trust system where it is usual for significant elements of the investment process to be outsourced while the Trustees retain ultimate responsibility. Option 3 better reflects the UK system of Governance. Option 2 may imply expertise that may not be available in the Trustee body; requiring this could potentially lead to Trustees resigning and being replaced by professional trustees resulting in an increased cost. The current governance structure in the UK with the ultimate oversight by the regulatory authorities is considered fit for purpose; as a result option 3 represents a lower cost and standard of governance deemed suitable by the regulatory authorities. Option 3 also mitigates the legal risk to IORPs as identified by EIOPA in the case where outsourcing occurs (11.3.6).</p>	Noted
49.	Italian Banking Association	47.	See answer to question 49.	Noted

50.	KPMG LLP (UK)	47.	We believe that the current prudent person principle is sufficient for IORPs – we have no evidence to suggest that the present investment behaviour of IORPs requires any expansion of this principle. Making the principle more complicated would lead to increased compliance costs by trustees, with no obvious benefit.	Noted
51.	Le cercle des épargnants	47.	We believe that the prudent person principle together with the freedom of investment principle are sufficient basis.	Noted
52.	Mercer	47.	Yes. Our view is that many of the subsidiary requirements set out in the Solvency II Directive just indicate what could be viewed as 'prudent' investment behaviour and so might sit better at a lower level of legislative prescription.	Noted
53.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	Noted
55.	Montana Capital	47.	47. Do stakeholders believe that the prudent person principle	Noted

	Partners AG		<p>is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	
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			<p>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.</p> <p>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.</p> <p>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.</p>	
56.	National Association of Pension Funds (NAPF)	47.	<p>INVESTMENT RULES</p> <p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p>	Noted

			<p>The NAPF agrees that the prudent person principle is a good protection for IORP investments, and this is well covered in the existing IORP Directive text.</p> <p>We do not object in principle to EIOPA's proposed amendments, which are already covered by the prudent person principle, but it is not clear that they would deliver any practical increase in protection.</p>	
57.	NEST Corporation	47.	<p>With respect to the prudent person principle we would support a more defined requirement for IORPs to understand the risks borne by the beneficiaries of their plan, as outlined in Option 3. An approach similar to that found in Solvency II seems appropriate. IORPs should be able to outsource delivery of services, but should not be able to outsource liability or responsibility.</p>	Noted
58.	OECD Secretariat to the Working Party on Private P	47.	<p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>The OECD believes that the basic regulations should be built around the concept of the "prudent person" standard.</p> <p>The OECD Core Principles of Occupational Pension Regulation state that</p> <p>The governing body of the pension plan or fund and other appropriate parties should be subject to a "prudent person standard" such that the investment of pension assets is</p>	Noted

			<p>undertaken with care, the skill of an expert, prudence and due diligence. Where they lack sufficient expertise to make fully informed decisions and fulfil their responsibilities the governing body and other appropriate parties should be required to seek the external assistance of an expert.</p> <p>The legal provisions may include maximum levels of investment by category (ceilings) to the extent that they are consistent with and promote the prudential principles of security, profitability, and liquidity pursuant to which assets should be invested. Legal provisions could also similarly include a list of admitted or recommended assets. Within this framework, certain categories of investments may be strictly limited. The legal provisions should not prescribe a minimum level of investment (floors) for any given category of investment, except on an exceptional and temporary basis and for compelling prudential reasons.</p>	
59.	Pan-European Insurance Forum (PEIF)	47.	The prudent person principle is a sufficient basis for the investments of IORPs.	Noted
60.	Pensioenfonds Zorg en Welzijn (PFZW)	47.	<p>In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see</p>	Noted

			also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.	
61.	Predica	47.	<p>In general Predica believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient.</p> <p>In this context – given that solvency II regulations should be the basis – we believe that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the valuation of assets and calculation of the technical provisions follows a solvency II like approach.</p> <p>Riskiness of the assets should be taken into account in the capital requirement.</p>	Noted
62.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	47.	Option 3 (allow for outsourcing)	Noted
63.	PTK (Sweden)	47.	In our opinion, the prudent person principle should remain the basic principle in a revised IORP Directive. The prudent person principle forces IORPs to make only investments which serve the interest of participants and pensioners. Investment rules should be consistent with the retirement objective of an IORP, based on the nature and duration of future liabilities, and be based on appropriate risk management.	Noted
64.	Railways Pension	47.	We have not considered this question.	Noted

	Trustee Company Limited ("RPTCL			
65.	Sacker & Partners LLP	47.	<p>Investment rules</p> <p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>The "Prudent Person" principle set out in the IORP Directive provides a sensible Europe-wide framework, which is flexible enough to be applied to the different frameworks which exist in Member States.</p> <p>In our view, the proposed amendments are unlikely to result in the strengthening of protection for IORP members.</p>	Noted
66.	Standard Life Plc	47.	<p>Yes, we believe the prudent person principle provides an effective basis for ensuring appropriate investment decisions for IORPs and no additional provisions are necessary.</p>	Noted
67.	TCO	47.	<p>In our opinion, the prudent person principle should remain the basic principle in a revised IORP Directive. The prudent person principle forces IORPs to make only investments which serve the interest of participants and pensioners. Investment rules should be consistent with the retirement objective of an IORP, based on the nature and duration of future liabilities, and be based on appropriate risk management.</p>	Noted
68.	The Association of Pension Foundations (Finland)	47.	<p>Prudent person rule should be sufficient basis for investment rules. Investments are made to serve the best interests of participants and beneficiaries.</p>	Noted
69.	The Association of the Luxembourg Fund Industry (A	47.	<p>The current IORP directive follows a prudent person plus approach meaning that the prudent person principle can be supplemented by more detailed provisions including quantitative restrictions based on home member state's option.</p>	Noted

			<p>The prudent person principle is a key role in the IORP directive. Compared to Solvency II rules there is no specific requirement within the current IORP directive to fully understand and control the investment risks at any time. It seems opportune to fill the lack of a provision in the current Directive in order to emphasize that IORP´s have to be aware of the risks arising out of their assets in a same way as insurance undertakings.</p> <p>The Respondents support EIOPA´s view to add to the current IORP directive an adapted first paragraph of § 132 (2) of the Solvency II directive in order to emphasize the responsibility of the IORP for the oversight and supervision of the investments of the institution. Additionally the Respondents support the view to add the second part of the paragraph in order to take DC schemes into account (“where applicable”). (7.1. Option 3).</p>	
70.	The Society of Actuaries in Ireland	47.	<p>We consider that a requirement to follow the prudent person principle should be sufficient for defined benefit IORPs. However, it may be considered desirable to retain the restrictions with regard to self-investment risk and concentration risk as in the current Directive.</p>	Noted
71.	THE SOCIETY OF PENSION CONSULTANTS	47.	<p>The prudent person principle provides a wide-ranging and effective method of ensuring appropriate investment decisions and controls and therefore additional provision is unnecessary.</p> <p>The prudent person principle can either be used as an overarching general principle or can be easily tailored (by National Supervisors) to reflect the specific situation in a Member State. It is both flexible and robust making it a good method of control.</p>	Noted

			<p>No additional provision is therefore needed.</p> <p>The concept of “solvency needs” in an insurance context would be interpreted by reference to the insurer’s in force business written on the date, on which solvency is assessed. The concept does not work when applied by analogy to a pension fund, which has liabilities still accruing. It is also unrealistic to expect pension funds to have the kind of technology typically used by insurers when assessing the appropriateness of their assets to scheme liabilities.</p>	
72.	Towers Watson Deutschland GmbH	47.	<p>Yes. The prudent person principle should remain the basic principle in a revised IORP Directive. The prudent person principle forces IORPs to make only investments which serve the interest of participants and pensioners.</p>	Noted
73.	Transport for London / TfL Pension Fund	47.	<p>We agree that the prudent person principle is a sufficient basis for the investment of IORPs.</p>	Noted
74.	UK Association of Pension Lawyers	47.	<p>CfA 7 (Investment rules): Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>We agree that the prudent person principle is a sufficient basis for the investment of IORPs and that no additional provision is needed. In particular, we would not support introducing elements of Article 132(2) of Directive 2009/138/EC for the following reasons:</p> <p>(a) In practice the real issues such an Article would protect against are already covered by elements of the existing IORP directive (notably Article 18(1));</p>	Noted

			<p>(b) Inevitably there will be exceptions, where the principles are not appropriate. For example, some IORPs are set up on the basis that members will make investment decisions, and the IORP itself has no discretion (even as to “supervision or control”), which seems inconsistent with such an article. Other IORPs will pool their assets with those of other IORPs, accepting in some cases less transparency of investment but with an expectation of greater returns.</p> <p>(c) The draft language suggests that the IORP should “keep full responsibility for all ... aspects” of investment. This seems inconsistent with outsourcing – very few IORPs will keep responsibility at all levels.</p> <p>We agree with the points that you highlight in paragraphs 11.3.4, 11.3.5 and 11.3.6 and note that these are very real concerns for UK IORPs.</p>	
75.	UNI Europa	47.	<p>7. In most Member States IORPs are operated or controlled by the social partners or the representatives of the members and beneficiaries. They are not commercial financial institutions because their aim is not to sell investments in a market but to provide social protection to their beneficiaries. This control structure and this objective, combined with good governance rules and the obligation to invest all assets in the best interests of the members and beneficiaries, constitute a strong mechanism to make sure that investments are made in a sound way. Investment rules should be consistent with the retirement objective of the IORP, and should therefore be based on the future liabilities and on the asset-liability context, with appropriate internal risk management procedures.</p> <p>IORPs are important long-term investors, and are important suppliers of risk-bearing capital. This should remain, and investment or prudential rules should not interfere with this role.</p>	Noted

			In this respect, more macro-economic analysis on the role of IORPs for the EU economy is desirable.	
76.	Universities Superannuation Scheme (USS),	47.	<p>INVESTMENT RULES</p> <p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>USS agrees that the prudent person principle is a good protection for IORP investments, and this is well covered in the existing IORP Directive text.</p> <p>We do not object in principle to EIOPA's proposed amendments, which are already covered by the prudent person principle, but it is not clear that they would deliver any practical increase in protection.</p>	Noted
77.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	47.	In our strong opinion the prudent person principle should remain the basic principle in a revised IORP Directive. It obliges IORPs only to get into investments that serve the best interests of the beneficiaries. Contradictory as it may seem, it may well be possible that investing in 'less risky' or seemingly 'safer' investment classes is not in the best longer term interests of the beneficiaries if they do not generate the yields necessary to meet the commitments. The investment rules and policies should always be worked out in an asset-liability context. Investment rules should be consistent with the retirement objective of an	Noted

			<p>IORP, based on the (nature and duration of) future liabilities, and be based on appropriate risk management.</p> <p>Pension funds are important suppliers of risk-bearing capital (see also EU 2020 agenda). In the above context it is therefore stressed that a solid macro-economic analysis on the role of IORP's for the European economy is desirable.</p>	
78.	Whitbread Group PLC	47.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted
79.	Zusatzversorgungskasse des Baugewerbes AG	47.	61. We believe that especially for IORPs operated or controlled by social partners or representatives of the members and beneficiaries the prudent person principle is a sufficient basis. These IORPs are not for profit institutions providing social protection to their beneficiaries. Their control structure and objective, combined with good governance rules and the obligation to invest all assets in the best interests of the members and beneficiaries, constitute a strong mechanism to make sure that investments are done in a sound way.	Noted
80.	European Private Equity & Venture Capital Associat	47.	<p>EVCA believes that the "prudent person principle" is a sufficient basis for the investment of IORPs. The prudent person principle results in an optimal outcome through the establishment of a portfolio of investments which is consistent with the specific objectives of the IORP, taking into account the nature and duration of its specific future liabilities.</p> <p>The prudent person principle applied to the investment portfolio as a whole mitigates serious flaws of the Solvency II regime: It allows for an appropriate calibration of the maturity of the investments with a view to meet IORPs long-term and predictable liabilities instead of forcing IORPs to adopt short-</p>	Noted

		<p>term investment strategies. Further, it allows for an appropriate measurement of the investment risks for each investment category instead of applying unsuitable criteria.</p> <p>If a capital adequacy based regulation were to be applied to pension funds such a regime would also need to provide for the development of internal models that have the potential of adequately mirroring the risks of the portfolio as a whole. EVCA is actively involved in the development of guidelines to measure the risk of private equity fund investments appropriately and is happy to discuss the approach taken in the guidelines with EIOPA.</p> <p>However, it seems unlikely that the 140,000 IORPs covered by the IORP Directive will be in a position, or will plan, to develop internal models. Therefore, it is important that the standard approach provides them with the ability to measure their risks appropriately.</p> <p>General penalisation of long-term investments</p> <p>The problem occurs because under Solvency II solvency capital requirements ("SCR") are calibrated to correspond to the value at risk over a 12 month period (discussed below). As a consequence, much of the focus is on the liquidity of investments rather than the capital at risk. For example, a short dated BBB rated bond requires less capital than a longer term AAA rated bond under Solvency II.</p>	
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			<p>Applying capital adequacy-based regulation would be likely to cause systemic risk to increase, not decrease. This is because the stabilising role of long-term investors in global financial markets would be undermined. Pension funds covered by the IORP Directive manage assets of €2,500bn. To comply with Solvency II they would be required to hold extra assets worth €1,000bn. The Bank of International Settlements (“BIS”) envisages a sale of equity instruments given their new capital weight (39% for global equities/49% for other equities such as private equity). This could trigger a reduction of about 5% of total assets invested in European shares. This translates into a €750bn loss to European stock markets.</p> <p>Risk measurement of private equity market risk</p> <p>EVCA considers that the approach to modelling private equity market risks under Solvency II is fundamentally flawed. The standard model is calibrated to the one-year 99.5% VaR level for both “global” and “other” equity. Private equity is assigned to the “other” equity category risk measurement of private equity is based on a listed private equity index, the LPX50.</p> <p>This approach is generally flawed for illiquid, long-term, non-tradable assets, such as investments in closed-end funds like private equity and venture capital funds as well as traditional real-estate funds: market risks are of subordinate importance to investors in such funds to the risks of financing the capital contributions to be made to these funds and the unpredictability of proceeds received from these funds. In almost all closed-end funds the capital employed by the fund is drawn down on an as needed basis. An investor’s return is generally generated when</p>	
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			<p>the underlying investments made by the fund are realized and proceeds distributed back to the investor. An investor's return is not generally achieved by selling their participation in the fund.</p> <p>For the reasons set out below, the use of the LPX50 index and the correlation factor used to aggregate "other" equities and alternative investments and calculate the requirements for private equity risks appear discriminatory and irrelevant, resulting in a flawed risk weighting for private equity.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Institutional investing in private equity is predominantly through unlisted funds that have a contractual lifetime of 10 years and follow a very distinct lifecycle. In such cases it is meaningless to view risk as the volatility of a time series over short horizons. <input type="checkbox"/> The LPX50 index does not reflect the universe of PE funds that pension funds would invest in to gain exposure to private equity and venture capital funds. It is unlikely that any of the funds a pension fund would invest in as part of their private equity portfolio is included in the LPX50. Moreover, where pension funds invest in a fund which is included in the LPX50 then such investments would be mostly to be held in the pension fund's public equity portfolio and NOT in its private equity portfolio. <input type="checkbox"/> Whereas institutional investors in private equity are typically long-term oriented and have the intention and ability to hold onto their positions over the full lifetime of the funds, publicly quoted private equity vehicles are specifically set up to attract the wider public to this asset class and they therefore basically display the same characteristics as public stocks. Share price developments are not necessarily driven by the performance of the underlying investments, but are rather a function of market sentiment. For publicly quoted private equity 	
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		<p>as typically second-line stocks (i.e. stocks with thin market capitalization or low frequency of trading), the lack of liquidity is priced into the market, the thin market results in high bid-ask spreads, often extreme discounts and price movements. As a consequence, the LPX 50 is in no way neither a representative nor a suitable yardstick for the risks institutional private equity investors incur.</p> <p><input type="checkbox"/> A more appropriate measurement would, for example, be to take the standard deviation relative to private equity funds' average returns. Taking this perspective, an independent study undertaken by Weidig and Mathonet specifically looked at the risk profile of diversified portfolios of private equity funds and found that a direct investment has a 30% probability of total loss, a fund or a portfolio of direct investments has a very small probability of total loss, and a portfolio of funds has a small probability of any loss. According to their results, the maximum diversification benefit is sufficiently reached with a portfolio of between twenty and thirty funds. These results have been empirically confirmed over the past years, also through difficult market cycles.</p> <p><input type="checkbox"/> Private equity funds with their low liquidity require, in the eyes of most industry practitioners, a risk analysis which is closer to that which accompanies the assessment of default risk rather than market risk. Indeed, "rating" approaches where private equity funds are grouped into categories associated with growth expectations are widely used in the industry.</p> <p>EVCA would be happy to provide further information and analysis on this subject and urges EIOPA to engage in a modelling discussion with the private equity industry to avoid reaching a misguided view based on wrong assumptions on the risks inherent in this asset class with far reaching implications for an important part of Europe's innovation and economic system.</p>	
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81.	Towers Watson	47.	<p>48. CfA 7 Investment rules</p> <p>Do stakeholders believe that the prudent person principle is a sufficient basis for the investment of IORPs or is additional provision needed?</p> <p>Yes. Subject to the limitations referred to in this response and in our responses to questions 48 and 49, we consider that the prudent person principle is a sufficient general basis for investments by IORPs.</p> <p>We also consider that EIOPA's revised wording and approach outlined in option 3 seems appropriate if the provisions of Article 132(2) of the Solvency II Directive are to be adopted in the revised IORP Directive. We are not convinced, however, that this is necessary or desirable. One particular point is that the wording of Article 132(2) suggests that the managers of the IORP must be able to 'manage' and 'control' the risks of the particular assets in which it invests. Whilst the managers of an IORP may be able to 'manage' the risks in the IORP's investment portfolio as a whole, and even to control certain aspects of these risks at an aggregate level, the risks relating to particular assets will generally be outside of their influence. We would suggest that this point be clarified in any revised provision in the IORP Directive.</p> <p>We support the continued specification of a quantitative limit(s) to investment in the sponsoring undertaking in particular, and the need for diversification more generally. We believe that it is appropriate to permit investment in derivatives as provided for in article 18(1)(d), particularly with the requirement that this be to "facilitate efficient portfolio management". However, we see no reason why 18(1)(d) should refer to the valuation of derivatives</p>	Noted

			<p>as being 'on a prudent basis'; all assets should be valued on a market-consistent basis.</p> <p>We disagree with the introduction of a specific provision to avoid geographical concentration. It is not by any means clear that geography is a particular factor leading to concentration of risk in asset portfolios generally. Other factors, such as concentration by asset type or industry, can be more significant. Furthermore, it is difficult to establish the level of concentration of risk by geography with any accuracy, due to the global nature of many investments.</p>	
82.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	48.	See question 47	Noted
83.	AbA Arbeitsgemeinschaft für betriebliche Altersver	48.	<p>Yes, although the IORP Directive should make clear that the prudent person principle is a sufficient basis for the investment of IORPs.</p> <p>With regard to cross-border activity, we would argue that the host Member State should not be allowed to impose additional prudential requirements over and above those of the home Member State. The IORP operating in the host country, however, would need to comply with the host state social and labour as well as tax law. This could include mandatory participation in a pension protection scheme. In addition, the IORP should be required to disclose supplementary information to the sponsor with respect to the nature of the prudential requirements to which the IORP is subject.</p>	Noted
84.	ABVAKABO FNV	48.	The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be invested in a way that might be optimal according to the retirement objective and risk	Noted

			<p>management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking.. We disagree with the investment proposal to limit investment in foreign currencies.</p>	
85.	AEIP	48.	<p>The prudent person principle constitutes a qualitative investment basis. It is up to the pension fund to decide on differentiation in investment policies. Different investment policies in pension funds come from the different composition of IORP's and/or the different pension promises they manage. AEIP favors a principle based supervision rather than quantitative requirements, although some too risky situations should be avoided. Therefore some mandatory quantitative requirements such as investment in the sponsor company can be imposed. The limit on investments in foreign currencies needs to be clarified.</p>	Noted
86.	AFPEN (France)	48.	<p>107. Although the qualitative criterion of the prudent person principle is a sufficient basis, we think the Member States should be given the possibility to offer to the IORP at least two options:</p> <p>108. 1. Prudent person principle without any further quantitative limitations on investments</p> <p>109. 2. Rule-based quantitative limitations similar to those</p>	Noted

			<p>in the existing IORPs Directive</p> <p>Additional quantitative limitations to the existing rules in the IORPs Directive are not necessary, neither on the national or the European level. It should be the intention of the investment supervision to allow for different investment policies across IORPs in Europe, which leads to a better diversification of risks.</p>	
88.	AMICE	48.	<p>The prudent person principle should govern investments. We do not support any additional limitations, particularly not a possibility for Member States for introducing such limitations.</p>	Noted
89.	AMONIS OFP	48.	<p>Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>We are not in favour for this. If there is (see prior question) a sufficient basis, no extra rules should be imposed. In view of harmonisation across Europe, the possibility to impose additional national rules may again create entry barriers.</p>	Noted
90.	ANIA – Association of Italian Insurers	48.	<p>According to the ANIA there should be no exception of the freedom of investment principle, even for pension schemes providing multi-funds, default options or life styling as long as the prudent person principle is retained.</p>	See CEA
91.	Association of British Insurers	48.	<p>The ABI does not believe that Member States should have the option to impose limitations that go beyond the restrictions that may be laid down in the Directive.</p> <p>It is important that the Directive should facilitate a cross-border market in pension products and this would be materially impaired if additional restrictions were to be imposed.</p> <p>We think that pension savers should not be denied access to pension products and underlying investment profiles that conform to the requirements of the Directive. We are not</p>	Noted

			convinced that host member states would need the ability to impose restrictions in this regard on product providers operating from their jurisdiction.	
92.	Association of Consulting Actuaries (UK)	48.	In general we would be of the view that a single set of investment restrictions should exist at a European level. This reflects that any restrictions at Member State level, particularly for host Member States, will certainly be a considerable barrier to the widespread creation and adoption of cross-border schemes.	Noted
93.	Association of French Insurers (FFSA)	48.	There should be no exception of the freedom of investment principle, as long as the prudent person principle is retained.	Noted
94.	Association of Pensioner Trustees in Ireland	48.	See response to question 49.	Noted
95.	Assoprevidenza – Italian Association for supplement	48.	Member States should not have possibility to impose additional restrictions on investment. The prudent person principle constitutes a qualitative investment basis. It is up to the pension fund to decide on differentiation in investment policies. AEIP favors a principle based supervision rather than quantitative requirements, although some too risky situations should be avoided. Therefore some mandatory quantitative requirements such as investment in the sponsor company can be imposed. The limit on investments in foreign currencies needs to be clarified.	Noted
96.	Assuralia	48.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of	Noted

			interest or opinion.	
97.	Belgian Association of Pension Institutions (BVPI-	48.	Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states? We are not in favour for this. If there is (see prior question) a sufficient basis, no extra rules should be imposed.	Noted
98.	BNP Paribas Cardif	48.	There should be no exception of the freedom of investment principle, as long as the prudent person principle is retained.	Noted
99.	Bosch Pensionsfonds AG	48.	See also answer to question 47. The existing MS options in Art. 18 (5),(6) and (7) of the current Directive should be removed and further MS options avoided. They prevent investments that are optimal according to the retirement objective and risk management of the IORP, constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.	Noted
100.	Bosch-Group	48.	See also answer to question 47. The existing MS options in Art. 18 (5),(6) and (7) of the current Directive should be removed and further MS options avoided. They prevent investments that are optimal according to the retirement objective and risk management of the IORP, constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.	Noted
101.	BT Pension Scheme Management Ltd	48.	No, we do not believe that member states should be able to impose any additional limitations on investments, other than those arising from such formal international processes such as sanctions.	Noted

102.	BVI Bundesverband Investment und Asset Management	48.	In addition to our responses to Questions 47 and 51, we think that host Member States should not be allowed to apply some investment rules to the IORP assets that correspond to the activities in the host Member State. This means that Article 18(7) should be deleted in order to create a level playing field among Member States and eliminate a barrier to cross-border business.	Noted
103.	CEA	48.	According to the CEA there should be no exception of the freedom of investment principle, even for pension schemes providing multi-funds, default options or life styling as long as the prudent person principle is retained.	Noted
104.	Charles CRONIN	48.	I do not agree that Member States should be able to impose additional limitations on scheme investments, as this does not encourage harmonisation of a single market. But I do believe it is prudent that investment limits should exist at a European level. Therefore I support EIOPA's option 4, to "delete Article 18(5) but permit restrictions to investment to be agreed at EU level, where the member bears the investment risk for the purpose of member protection".	Noted
105.	Chris Barnard	48.	This depends on the nature and consistency of the valuations of assets and liabilities, and the solvency regime. If a Solvency II-like, market-consistent approach to the calculation of technical provisions along with a consistent, robust risk-based capital regime were introduced, then there should be little need for Member States to have the option to impose limitations on investments in addition to those set out in the IORP Directive.	Noted
106.	CMHF (Centrale van Middelbare en Hogere Functionar	48.	The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative	Noted

			<p>restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.</p>	
107.	De Unie (Vakorganisatie voor werk, inkomen en loop	48.	<p>The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p>	Noted

			In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.	
108.	Ecie vie	48.	We support the freedom of investment principle.	Noted
109.	European Association of Public Sector Pension Inst	48.	<p>Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>Although the qualitative criterion of the prudent person principle is a sufficient basis, we think the Member States should be given the possibility to offer to the IORP at least two options:</p> <ol style="list-style-type: none"> 1. Prudent person principle without any further quantitative limitations on investments 2. Rule-based quantitative limitations similar to those in the existing IORP Directive <p>Additional quantitative limitations to the existing rules in the IORP Directive are not necessary, neither at national or European level. It should be the intention of the investment supervision to allow for different investment policies across IORPs in Europe, which leads to a better diversification of risks.</p>	Noted
110.	European Federation for	48.	The prudent person principle has a qualitative investment basis.	Noted

	Retirement Provision (EFRP)		According to the EFRP the prudent person principle will achieve optimal investment results. The quantitative restrictions with respect to investing in the sponsor undertaking should remain. Other restrictions, however, would have a negative impact on investment performance. Principles-based supervision (prudent person) is therefore preferable to quantitative requirements. The review of the IORP Directive is an ample opportunity to abolish the current restrictions in the existing IORP Directive which gives Member States the option to implement quantitative investment restrictions.	
111.	European Fund and Asset Management Association (EF)	48.	In addition to our responses to Questions 47 and 51, we are of the view that host Member States should not be allowed to apply some investment rules to the IORP assets that correspond to the activities in the host Member State. This means that Article 18(7) should be deleted in order to create a level playing field among Member States and eliminate a barrier to cross-border business.	Noted
112.	FairPensions	48.	Yes, Member States should have discretion to impose limitations on investments in addition to the requirements of the IORP Directive. One reason for this is that, notwithstanding IORPs' exclusive duty of loyalty to beneficiaries, there is also a public interest in their investment activities which governments should have the right to act on.	Noted
113.	Federation of the Dutch Pension Funds	48.	The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different	Noted

			<p>investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.</p>	
114.	Financial Reporting Council	48.	We have not considered this question.	Noted
115.	FNV Bondgenoten	48.	<p>The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be invested in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p>	Noted

			In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking.. We disagree with the investment proposal to limit investment in foreign currencies.	
116.	Generali vie	48.	We support the freedom of investment principle.	Noted
117.	Groupe Consultatif Actuariel Européen.	48.	<p>We agree with EIOPA that it is appropriate to permit Member States to impose more restrictive requirements only in relation to cases where the members/participants bear the investment risk. However, there are existing issues that the IORP Directive (as worded now and as proposed in the draft response to the Call for Advice) does not address. In particular, in some countries there is a requirement that IORPs guarantee a return that is at least the average return in all IORPs (in that country). This tends to lead to a herding mentality with larger IORPs in effect driving the investment approach of smaller ones – given that the risk of being out of line with the IORP average in that country is too great for them to absorb. We would observe that the value of such guarantees under a market consistent framework may be problematical, and other guarantees may be shown to be very expensive.</p> <p>We do not consider it necessary to retain article 18(6), on the proviso that the power given in article 14(2) is either retained or not materially changed under EIOPA’s review of supervisory powers.</p> <p>Notwithstanding our statement that we agree that Member States should be permitted to impose more restrictive requirements in ‘DC’ arrangements, it needs to be borne in mind that this is likely to impede rather than facilitate cross-border activity.</p>	Noted

118.	Groupement Français des Bancassureurs	48.	There should be no exception of the freedom of investment principle, as long as the prudent person principle is retained.	Noted
119.	PMT-PME-Mn Services	48.	<p>The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.</p>	Noted
120.	HM Treasury/Department for Work and Pensions	48.	We believe that Article 18(5) of the IORP Directive provides adequate discretion for Member States to lay down more detailed rules.	Noted
121.	IMA (Investment Management Association)	48.	There should be no option to impose limitations in addition to those set out in the IORP Directive. Should host Member States be allowed to impose such limitations, this would undermine the	Noted

			intention of the Directive with respect to cross-border activity.	
122.	Institute and Faculty of Actuaries (UK)	48.	<p>The right to impose scheme specific limitations may be necessary in the interests of prudential oversight or protecting member interests. This would be similar to the ladder of intervention for Member State insurance regulators under Solvency II. This is also true for host States also.</p> <p>However, if the intervention is able to be cast too broadly then it will impair the regulation harmonisation objective. Accordingly we consider that such powers should be limited to circumstances where there are specific reasons for intervention, which in turn should be justifiable, for example, to the EU regulator.</p>	Noted
123.	Italian Banking Association	48.	See answer to question 49.	Noted
124.	KPMG LLP (UK)	48.	Our general view is that there should be no limitations set by individual member states.	Noted
125.	Le cercle des épargnants	48.	We support the freedom of investment principle.	Noted
126.	Mercer	48.	We do not see the purpose of this, in particular in the context of the EC's objective to achieve a consistent regulatory regime across all member states.	Noted
127.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	48.	The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different	Noted

			<p>investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.</p>	
128.	National Association of Pension Funds (NAPF)	48.	<p>Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>The NAPF agrees with EIOPA's advice that there is no need for a special investment restriction in these circumstances.</p> <p>In the UK, the regulatory regime for IORP investment in the plan sponsor has recently been revised to ensure it remains robust.</p> <p>These issues should be subject to the 'Prudent Person Principle'.</p>	Noted
129.	NEST Corporation	48.	We agree that special restrictions on investment in sponsoring	Noted

			<p>undertakings are not required. The prudent person principle is a sufficient guide. In addition we believe that greater clarity needs to be provided in article 18(1)(f), second paragraph. Undertakings such as NEST are likely to provide occupational pensions for millions of workers and have over a million sponsoring employers due to our public service obligation. This could cause difficulties in investing prudently because of the 5 per cent limitations. Where a sponsoring undertaking has no influence with an IORP and the connection is tenuous and limited merely to providing contributions (rather than taking liability), we believe the sensible beneficiary protection as set out in article 18(1)(f) is not applicable. It is our understanding that article 18(1)(f) second paragraph seeks to provide a pragmatic solution to managing this issue. However, we do not believe that the current wording is clear enough and we would welcome this issue being revisited at a European level during the revision of the IORP Directive.</p>	
130.	Pan-European Insurance Forum (PEIF)	48.	Prudent person principle is sufficient. Further limitations should not to be permitted. This creates the potential for regulatory arbitrage and is potentially a barrier to cross border business.	Noted
131.	Pensioenfonds Zorg en Welzijn (PFZW)	48.	The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member	Noted

			<p>States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.</p>	
132.	Predica	48.	There should be no exception of the freedom of investment principle, as long as the prudent person principle is retained.	Noted
133.	PTK (Sweden)	48.	The prudent person principle has a qualitative investment basis. In our opinion, the prudent person principle will achieve optimal investment results. The quantitative restrictions with respect to investing in the sponsor undertaking should remain. Other restrictions, however, would have a negative impact on investment performance. Principle-based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is an ample opportunity to abolish the current restrictions in the existing IORP Directive which gives Member States the option to implement quantitative investment restrictions.	Noted
134.	Railways Pension Trustee Company Limited ("RPTCL	48.	We have not considered this question.	Noted
135.	Sacker & Partners LLP	48.	Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?	Noted

			1. We agree that the current text of the Directive, and the prudent person principle, provide adequate protection.	
136.	Standard Life Plc	48.	<p><input type="checkbox"/> We do not agree that Members States should have the option to impose limitations that go beyond any restrictions that may be laid down in the Directive. We believe strongly that, provided appropriate disclosure and safeguards are in place, customers should be free to take informed investment decisions and should not be denied access to pension products and investment funds that they believe are appropriate for their individual requirements.</p> <p><input type="checkbox"/> The IORP Directive should facilitate a cross-border market in pension products and this would be materially impaired if additional restrictions were to be imposed.</p>	Noted
137.	TCO	48.	The prudent person principle has a qualitative investment basis. In our opinion, the prudent person principle will achieve optimal investment results. The quantitative restrictions with respect to investing in the sponsor undertaking should remain. Other restrictions, however, would have a negative impact on investment performance. Principle-based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is an ample opportunity to abolish the current restrictions in the existing IORP Directive which gives Member States the option to implement quantitative investment restrictions.	Noted
138.	The Association of Pension Foundations (Finland)	48.	Limitations in Finland are outdated and rational investing is made difficult. For instance it's allowed to invest in USA corporation bond directly but not via investment fund. Limitations in Finland doesn't take in consideration of starting	Noted

			<p>pension fund either. In starting phase it is difficult to place minor assets in different asset classes. We do not support option to impose limitations on investments if Solvency II is largely implemented. This would endanger level playing field with insurance undertakings.</p>	
139.	The Association of the Luxembourg Fund Industry (A	48.	<p>The Respondents support the consistent application of the prudent person principle as described in Q 47 above; we believe that no additional restrictions should be imposed.</p> <p>The Respondents share EIOPA 's analysis regarding Article 18 (1) f of the IORP Directive. We do not see the need for a special restriction on investment in the sponsoring undertaking when IORP is sponsored by two or more undertakings for potential risk concentration issues. The current quantitative restriction limits as set in Article 18(1) (f) seem to be appropriate. (7.2. Option 2)</p> <p>With regards to more detailed investment rules compared to those laid out in Article 18 (5) the Respondents agree on the importance to distinguish between pension schemes where the investment risk is borne by IORPs and those where the investment risk is borne by members. Nevertheless the current status can create potential differences between Member States and could act as disincentive to cross-border IORP 's. In order to create a level playing field for investment rules in all member states and to treat IORPs and insurance undertakings in an equal way, the Respondents opt for the deletion of Article 18 (5) first and second sub-paragraphs of the IORP directive for all IORP 's. (7.3. Option 2)</p> <p>The existing article 18 (5) (b) places a ceiling on the extent to which member states can put limitations on foreign currency exposure and to allow a minimum diversification of the IORP 's portfolio. The Solvency Directive does not contain a similar</p>	Noted

		<p>provision. The Respondents agree on EIOPA’s position that Article 18(5)(b) would be redundant if the option to impose further quantitative restrictions would be deleted. We believe that this provision can be deleted (7.4. Option 2).</p> <p>The Respondents furthermore agree to delete Article 18 (5) (c) limiting the opportunities for member states to lay down more detailed investment rules including also quantitative limits. Given that the revised directive would follow the prudent person principle without allowing further quantitative restrictions, Article 18(5) (c) is redundant. (7.5. Option 2)</p> <p>According to the existing Article 18 (6) of the IORP directive Member States can lay down more stringent investment rules on an individual basis. This gives the power to member state’s supervisors to intervene in individual IORP’s where prudentially justified. Given that according to Article 14 competent authorities have already the power to take appropriate measures if needed the Respondents believe that more stringent investment rules on an individual basis is already covered by Article 14 and to amend it if necessary (7.6. Option 2)</p> <p>Article 18 (7) of the IORP directive enables Host Member States to require IORPs in the home member state to comply with stricter investment rules. The Respondents believe that this provision should be deleted, as it removes the ability for host member states to restrict investments and creates a level playing field among member states (7.7. Option 2)</p> <p>As IORPs are not comparable to UCITS, the Respondents believe that the IORP directive should remain unchanged with regards to the material elements of Article 132(3). (7.8.1. Option 1)</p>	
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			In respect of supervisory involvement in multifonds IORPs, the Respondents believe that the IORP directive should remain unchanged. In addition we feel a need for supplementary information or client education and a need for disclosure of additional information to members. (7.8.2. Option 1). Regarding the usefulness of a VAR type upper limit on the entire portfolio the Respondents agree with EIOPA that there is no need to introduce this approach at European level. (7.8.3.)	
140.	The Society of Actuaries in Ireland	48.	There are no additional investment restrictions in Ireland – we are not in a position to comment on other Member States. We consider that it should not be possible for a host member state to require investment restrictions to apply in a cross border defined benefit IORP where there are no investment restrictions in the home state.	Noted
141.	THE SOCIETY OF PENSION CONSULTANTS	48.	We do not believe that Members States should have the ability to impose additional investment limitations which go beyond any restrictions laid down in the Directive. There seem to be no reasons as to why members in specific jurisdictions should be denied access to investments which comply with the requirements of the Directive and no reasons as to why Member States would need such powers.	Noted
142.	Towers Watson Deutschland GmbH	48.	We agree with EIOPA that, in the interests of prudential oversight and protecting member interests, it may be appropriate to permit Member States to impose investment limitations; but only in relation to cases where the members/participants bear the investment risk.	Noted
143.	Trades Union Congress	48.	Investment rules	Noted

	(TUC)		<p>Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>The TUC believes that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive as appropriate.</p>	
144.	Transport for London / TfL Pension Fund	48.	<p>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.</p>	Noted
145.	UK Association of Pension Lawyers	48.	<p>CfA 7 (Investment rules): Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>From a UK perspective, we do not have strong feelings on amendments to Articles 18(5) and 18(7). The UK has not generally implemented more onerous investment rules.</p>	Noted
146.	Universities Superannuation Scheme (USS),	48.	<p>Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>USS agrees with EIOPA's advice that there is no need for a special investment restriction in these circumstances.</p> <p>In the UK, the regulatory regime for IORP investment in the plan</p>	Noted

			<p>sponsor has recently been revised to ensure it remains robust.</p> <p>These issues should be subject to the 'Prudent Person Principle'.</p>	
147.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	48.	<p>The prudent person principle is a qualitative investment basis. Currently, in the IORP directive there are mandatory and optional quantitative restrictions. Due to these quantitative restrictions investments cannot be done in a way that might be optimal according to the retirement objective and risk management of the IORP. This is undesirable. Different investment policies in pension funds are a logical result due to the different composition of an IORP or the different pension promise. Principle based supervision (prudent person) is therefore preferable instead of quantitative requirements. The review of the IORP Directive is a good opportunity to abolish the exception in the current IORP Directive which gives Member States the option to implement quantitative investment restrictions or, if this is too big a step to take, at least make the exception temporarily (give it an end date).</p> <p>In our opinion, only one investment restriction should remain. This is the maximum investment in the sponsoring undertaking, as this relates to the security of the members in case of a bankruptcy of the sponsoring undertaking. We disagree with the investment proposal to limit investment in foreign currencies.</p>	Noted
148.	Whitbread Group PLC	48.	<p>We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits</p>	Noted
149.	Zusatzversorgungskasse des Baugewerbes AG	48.	<p>62. As demonstrated before in our answer to question 47 we believe that especially for IORPs operated or controlled by social partners or representatives of the members and beneficiaries the</p>	Noted

			prudent person principle needs no amendment by imposing limitations on investments except for maybe limiting investments in the sponsor company.	
150.	European Private Equity & Venture Capital Associat	48.	<p>EVCA does not believe that Member States and host Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive.</p> <p>Investment policies differ from IORP to IORP due to their different liability profiles. Due to the optional and mandatory qualitative restrictions imposed IORPs may be unable to establish their investment portfolio in an optimal way to match their retirement objective and risk management. This is generally undesirable.</p> <p>EVCA supports the objective of harmonised investment rules in all Member States based on the prudent person principle only. This would have the advantage of simplifying the regulations on investment rules which, in turn, would lower compliance costs for IORPs and, ultimately, their members. It would make it easier for IORPs to operate cross-border as there would not be a range of investment rules to comply with which would also, in turn, increase their cost-effectiveness for members.</p>	Noted
151.	Towers Watson	48.	<p>49. Do stakeholders feel that Member States should have the option to impose limitations on investments in addition to those set out in the IORP Directive? What about host member states?</p> <p>We agree with EIOPA that, in the interests of prudential oversight or protecting member interests, it may be appropriate to permit Member States to impose investment limitations, but</p>	Noted

			<p>only in relation to IORPs where the members/participants bear the investment risk.</p> <p>The ability for host States to impose stricter investment rules (albeit restricted to the extent to which such stricter rules would apply to its 'domestic' IORPs) on an IORP based in another (the 'home') Member State is likely to act as an obstacle to and not facilitate cross-border activity.</p>	
152.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	49.	See question 47	Noted
153.	AbA Arbeitsgemeinschaft für betriebliche Altersver	49.	The prudent person principle is an appropriate basis for determining the investment provisions of DB, DC and hybrid schemes.	Noted
154.	ABVAKABO FNV	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
155.	AEIP	49.	<p>103. As the directive should limit itself to the prudent person principle , it should not impose to have different investment rules for defined benefit and defined contribution schemes, although differentiation should be allowed between defined benefit and defined contribution investments.</p> <p>The prudent person principle should be the basis for all types of schemes.</p>	Noted
157.	AMONIS OFP	49.	<p>To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p><input type="checkbox"/> As the directive should limit itself to the prudent person</p>	Noted

			<p>principle combined with the principle to invest all assets in the best interest of the members/beneficiaries or the pension scheme and a minimum diversification, specific additional differentiation between defined benefit and defined contribution investments is not appropriate.</p> <p>The cited principles should be the basis for all types of schemes.</p>	
158.	ANIA – Association of Italian Insurers	49.	<p>The ANIA does not believe that it is necessary that investment provisions of the Directive should differ between defined benefit and defined contribution pensions as long as the prudent person and freedom of investment principles are taken into account. In this context it should be noted that in some Member States DC schemes will contain several investment alternatives for the contributions agreed in the scheme, including alternatives (products) where the plan members are offered guarantees and therefore do not bear the investment risk. See also Q42 and Q91.</p>	See CEA
159.	Association Française de la Gestion financière (AF)	49.	<p>The participants must be aware of the risk of the investment they are exposed to. This can be achieved by providing adequate information to participants and beneficiaries. Provision of targeted communications, financial advice and automated pension decision tools can further improve individuals' ability to make the appropriate decisions. We support option 4 and we strengthen the fact that these European rules should be compatible with UCITS rules.</p>	Noted
160.	Association of British Insurers	49.	<p>The characteristics of DB and DC are clearly very different and the investment activities of these different types of scheme need to be focused on meeting their different objectives. In the case of DC this is the choice made by the member which needs to be respected while in the case of DB it is the pension promise to scheme members which needs to be appropriately funded.</p>	Noted

			<p>To the extent that the Directive provisions are expressed by reference to high level principles it should be possible to avoid specifying separate requirements relevant to DB and DC.</p> <p>It is evident that some provisions of the Directive, such as those relating to solvency and associated implications for investment activity within the IORP, do not have relevance for DC schemes.</p> <p>The ABI is not aware of any need to include specific provisions in the Directive relating to DC schemes. We think this should be avoided.</p>	
161.	Association of Consulting Actuaries (UK)	49.	In a DC context it is important that regulations differentiate between schemes where plan members bear all of the investment risk, and those where some risks are borne by the sponsor. We observe that best practice provision within the DC marketplace has evolved significantly in the past few years and it would seem to us that well intentioned regulations to encourage adoption of current best practices for default funds and lifestyling approaches within multifund IORPs could have unintended consequences should newer techniques and methods emerge.	Noted
162.	Association of Pensioner Trustees in Ireland	49.	We believe that it is not appropriate to apply the same investment requirements to defined contribution arrangements as for defined benefit arrangements. There should be greater flexibility for defined contribution arrangements (in tandem with clear disclosures of investment risks), in particular for one member arrangements where limited restrictions should apply.	Noted
163.	Assoprevidenza – Italian Association for supplement	49.	No differences between DC and DB about investment rules are justified. Prudent person principle should be the basis for all type of shemes.	Noted
164.	Assuralia	49.		Noted

			The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	
165.	Belgian Association of Pension Institutions (BVPI-	49.	<p>To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p>15. As the directive should limit itself to the prudent person principle combined with the principle to invest all assets in the best interest of the members/beneficiaries, differentiation should be allowed between defined benefit and defined contribution investments.</p> <p>The prudent person principle should be the basis for all types of schemes.</p>	Noted
166.	Bosch Pensionsfonds AG	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome for the beneficiaries.	Noted
167.	Bosch-Group	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome for the beneficiaries.	Noted
168.	BT Pension Scheme Management Ltd	49.	We support the proposed differences in provisions for DB and DC pensions.	Noted

169.	BVI Bundesverband Investment und Asset Management	49.	It is clear that investment rules and limits may be set at the level of individuals schemes, and especially specific investment options, by the IORP itself. They should be consistent with its risk-appetite and the commitments it is willing to take with its members. We are not convinced however that there should be extra restrictions on investment rules for DC schemes, for the purpose of protecting the participants. The participants must be aware of the risk of the investment they are exposed to. This can be achieved by providing adequate information to participants and beneficiaries. Provision of targeted communications, financial advice and automated pension decision tools can further improve individuals's ability to make the appropriate decisions. If EIOPA would nevertheless consider that Member States should have the possibility of introducing quantitative restrictions for DC schemes, the possible limitations should be agreed at the EU level to make it easier for IORPs to operate cross-border. In other words, in relation to the options presented on page 271, we support option 2 as the first option, and option 4 as a second best.	Noted
170.	CEA	49.	The CEA does not believe that it is necessary that investment provisions of the Directive should differ between defined benefit and defined contribution pensions as long as the prudent person and freedom of investment principles are taken into account. In this context it should be noted that in some Member States DC schemes will contain several investment alternatives for the contributions agreed in the scheme, including alternatives (products) where the plan members are offered guarantees and therefore do not bear the investment risk. See also Q42 and Q91.	Noted
171.	Charles CRONIN	49.	Providing there is a management board at the DC IORP which is	Noted

			actively involved in the due-diligence of selecting investment products for their suitability and value for money then there is no need for differences in the investment provisions between DB and DC schemes. However where this is absent, I am not convinced that such schemes could classify as IORPs, they are more akin to retail investment products, such as GPPs (see answer 4). If they are within the scope of the IORP Directive, they fall short in terms of investor protection, as the Directive assumes a functioning body looking after the best interests of members. Hence these schemes/products should be outside the scope of IORP Directive as they are more at home in MiFID or PRIIPS, where investor protection is a core feature of the legislation.	
172.	Chris Barnard	49.	<p>I broadly agree with the analysis regarding investment provisions for defined contribution (DC) schemes. However, there may be a need for a proportionate approach here. For example, if a DC scheme only offers one default fund option, we could require that it should comply with some quantitative investment limits in order to protect members from an inappropriate investment strategy. I agree with Paragraph 11.3.63 regarding the “safe harbour” option here. If a DC scheme offers more than one fund option, then it should be allowed more investment freedom, including the freedom to offer a more risky option, and / or a safer option.</p> <p>Paragraph 11.3.66 raises the possibility for a compulsory default option subject to certain principles. This is an interesting idea. However, if the principles were too narrow, it could lead to a mass herd effect, with a large number of funds following similar (prescribed) investment strategies. Please note that this could have adverse consequences, and it could be open to external manipulation or abuse.</p>	Noted
173.	CMHF (Centrale van	49.	There should be no differentiation in investment provisions	Noted

	Middelbare en Hogere Functionar		between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	
174.	De Unie (Vakorganisatie voor werk, inkomen en loop	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
175.	EFI (European Federation of Investors)	49.	There is no reasons to make any difference between DC and DB . What is good for the ones will be good for the others and reciprocally.	Noted
176.	European Federation for Retirement Provision (EFRP	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
177.	European Fund and Asset Management Association (EF	49.	It is clear that investment rules and limits may be set at the level of individuals schemes, and especially specific investment options, by the IORP itself, consistently with its risk-appetite and the commitments it is willing to take with its members. We are not convinced however that there should be extra restrictions on investment rules for DC schemes, for the purpose of protecting the participants. The participants must be aware of the risk of the investment they are exposed to. This can be achieved by providing adequate information to participants and beneficiaries. Provision of targeted communications, financial advice and automated pension decision tools can further improve individuals' ability to make the appropriate decisions. If EIOPA would nevertheless consider that Member States should have the possibility of introducing quantitative restrictions for DC	Noted

			schemes, the possible limitations should be agreed at the EU level to make it easier for IORPs to operate cross-border. In other words, in relation to the options presented on page 271, we support option 2 as the first option, and option 4 as a second best.	
178.	FAIDER (Fédération des Associations Indépendantes)	49.	There is no reasons to make any difference between DC and DB . What is good for the ones will be good for the others and reciprocally.	Noted
179.	Federation of the Dutch Pension Funds	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
180.	Financial Reporting Council	49.	We have not considered this question.	Noted
181.	FNV Bondgenoten	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
182.	Groupe Consultatif Actuariel Européen.	49.	In the round, we have sympathy with EIOPA's aim to allow Member States to impose more restrictive investment provisions where the members/participants themselves bear the investment risks. However, as mentioned in responding to question 48, it must be borne in mind that anything that leads to separate compartmentalising of different Member States' membership will impede cross-border activity. In particular, we note that EIOPA is consulting on four	Noted

			<p>possibilities in relation to multi-funds, default options and life-styling – although there is not a specific question in the template relating to this aspect. In brief the possibilities concern the degree of permitted or required European/Member State (supervisory) control as to whether, for example, a default is “adequate for members risk appetite and that its risk profile is appropriate”.</p> <p>Generally the Groupe Consultatif favours individual Member States being able to specify requirements in relation to their domestic IORPs, although (once more) we raise the potential barrier that could apply to cross-border provision if Member States are permitted to require these same restrictions to apply to Home State IORPs in cases of cross-border activity.</p> <p>We also believe that there must be much greater clarity as to what is meant by terms such as “low risk”. It is questionable that a ‘cash’ fund is low risk in the context of pension provision – particularly over the longer term.</p> <p>We agree that a VaR limit would not be beneficial.</p> <p>In the text of the EIOPA draft advice, mention is made that in several jurisdictions there is no reference to technical provisions for DC IORPs. This is not addressed in the ‘blue box’ summary of advice. If steps are taken to ensure that reference is made to technical provisions for DC IORPs, then it might be sensible to confirm that – for ‘pure’ DC IORPs, the technical provisions equate either to (i) assets or (ii) assets plus provision for operational risk (if that route is pursued) or (iii) assets plus provision for expenses and any guarantees.</p>	
183.	PMT-PME-Mn Services	49.	<p>There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in</p>	Noted

			suboptimal investment outcome.	
184.	HM Treasury/Department for Work and Pensions	49.	We do not believe such distinctions are necessary or desirable given the in provisions of Article 18(1) the IORP Directive (the prudent person principle) and Article 18(5)	Noted
185.	IMA (Investment Management Association)	49.	Investment managers should have the ability to invest in an appropriate range of instruments, regardless of the nature of the pension provision. The key issue is to ensure good governance and to ensure that member interests are considered in a balanced way, particularly with respect to the design of the default option in DC pension schemes. In this respect, there may be a role for EU institutions in sharing good practice from across the EU as the DC market evolves. We do not agree with the observation in 11.3.68 that minimum standards should be decided at EU level. As the diversity of approaches currently in existence (for example, guarantee requirements in certain jurisdictions) illustrates, there is no consensus as to what this minimum should constitute. Furthermore, given the complex balance between state, occupational and supplementary private saving that characterises all national systems, this is not an area that can best be addressed by EU institutions.	Noted
186.	Institute and Faculty of Actuaries (UK)	49.	Defined benefit regulation (at least for larger IORPs – for small IORPs the costs may be disproportionate) can be risk based, with IORPs applying the framework to select investments that are suitable for the profile of the liabilities. By contrast it is unlikely that many DC investors can individually make decisions along similar lines, given limited investment experience and resources. Accordingly, more prescriptive regulation for default funds and lifestyling in DC would appear appropriate, along with the “safe harbour” proposal, to help direct DC investors who do not feel	Noted

			<p>suitably qualified to proactively select other options to manage their own risk profile against individual objectives.</p> <p>It is not clear that small DB IORPs should be subject to a full risk based regime because the costs could outweigh the gains, with average expertise and resourcing somewhere between large DB IORPs and DC investors. Accordingly, an alternative which provides a "safe harbour" equivalent for small DB IORPs in conjunction with a national fund to provide DB members' protection in the case of scheme default could be a more efficient alternative below a certain threshold.</p>	
187.	Italian Banking Association	49.	<p>ABI believes that EIOPA's advice related to whether to admit national quantitative restrictions in addition to those set out in the IORP Directive would leave the directive substantially unchanged for DC schemes, which currently represent the majority compared with DB schemes as the options supported by EIOPA aim at clarifying that further restrictions at national level would be admitted for schemes where members bear the investment risks.</p> <p>This approach would not enhance harmonisation for the investment rules among pension schemes permitted to carry out cross-border activities.</p> <p>This is why ABI would prefer to permit restrictions to investment to be agreed at EU level where members bear the investment risk for the purposes of member protection, and suggests setting out some level 2 measures in order to better define the right equilibrium.</p>	Noted
188.	KPMG LLP (UK)	49.	<p>So far as possible the requirements for defined benefit and defined contribution schemes should be the same. However we agree with the suggestion that suitable investment options and risk management in defined contribution schemes would be better achieved by regulatory encouragement and sharing of</p>	Noted

			<p>good practice, rather than by prescriptive rules.</p> <p>We would caution against any prescriptive rules on assets, as these would be likely to lead to concentrations of assets in permitted classes, and so lead to an increase in systemic investment risk.</p>	
189.	Mercer	49.	<p>Although the overarching objectives behind setting investment strategy for defined benefit and defined contribution schemes can be constructed to be the same (for example, to ensure members' expected levels of benefits are achieved with a high degree of certainty) the steps needed to meet the objectives are likely to be different, given the way risk is shared. However, provided the prescription in the revised IORP Directive remains centred on 'prudent person' investment principles, we think its provisions should remain the same for both sorts of provision.</p> <p>In particular, we do not think the Directive is the place for directing DC IORPs towards, for example, particular designs of default fund. The design and naming of investment strategies developed with the aim of supporting members of DC schemes to meet their objectives at retirement is continuing to develop; since Directives are not reviewed frequently and can only change following in depth consideration and consultation, there is a risk that DC schemes would be prevented from taking advantage of new investment products that could provide better targeting or security for members, just because the wording in the Directive does not accommodate their structure.</p>	Noted
190.	MHP (Vakcentrale voor Middengroepen en	49.	<p>There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In</p>	Noted

	Hoger Perso		both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	
191.	National Association of Pension Funds (NAPF)	49.	<p>To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p>There should be no differentiation in investment provisions between DB and DC pensions. In both cases the prudent person principle should be the key requirement.</p>	Noted
192.	NEST Corporation	49.	Investments in both DB and DC schemes should recognise both the risk appetite and the risk capacity of those bearing the investment risk. We certainly believe it is good practice for DC schemes, or schemes where individuals bear the investment risk, to be made aware of the potential downside risks of investing, rather than just focusing on potential returns. In addition, our extensive research into our target market suggests that many savers do not understand the impact of inflation on their long-term savings. Therefore NEST believes that investment best practice should also include the need to consider inflation risk when setting objectives.	Noted
193.	OECD Secretariat to the Working Party on Private P	49.	<p>To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p>Generally, OECD guidelines on asset management consider the prudent person standard as appropriate for both defined benefit</p>	Noted

			<p>and defined contribution plans.</p> <p>The OECD Core Principles of Occupational Pension Regulation state that</p> <p>Where members direct their own investments in an occupational pension plan, they have the right to a number and diversity of investment choices sufficient to permit them to construct an appropriate investment portfolio in light of their own individual circumstances and in the context of the particular pension programme.</p> <p>Members in a defined contribution scheme should be provided with a robust default investment option with an appropriate level of risk exposure that incorporates a life-cycle investment approach.</p>	
194.	Pan-European Insurance Forum (PEIF)	49.	In principle we see no change in the high level rules between DB and DC. At the practical level, the precise way prudent person would apply would differ greatly according to type and circumstances.	Noted
195.	Pensioenfonds Zorg en Welzijn (PFZW)	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
196.	PTK (Sweden)	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In	Noted

			both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	
197.	Railways Pension Trustee Company Limited ("RPTCL	49.	We have not considered this question.	Noted
198.	Sacker & Partners LLP	49.	To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions? In our view, there is no need to differentiate between DB and DC pensions. The prudent person principle continues to be the primary focus.	Noted
199.	Standard Life Plc	49.	<input type="checkbox"/> Defined benefit and defined contribution schemes have some fundamentally different characteristics, which determine the specific objectives that need to be met for each arrangement. For defined benefit schemes, a promise is made to the member and appropriate investment and funding need to be in place to meet that promise. For defined contribution schemes the investment decision is made by the member, or the employer on behalf of the member, with a view to achieving a desired level of performance or risk, rather than to achieve a defined promise. <input type="checkbox"/> Many of the provisions of the IORP Directive, especially those relating to solvency and associated implications for investment activity within the IORP, are not appropriate or relevant for defined contribution schemes and should not be applied to them.	Noted

201.	TCO	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
202.	The Association of Pension Foundations (Finland)	49.	Investment regulation should not be different for DB and DC funds. Prudent person rule should be the basic guideline for both systems.	Noted
203.	The Association of the Luxembourg Fund Industry (A	49.	The Respondents believe that there should be no differentiation between DB and collectively managed DC pensions with regards to investment provisions.	Noted
204.	The Society of Actuaries in Ireland	49.	<p>We believe that the overriding requirement to follow the prudent person principle should apply for all schemes, but where members make investment choices and bear the investment risks ("pure DC schemes"), there should be a requirement on the IORP to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide an appropriate range of investment options <input type="checkbox"/> Provide sufficient information to members to enable them to make an informed choice <input type="checkbox"/> Provide a suitable "default option" for members who do not make an investment choice. <p>We consider that the detail of these issues should be considered at Level 2.</p>	Noted
205.	THE SOCIETY OF	49.	DB and DC schemes are structurally very different with different	Noted

	<p>PENSION CONSULTANTS</p>	<p>risk profiles and different needs. Any investment regime should either treat them as such or should be at a high enough level to invoke principles without imposing the detail.</p> <p>In relation to DC schemes it is important that members have an appropriate choice of funds and that the main features – including risk profile – are communicated adequately This choice should be respected. In relation to default funds within DC schemes, the fund(s) should be appropriate to the risk profile of, at least, the average member, who, it is to be expected, will have limited knowledge of investments, taking account of the expected duration of that member’s retirement income..</p> <p>Sponsors of defined benefit schemes make a promise to members and those running such schemes should be making their best efforts to ensure that this promise is honoured. The investment profile should reflect this best effort and, where those running the scheme do not have sufficient knowledge (for reasons outlined in the consultation paper) they should be able to rely on those who do have that knowledge to advise them.</p> <p>The nature of investment provision in DB schemes should be based on the fact that pension liabilities are long term liabilities, which would never (under normal circumstances) materialise in anything other than a long term spread. Investments should be designed to match that long term spread and this is more important than immediate short term liquidity – the likelihood of such schemes needing to match liabilities in the short term is extremely limited and trying to do so would damage the long term investment profile of the scheme.</p>	
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			We believe that article 18(1)(b) of the existing IORP Directive contains workable over-arching principles which have stood the test of time for defined benefit IORPs.	
206.	Towers Watson Deutschland GmbH	49.	<p>There should be no differentiation in investment regulation between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.</p> <p>However, if Member States were granted the (optional) power to impose more restrictive provisions for DC arrangements, there should be room to reflect specific differences between countries (for example in Germany defined contribution-like investment vehicles for employee contributions are typically determined by the employer).</p>	Noted
207.	Trades Union Congress (TUC)	49.	<p>To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p>We recognise that there are differences between IORPs where members bear the investment risk and those where they do not. In defined contribution schemes the appropriate design of default funds, including lifestyling of funds so that members switch to lower risk funds as they approach retirement, is crucial.</p>	Noted
208.	Transport for London / TfL Pension Fund	49.	Our view is that the prudent person principle should apply to both defined benefit and defined contribution schemes.	Noted

209.	UK Association of Pension Lawyers	49.	<p>CfA 7 (Investment rules): To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p>We would not support adopting Article 132(3) where IORPs “are functioning similarly to insurance undertakings”. In our experience most defined contribution pension funds are neither similar to insurance undertakings nor to UCITS, and would not under the current Directive be applying technical provisions at all. The rationale for this suggestion seems confused</p>	Noted
210.	Universities Superannuation Scheme (USS),	49.	<p>To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions?</p> <p>No comment.</p>	Noted
211.	Verbond van Verzekeraars	49.	The investment provisions of the Directive should not differ between DB and DC schemes.	Noted
212.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	49.	There should be no differentiation in investment provisions between defined benefit and defined contribution pensions. In both cases the prudent person principle should be the basic principle. Any deviation from that principle will result in suboptimal investment outcome.	Noted
213.	Whitbread Group PLC	49.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member’s pension benefits	Noted
214.	Zusatzversorgungskasse des Baugewerbes AG	49.	63. Different investment rules for defined benefit and defined contribution schemes do not seem necessary.	Noted

			64. The prudent person principle should be the basis for all types of schemes.	
215.	European Private Equity & Venture Capital Associat	49.	The general shift towards defined contribution schemes also shifts the responsibility for investment decisions from the professional institution to the private individual member of the pension scheme. While the ultimate liability of defined contribution schemes is not-defined, EVCA supports the application of the prudent person principle to the investment portfolio as a whole. This should also ensure that appropriate investment decision making bodies, processes and systems can be put in place for defined contribution schemes to enable allocations to long-term, growth orientated asset classes. In addition if liquidity is viewed as the only relevant measure of safety, new generations of pensioners will be denied the opportunity to benefit from long-term, growth-orientated asset classes.	Noted
216.	Towers Watson	49.	50. To what extent do stakeholders believe the investment provisions of the Directive should differ between defined benefit and defined contribution pensions? Defined benefit regulation can be risk based with IORPs applying the framework to select assets appropriate to their liability profile. Individual members of DC arrangements will not be able to make decisions along similar lines, given their typically limited investment experience and resources. Therefore we agree that Member States should be granted the (optional) power to impose more restrictive provisions for DC arrangements. EIOPA is consulting on four possibilities in relation to multi-funds, default options and life-styling. These possibilities concern the degree of	Noted

			<p>permitted or required intervention at either individual Member State supervisory authority level or at the wider European level. Our view is that this should be permissive and should be determined at the individual Member State level. This is necessary in relation to, for example, lifestyling designs given the diversity between Member States in the form of benefit provision. To illustrate this, in the Netherlands all benefits must be provided in pension (lifetime income) form. In the UK it is possible to take up to 25% as a lump sum. In Belgium it is possible to take up to 100% in the form of a lump sum.</p> <p>In the UK, DC IORPs compete directly against contract-based (pillar 3) arrangements, which are effectively individual insurance-based arrangements to which the employer makes contributions. Subject to protecting members' interests, any regulation of DC IORPs therefore needs to be proportionate and such that a broadly level playing field exists between the two types of arrangement. This can be best achieved by providing for requirements to be set at Member State level.</p> <p>We welcome and agree EIOPA's conclusion that a VaR limit would not be beneficial.</p> <p>EIOPA states in its draft advice (at para 11.3.55) that in several jurisdictions there is no reference to technical provisions for DC IORPs. If the Commission decides that it is desirable that such reference should be made explicit it would be helpful to confirm that – for 'pure' DC IORPs, the technical provisions equate either to (i) assets or (ii) assets plus an allowance for operational risk (if that route is pursued – although, to be clear, we do not support such an additional allowance).</p>	
217.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	50.	See question 47	Noted

218.	AbA Arbeitsgemeinschaft für betriebliche Altersver	50.	<p>To the extent that this question refers to 7.10 Specific Call for Advice regarding the valuation of derivatives, we suggest that Article 18(1)(d) IORP Directive be retained, but it should be clarified that efficient portfolio management refers to both asset and liability management.</p> <p>With regard to the question of geographical concentration, we are of the opinion that the prudent person principle in combination with Article 18(e) should prevent excessive geographical concentration from occurring. Further elaborations are not necessary.</p>	Noted
219.	ABVAKABO FNV	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
220.	AEIP	50.	<p>104. Investment rules and restrictions are part of an prospective control to ensure prudent and careful investment behaviour. They are common for a very long time in many European countries and form the basis of their rules-based supervisory systems.</p> <p>105. A choice has to be made between a security system based on principles and one based on rules. A hybrid system with both elements must be balanced very carefully. Otherwise it tends to be overprotective and could cause heavy costs for fulfilling the principle-based security system without having the means to invest in high-return assets to earn these costs. If member states decide to impose investment rules as a control, their risk mitigating effects have to be taken into account within the holistic approach.</p> <p>106. Requiring a pension fund to sell immediately the riskiest assets when reaching a certain value at risk threshold may lead to massive distortions concerning the strategic asset allocation of</p>	Noted

			<p>IORP's. Instead supervisors should leave IORP's the choice how to de-risk a threatening situation and finding a prudent position. All security elements described above and the asset-liability situation should be taken into account concerning the decisions.</p> <p>107. Requiring pensions funds to take all risks into account and operate a prudent asset-liability management ensures that biometric and inflation risks are dealt with accordingly. Therefore no particular investment rules are required.</p> <p>With respect to the geographical criterion, we find that art. 18(1)(e) is sufficient. Regarding art. 18 (1) (f), we agree with the present text. We agree with option 3 about introducing material elements of art. 132. We suggest to keep Art. 18(7) but to improve the wording of the current article to clarify the scope of these rules. Art. 18(5)(c) can be: deleted. We don't agree on the introduction art. 132(3) as there are too many differences with IORPs structure. We share EIOPA advice that no specific rules for investments for biometric and inflation risk are needed. We don't think that additional supervisory involvement on multifunds is needed, we prefer to leave the IORP directive unchanged. Authorities can already control using current powers.</p>	
221.	AFPEN (France)	50.	<p>110. The debate concerning investment rules, and that means, the answers to the CfA 7, must not be separated from the discussion of the adoption of the Solvency II structure in the planned IORP II Directive. This holds especially for the core elements of pillar 1 and the new Solvency Capital Requirement (SCR). This has direct implications for discussing the impact on investment decisions, both at the individual and the macroeconomic level:</p> <p>111. 1. Investment risk provision via SCR</p> <p>112. One of the basic ideas of pillar 1 of Solvency II is the determination of a firm specific risk pro-file, which directly leads</p>	Noted

		<p>to a risk sensitive calculation of the SCR. That means the SCR is calculated according to the specific liabilities and assets and the specific investment strategy of a firm: a more risky investment strategy leads to a higher SCR. Therefore in logic of the Solvency II structure there is no more necessity for quantitative investment limits, as investment risk provisioning is warranted by the specific amount of SCR (See Solvency II Directive, Recital 68). This means if IORP II is modified according to Solvency II quantitative investment limits in addition to the SCR would be twofold and redundant.</p> <p>113. 2. Implicit impact on investment decisions and regulatory arbitrage</p> <p>114. However, the pillar I of the Solvency II structure is not well suited to address the specific aspects of IORP's investment behavior. If the design of the capital requirements to IORPs is similar to the current SCR-formula of Solvency II and the Technical Specifications of QIS 5, there definitely exist investment decision biases for several reasons.</p> <p>115. For example:</p> <p>116. • Investments in different asset classes leads to different solvency capital requirements. For example real property, alternative investments and long-term investments, which are especially important for IORPs because of their long term investment horizon, are negatively affected.</p> <p>117. • The same holds for the 1-year-horizon of the standard formula, which drastically limits the long-term risk diversification perspective of IORPs.</p> <p>118. • The typical duration mismatch of assets and liabilities, which is common for IORPs due to the longer duration of liabilities compared to assets, also has a negative influence on</p>	
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		<p>investment decisions of IORPs.</p> <p>119. These impacts on investment decisions on the individual level due to the structure of the pillar 1 regulatory framework with its implicit but essential biases of decisions has to be kept in mind when discussing the replacement of explicit restrictions.</p> <p>120. 3. Pro-cyclical incentives</p> <p>121. In consequence this leads on the macroeconomic level to a reduction of the essential contribution which IORPs could provide with respect to stabilizing financial markets and the macroeconomic performance. Therefore AFPEN wants to additionally point out that the standard formula of the solvency II SCR is problematic with respect to pro-cyclical investment behavior:</p> <p>122. 1. The standard formula implements the same investment incentives for all IORPs, who are a considerable group of institutional investors. This leads to a reduction in the diversity of investment strategies and leads to less diversification of market reactions. Especially in times of financial distress the SCR enforces pro-cyclical behavior of IORPs.</p> <p>123. 2. The one-year-horizon of the SCR also aggravates the pro-cyclical-tendencies, as IORPs might be forced to sell assets in order to meet the SCR because of the decrease in equity markets. This means that the "potential" loss (due i.e. to volatile or collapsing stock prices) turn into actual losses. Additionally the 1-year-horizon drastically limits the long-term risk diversification potential of IORPs.</p> <p>124. Both of these aspects of the SCR-standard formula are detrimental to the potential anti-cyclical role that IORPs could perform in financial markets because of their long-term horizon investment behavior. Therefore the construction of the Solvency</p>	
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			II SCR standard formula has in principle a negative impact on the stabilizing function of IORPs for financial markets and is not in line with macro-prudential and financial stability objectives.	
223.	AMONIS OFP	50.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>AMONIS OFP considers that the options and the analysis of the pro's and con's is fairly exhaustive. However with regard to the use of the Holistic Balance Sheet, we firmly believe that the cons are understated.</p>	Noted
224.	ANIA – Association of Italian Insurers	50.	<p>The ANIA does not agree with the suggested options from EIOPA. Whereas EIOPA starts from the current IORP Directive, the ANIA suggests taking the investment principles as described in the Articles 132 – 135 of the Solvency II Directive as a benchmark. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.</p>	See CEA
225.	Association Française de la Gestion financière (AF)	50.	<p>Regarding more particularly minimum return guarantees, while these guarantees limit the shortfall risk for individuals that may result from financial market volatility, they also limit individuals's participation in the upside benefits. The cost in terms of forgone returns, and hence lower retirement wealth, can be particularly significant if the guarantee is used throughout most or all of the pension accumulation phase.</p> <p>As explained above, if Article 18(5) is kept to cases when members bear the investment risk, Member States should not</p>	Noted

			<p>prevent IORPs/Pension schemes from investing in UCITS or UCITS like investment funds (see Question 49).</p> <p>Regarding CfA 7.4 (foreign currencies), we consider that Members States should not be allowed to put limitations on foreign currency exposure. There is no need to distinguish between DB and DC IORPs. This approach would create a level playing field for the investment rules in all Member States based on the prudent person principle only.</p> <p>Regarding CfA 7.8.2 (multi-funds, default options, life-styling): we don't believe it would be possible to determine standards for default/lifestyle funds that accommodate expectations and standards that differ between Member States and that take account of differing first pillar provision.</p>	
226.	Association of British Insurers	50.	<p>As regards 7.3 in the CfA, in respect of Article 18(5) the ABI prefers Policy Option 2 of deleting the provisions of Article 18(5) rather than EIOPA's preferred Policy Option 3 which creates potential and we think unnecessary differences between Member States where the member bears the investment risk.</p> <p>The ABI thinks specific foreign currency restrictions under the Article 18(6) of the Directive for DC schemes are not appropriate. Policy Option 2 of deletion for both DB and DC IORPs would also avoid the risk of acting as a cross-border disincentive to IORPs as EIOPA's preferred Policy Option 3 would.</p> <p>As regards 7.8.2 in the CfA, the ABI believes decisions such - as whether to require a default fund and if so, how it should be</p>	Noted

		<p>defined – should be left to national authorities and can be addressed in a way that does not undermine the prudent person principle. In other words, we would not support the imposition of quantitative restrictions at either national or EU level, but believe there is potentially room for guidance that encourages a focus on addressing key issues such as volatility and possible duration mismatch (vis-a-vis annuity rates) in the run-up to retirement. There is also room, as the consultation document suggests, for exchanges regarding good or best practice.</p> <p>As regards 7.8.3 in the CfA, the ABI agrees with EIOPA’s view that there is no prudential justification for introducing Value-at-Risk (VaR)-based restrictions on investment under the IORP Directive.</p> <p>As regards 7.10 in the CfA:</p> <p>a. The ABI is not convinced that there is an appropriate read-across from Solvency II criteria on geographical concentration applicable to insurance business. The principle should be adequately covered under IORP by application of the prudent person principle.</p> <p>b. We think it may be appropriate to retain Article 18(1)(d) third sentence on the need to avoid excessive counterparty risk exposure arising out of derivatives as pension schemes are likely to qualify for some exemptions from general requirements for central clearing of derivatives under the EMIR Directive. The principle under this Article may therefore continue to provide an appropriate safeguard.</p> <p>c. The ABI agrees with EIOPA’s general view that limitations on investment in the sponsor should exclude sponsor supports. The overall exposure to credit risk of the sponsoring employer is a matter of obvious significance but should not be addressed narrowly with respect to rules on investment in the sponsor.</p>	
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227.	Association of Consulting Actuaries (UK)	50.	<p>Broadly speaking we agree with the analysis presented by EIOPA in its advice. We draw your attention to the following additional comments and views on the options presented:</p> <p>7.1- in relation to Article 132(2) - Our strong preference is for Option 3 to be adopted, given that an IORP is typically likely to be smaller in size than an insurer and therefore would often delegate some of the risk measurement and control processes to third parties. Additionally, the regulations should apply to DC schemes only where relevant.</p> <p>7.2 – in relation to Article 18(1)(f) - Our view is that a form of Option 2 would be desirable. A possible approach might be to introduce the clarification that for multi-sponsor DB schemes sponsor-related investment should be limited to 5% of total assets per sponsor and 10% of total assets across all sponsors.</p> <p>7.3 – in relation to Article 18(5) - Our strong preference is for Option 2 to be adopted. This would create a level playing field cross-border for sponsors. Also, whilst Option 3 might appear appealing from a member protection perspective we consider that it will ultimately limit the creation and adoption of cross-border DC pension schemes.</p> <p>7.4 – in relation to Article 18(5)(b) -We favour Option 2. From an investment perspective, a further reason for permitting overseas assets to be held, and which is not mentioned in the consultation paper, is that assets denominated in overseas currencies can provide a valuable hedge against domestic</p>	Noted
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		<p>market stresses, in circumstances where holding domestic assets could expose an investor to losses (e.g. very high inflation or fiscal concerns leading to devaluation relative to external currencies, etc). In our view this argument is also a valid reason to reject Option 3 as compulsion in hedging currency risks would remove a key “tail risk” mitigation device for pension scheme investors.</p> <p>7.5 – in relation to Article 18(5)(c)- We favour Option 2. We agree that the current provision is unclear, but furthermore, the current provision if interpreted literally would discourage or prohibit pension schemes from investing directly in unlisted assets that enable them to participate in the wider economy, such as infrastructure or real estate. This would likely lead to greater inefficiencies in capital allocation in the wider economy as pension schemes are well placed to invest in such assets, subject to suitable diversification, due to their long time horizons and low requirement for liquidity.</p> <p>7.6 – in relation to Article 18(6) – No response.</p> <p>7.7 – in relation to Article 18(7) - We favour Option 2, to reduce impediments to the widespread creation and adoption of cross-border schemes. In our view the additional member protections achieved by Option 1 are likely to be minimal.</p> <p>7.8.1 – in relation to Article 132(3) - Option 3 is to be favoured on the grounds of ensuring consistency (whilst maintaining subsidiarity principles), however, if adopted there would be</p>	
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			<p>significant disincentives to the creation of hybrid schemes. Therefore if the creation and promotion of hybrid schemes is considered desirable EIOPA should favour Option 1, however if consistency is paramount then Option 3 would be more appropriate.</p> <p>7.8.2 We favour Options 1 and 4 from a consistency perspective, and, to reduce impediments to the widespread creation and adoption of cross-border schemes. However, Option 4 seems to have the unintended effect of incentivising DC schemes and sponsors not to offer a default fund or lifestyling, which seems contrary to member interests. We also note that the DC marketplace is constantly evolving and it would seem counter-productive to us to try and inhibit adoption of new superior practices by putting additional restrictions on default funds and lifestyling approaches within multifund IORPs that are based on historic considerations of what best practice constituted at the time of drafting the regulations.</p> <p>7.8.3 and 7.9 - We agree with EIOPA that no further regulation in these areas is desirable at the present time.</p> <p>7.10 We favour Option 1 as regards valuation of derivatives on the grounds that the prudent person principle provides meaningful protection to scheme members. Furthermore, the principle is robust to changing perceptions of what constitutes best practice, whereas more prescriptive regulation may have the unintended negative consequence of limiting portfolio flexibility.</p>	
228.	Association of French	50.	The FFSA suggests taking the investment principles as described	Noted

	Insurers (FFSA)		in the Articles 132 – 135 of the Solvency II Directive as a basis. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.	
229.	Association of Pensioner Trustees in Ireland	50.	See response to question 49.	Noted
230.	Assoprevidenza – Italian Association for supplement	50.	<p>Requiring pensions funds to take all risks into account and operate a prudent asset-liability management ensures that biometric and inflation risks are dealt with accordingly. Therefore no particular investment rules are required.</p> <p>We mostly agree with the analysis and particularly:</p> <p>We agree with option 3 about introducing material elements of art. 132</p> <p>art. 18 (1) (f): we agree with actual text;</p> <p>art. 18(5) first and second paragraphs: ok option 3;</p> <p>art. 18(5)(b):Delete or (second best) keep this provision for all IORPs only if wording will change to better clarify the aim</p> <p>art. 18(5)(c): delete</p> <p>art. 18(6): we agree on EIOPA advice;</p> <p>art. 18(7):keep Art. 18(7) but improve the wording of the current article to clarify the scope of these rules;</p> <p>art. 18(5)(a): we share EIOPA advice;</p> <p>introduction art. 132(3): we don't agree, too many differences with IORPs structure;</p> <p>Supervisory involvement on multifund: leave the IORP directive unchanged. Authorities can already control using current powers;</p>	Noted

			<p>Limit on VAR: we share EIOPA advice, no limits</p> <p>Specific Investment for biobetric and inflation risk: we share EIOPA advice, no specific rules;</p> <p>Geographical criterion: art. 18(1)(e) is sufficient;</p> <p>Derivatives: we share Option 2</p>	
231.	Assuralia	50.	<p>The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.</p>	Noted
232.	Belgian Association of Pension Institutions (BVPI-	50.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>BVPI-ABIP considers that the options and the analysis of the pro's and con's is fairly exhaustive.</p>	Noted
233.	BNP Paribas Cardif	50.	<p>BNP Paribas Cardif suggests taking the investment principles as described in the Articles 132 – 135 of the Solvency II Directive as a basis. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.</p>	Noted
234.	BT Pension Scheme Management Ltd	50.	<p>We believe that - with the exception of our comments above in response to Question 47 - the analyses of the options is appropriate and full.</p>	Noted

235.	CEA	50.	The CEA does not agree with the suggested options from EIOPA. Whereas EIOPA starts from the current IORP Directive, the CEA suggests taking the investment principles as described in the Articles 132 – 135 of the Solvency II Directive as a benchmark. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.	Noted
236.	Charles CRONIN	50.	I agree with EIOPA's analysis of the options (including the pro and cons) concerning Investment Rules, in its draft advice. I would add the comments made in my response to question 47, referencing inclusion of the word loyalty and the enlarged definition of prudent investing.	Noted
237.	Chris Barnard	50.	I broadly agree with the analysis of the options (including the pros and cons) as laid out in the advice.	Noted
238.	CMHF (Centrale van Middelbare en Hogere Functionar	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
239.	De Unie (Vakorganisatie voor werk, inkomen en loop	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
240.	Ecie vie	50.	Article 132 to 135 of Solvency II Directive should be applied to IORPs.	Noted
241.	European Association of Public Sector Pension Inst	50.	Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered? The debate concerning investment rules, and that means, the	Noted

			<p>answers to the CfA 7, must not be separated from the discussion of the adoption of the Solvency II structure in the planned IORP II Directive. This holds especially for the core elements of Solvency's Pillar 1 and the new Solvency Capital Requirement (SCR), which are discussed more deeply in CfA 5 and CfA 6. EAPSPI wants to accentuate that an adoption of the SCR would have severe direct impacts on investment decisions, both at the individual and the macroeconomic level:</p> <p>1. Investment risk provision via SCR</p> <p>One of the basic ideas of pillar 1 of Solvency II is the determination of a firm specific risk profile, which directly leads to a risk sensitive calculation of the SCR. That means the SCR is calculated according to the specific liabilities and assets and the specific investment strategy of a firm: a more risky investment strategy leads to a higher SCR. Therefore in the logic of the Solvency II structure there is no more necessity for quantitative investment limits, as investment risk provisioning is warranted by the specific amount of SCR (See Solvency II Directive, Recital 68).</p> <p>EAPSPI wants to unequivocally object to the adoption of the SCR according to Solvency II into the revised IORP II Directive (see the answers to question #37 and #38 for an argumentation at length). At the same time EAPSPI wants to clarify by the argumentation above the context of investment provisions: If IORP II would be modified according to Solvency II any quantitative investment limits in addition to the SCR would be twofold and redundant.</p>	
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			<p>2. Implicit impact on investment decisions and regulatory arbitrage</p> <p>However, the pillar I of the Solvency II structure is not well suited to address the specific aspects of IORP's investment behavior. If the design of the capital requirements to IORPs is similar to the current SCR-formula of Solvency II and the Technical Specifications of QIS 5, there definitely exist investment decision biases for several reasons.</p> <p>For example:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Investments in different asset classes lead to different solvency capital requirements. For example real property, alternative investments and long-term investments, which are especially important for IORPs because of their long term investment horizon, are negatively affected. <input type="checkbox"/> The same holds for the 1-year-horizon of the standard formula, which drastically limits the long-term risk diversification perspective of IORPs. <input type="checkbox"/> The typical duration mismatch of assets and liabilities, which is common for IORPs due to the longer duration of liabilities compared to assets, also has severe negative influences on investment decisions of IORPs. <p>These impacts on investment decisions on the individual level</p>	
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		<p>due to the structure of the pillar 1 regulatory framework with its implicit but essential biases of decisions has to be kept in mind when discussing the replacement of explicit restrictions in CFA 7.</p> <p>3. Pro-cyclical incentives</p> <p>In consequence this leads on the macroeconomic level to a reduction of the essential contribution which IORPs could provide with respect to stabilizing financial markets and the macroeconomic performance. Therefore EAPSPI wants to additionally point out that the standard formula of the Solvency II SCR is problematic with respect to pro-cyclical investment behavior:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The standard formula implements the same investment incentives for all IORPs, who are a considerable group of institutional investors. This leads to a reduction in the diversity of investment strategies and leads to less diversification of market reactions. Especially in times of financial distress the SCR enforces pro-cyclical behavior of IORPs. <input type="checkbox"/> The one-year-horizon of the SCR also aggravates the pro-cyclical-tendencies, as IORPs might be forced to sell assets in order to meet the SCR because of the decrease in equity markets. This means that the "potential" loss (due i.e. to volatile or collapsing stock prices) turn into actual losses. Additionally the 1-year-horizon drastically limits the long-term risk diversification potential of IORPs. <p>Both of these aspects of the SCR-standard formula are</p>	
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			<p>detrimental to the potential anti-cyclical role that IORPs could perform in financial markets because of their long-term horizon investment behavior. Therefore the construction of the Solvency II SCR standard formula has in principle a negative impact on the stabilizing function of IORPs for financial markets and is not in line with macro-prudential and financial stability objectives.</p> <p>Please especially reconsider EIOPAs answer to questions #52 (pro-cyclicality) and #12 (Holistic Balance Sheet) in this respect.</p>	
242.	European Federation for Retirement Provision (EFRP)	50.	According to the EFRP the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
243.	European Fund and Asset Management Association (EFAMA)	50.	<p>Regarding CfA 7.1 (risk assessments), in considering the analysis of the positive and negative impacts of the different options, EFAMA considers that there is no need to change the Directive (Option 1). Changing the Directive using Options 2 or 3 would add more confusion than clarity given the need to take into account the specificities of DC schemes, the differences in the way IORPs are insurance companies are managed and existing national requirements concerning the outsourcing of the investment function.</p> <p>Regarding CfA 7.2 (two or more undertakings), EFAMA agrees with EIOPA that Option 1 is the best as there are adequate safeguards in place.</p> <p>Regarding CfA 7.3 (more detailed investment rules), as explained above, we believe that option 2 would be the best</p>	Noted

			<p>approach, i.e. Article 18(5) first and second sub-paragraphs can be delete from the IORP Directive in order to create a level playing field for the investment rules in all Member States based on the prudent person principle only. As noted by EIOPA, this approach would also have the advantage of treating IORPs and insurance undertakings in an equal way. Finally, this option would have the advantage of simplifying the regulations on investment rules for it would also make other provisions in Article 18 of the IORP Directive redundant.</p> <p>We believe there should not be different treatment between DB and DC IORPs on investment rules. In general, we strongly believe that an investment framework that allows efficient portfolio diversification across all assets classes and collective investment vehicles, including UCITS, real estate funds, private equity funds and other alternative investment funds, serves best. Moreover, efficient portfolio solutions are available for managing risk, taking into account factors such as the age and retirement date of the individual and the expected amount of public pension. Regulations that strictly limit investment in certain asset classes may result in pension assets not being invested in the best interests of pension scheme members, implying portfolio holdings that are not risk-return optimized. This makes the case for an investment framework based on the prudent-person principle. If EIOPA would nevertheless recommend to leave Article 18(5) for DC schemes, we would support option 4 to progress towards a level playing field for the investment rules and make it easier for IORPs to operate cross border.</p> <p>Regarding more particularly minimum return guarantees, while</p>	
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		<p>these guarantees limit the shortfall risk for individuals that may result from financial market volatility, they also limit individuals's participation in the upside benefits. The cost in terms of forgone returns, and hence lower retirement wealth, can be particularly significant if the guarantee is used throughout most or all of the pension accumulation phase.</p> <p>As explained above, if Article 18(5) is kept to cases when members bear the investment risk, Member States should not prevent IORPs from investing in UCITS and offering pension schemes investing in UCITS.</p> <p>Regarding CfA 7.4 (foreign currencies), in line with our comments on the merits of strengthening the application of the prudent person principle, we consider that Member States should not be allowed to put limitations on foreign currency exposure. There is no need to distinguish between DB and DC IORPs. This approach would create a level playing field for the investment rules in all Member States based on the prudent person principle only.</p> <p>Regarding CfA 7.5 (capital markets), EFAMA agrees with EIOPA that it is not necessary to retain Article 18(5)(c).</p> <p>Regarding CfA 7.6 (rules on an individual basis), EFAMA understands the need that supervisors should have the power to make pre-emptive interventions on an individual basis. However, we believe that this requirement should not be addressed in Article 18. As noted by EIOPA, Article 14 of the</p>	
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		<p>Directive gives the competent authorities the power to take “any measures, where appropriate, those of an administrative or financial nature ... to prevent or remedy any irregularities prejudicial to the interests of the members and beneficiaries”. Thus imposing more stringent investment rules on an individual basis is covered by Article 14. That means that the special provision in Article 18(6) can be deleted.</p> <p>Regarding CfA 7.7 (cross-border activities), as explained in response to Question 48, we consider that Article 18(7) should be deleted.</p> <p>Regarding CfA 7.8.2 (multi-funds, default options, life-styling): we don’t believe it would be possible to determine standards for default/lifestyle funds that accommodate expectations and standards that differ between Member States and that take account of differing first pillar provision.</p> <p>Regarding CfA 7.8.3 (value at risk), we agree with EIOPA’s view that there is no prudential justification to introduce this approach at European level.</p> <p>Regarding CfA 7.9 (biometric risk and inflation risk), we support EIOPA that there is no need for specific investment regulations over and above those stipulated in general.</p> <p>Regarding CfA 7.10 (other requirements), we</p>	
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			<input type="checkbox"/> consider that the introduction of a geographical criterion for diversification would unnecessarily limit the prudent person principle; <input type="checkbox"/> agree with EIOPA's general view that limitations on investment in the sponsor should exclude sponsor supports;	
244.	European Public Real Estate Association (EPRA)	50.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>The response to this question is also relevant for questions 47,48, 49 and 68</p> <p>Given the format of the RCfA and the number of policy options discussed, it is not entirely clear from the RCfA, what particular option our view aligns with. However, a code of practice (rather than regulation) along the lines described in Q47 above, perhaps with a 'comply or explain' approach, would likely be the most effective way to achieving a European-led, efficient DC pension environment. In our view, given the sheer volume and variety of IORPs in Europe, this is the only practical approach.</p> <p>We believe that any European code of good practice should provide pension fund holders with the means to properly access the diversification benefits of real estate as a fundamental asset class that should be included in any properly diversified portfolio. Such a framework should therefore follow the best practices adopted in other developed markets like Australia and the US to</p>	Noted

		<p>recognize listed property companies (including REITs) as a liquid and accessible form of real estate investment.</p> <p>In this respect, we would highlight the clear evidence apparent from developments within the US defined contribution plans towards the inclusion of real estate options within default pension plan options:</p> <ul style="list-style-type: none"> <input type="checkbox"/> In the US 401(k) plans offering a real estate option has grown from 4.8 % in 1997 to 33.4% in 2009 [Source: Profit Sharing/401(k) Council of America]. <input type="checkbox"/> A 2009 Survey by PIMCO in the US, showed that 66% of firms believed REITs would bring the most value as an added asset class with in defined contribution plans. [Source: PIMCO's 2009 Defined Contribution Consulting Support and Trends Survey of 32 investment consultants and managed-account-focused firms. Participating firms include 7 of the top 10 investments consulting firms in the U.S.] <p>Real Estate and REITs</p> <p>We believe that a sufficient weighting to real estate is very much in the 'best interests' of beneficiaries (18.1.a) and is "appropriate to the nature and duration of the expected future retirement benefits" (18.1.b).</p> <p>The specific merits of real estate in assisting pension funds to comply with the prudent person principle and its advantages over government bonds are directly relevant to the specific call for advice at 7.9, which raises the question of "The necessity from a prudential perspective to introduce specific investment rules for pension funds where the members and/or beneficiaries</p>	
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		<p>bear risks other than investment risk, in particular biometric risk and inflation risk" (7.9).</p> <p>REITs provide a number of other noticeable benefits to investors:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the professional management of REITs allows investors to allocate to real estate without the need to develop an in-house real estate management team, <input type="checkbox"/> REITs allow investment in pools of quality real estate assets when direct investment opportunities may be lacking, <input type="checkbox"/> REIT investment may be taken on any scale (a problem with direct real estate investment for individuals and smaller pension funds), and <input type="checkbox"/> REITs provide a substantially more liquid avenue for real estate investment. <p>REITs offer a way of gaining exposure to real estate that is "properly diversified" that does not "expose the institution to excessive risk concentration" (18.1.e).</p> <p>The two largest defined benefit pension plans in the US - CalPERS and the California State Teachers Retirement System (CalSTRS), consider REITs as part of their real estate allocations. For example, CalPERS can invest 25% of its target real estate allocation in REITs.</p> <p>Figure 1 below shows the capability of REITs and real estate equities to contribute solid portfolio performance. US listed REITs (the most established global REIT market) have been the strongest performing asset for the last year, the last three years, the last decade and over the past 15, 20, 25, 30 & 35 year</p>	
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		<p>periods (see FTSE NAREIT U.S. Equity REITs TR). Global REITs were the best performing assets for the same periods (for which data exists) with the exception of 5 years (see FTSE NAREIT U.S. Equity REITs TR).</p> <p>Figure 1: All figures in % FTSE NAREIT U.S. Equity REITs TR FTSE EPRA/NAREIT developed TR S&P 500 TR MSCI EAFE TR Barclays Capital U.S. Aggregate Bond Barclays Capital Global Aggregate Bond</p> <p>1-Year 8.14 -0.81 7.83 -4.12 5.52 6.31</p> <p>3-Year</p>	
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			25.35	
			19.42	
			14.13	
			10.11	
			7.69	
			7.95	
			5-Year	
			-2.65	
			-4.94	
			-0.18	
			-3.95	
			6.14	
			6.04	
			10-Year	
			9.95	
			9.70	
			2.91	
			4.83	
			5.59	
			6.86	

			15-Year 9.29 6.46 5.24 3.37 6.18 5.74 20-Year 11.04 8.57 8.34 4.88 6.60 6.60 25-Year 9.72 NA 9.12 5.63	
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			<p>7.15</p> <p>NA</p> <p>30-Year</p> <p>11.77</p> <p>NA</p> <p>10.84</p> <p>8.86</p> <p>8.80</p> <p>NA</p> <p>35-Year</p> <p>13.03</p> <p>NA</p> <p>10.70</p> <p>10.01</p> <p>8.13</p> <p>NA</p> <p>Note: Data as of November 30, 2011</p> <p>Formerly Lehman Brothers U.S. Aggregate and Global Aggregate</p>	
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		<p>Bond Indexes</p> <p>Sources: NAREIT® analysis of data from IDP accessed through FactSet.</p> <p>REITs and real estate equity returns have a low correlation to all non property stock returns. Correlation coefficients for global listed real estate equities, based on monthly data, June 1994 – November 2011 are shown in Figure 2 below:</p> <p>Figure 2:</p> <p>FTSE EPRA/NAREIT Developed Real Estate Index</p> <p>MSCI World Large-cap growth 67.1%</p> <p>MSCI World Large-Cap 76.7%</p> <p>MSCI World Large-Cap Value 81.7%</p>	
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			<p>MSCI World Mid Cap Growth 66.7%</p> <p>MSCI World Mid Cap 80.5%</p> <p>MSCI World Mid-Cap Value 86.8%</p> <p>MSCI World Small-Cap Growth 72.3%</p> <p>MSCI AC World Small Cap 81.4%</p> <p>MSCI World Small-Cap Value 87.2%</p>	
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			<p>Note: Based on monthly returns, Source: NAREIT®</p> <p>An analysis of the correlation of various stock market sectors (Tech, Consumer Discretionary, Consumer Staples, Utilities) with broad stock market returns show that, whereas correlations between these market sectors and broad stock market returns increase with investment horizon, correlations between REITs and broad stock market returns decline over time [Source: NAREIT® analysis of monthly returns data for January 1990 through November 2011 from Interactive Data accessed through FactSet].</p> <p>These declining REIT-stock correlations, over increasing investment horizons, indicate that asset returns increasingly differ as mispricing effects are corrected. Declining correlation, as errors are corrected, is a sign that underlying return drivers are fundamentally different - that is, REITs and non-REIT stocks represent different asset classes.</p> <p>As discussed in our response to Q67, one of the key reasons why REITs and listed real estate equities are favored in the most advanced lifecycle funds and DC schemes in general, as a means to manage real estate exposure in life-cycle funds, is because the liquidity they provide (to an otherwise illiquid asset class) enables fund providers to 'ensure that the change in asset mix happens efficiently' [20.3.30(b)]. EPRA strongly believe that any default allocation guidelines developed at an EU or national level should include the ability for a pension fund provider to manage its real estate exposure using allocations to REITs and listed real estate equities.</p>	
245.	FairPensions	50.	We comment only on the analysis of options to address the first specific call for advice, on "the material elements of Article 132(2) of Directive 2009/138/EC that should be amended or removed to adequately address the specificities of IORPs in	Noted

		<p>relation to risk assessments.”</p> <p>We strongly agree with the analysis of the negative impacts of option 3, namely that IORPs may feel that this relieves them of the obligation to monitor and manage risks in spite of their ultimate responsibility for the investment process. Indeed, it is already the case in the UK that some pension funds appear to believe that they can adequately fulfill their fiduciary responsibilities by blind delegation to an ‘expert’ asset manager, usually on the advice of investment consultants.</p> <p>Although IORPs may not need all the technical expertise to carry out asset management themselves, they certainly do need sufficient expertise to monitor the adequacy of risk management by those they outsource to. The absence of such expertise and active monitoring potentially creates a governance vacuum, as asset managers assume the fiduciary responsibility rests solely with the IORP. Research by Create-Research in relation to innovative investment products has found that investors who engage actively with their asset managers, wanting to “really understand what their asset managers did... when the manager took risk and why” achieved superior returns to those who were more ‘hands-off’. This suggests that the quality of oversight can have a very real impact on members’ interests.</p> <p>We are concerned that the wording in option 3 - for example, the phrase “directly or through outsourced functions” – could imply that that the IORP themselves does not need to have any expertise or exercise any oversight. On this reading, it would be sufficient for IORPs to satisfy themselves that the agents they</p>	
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			<p>outsource are sufficiently expert to undertake risk management, rather than equipping themselves to judge and monitor the adequacy of that risk management. Blind delegation is inconsistent with the IORPs' ultimate responsibility to ensure the assets are invested prudently and in the best long-term interests of beneficiaries.</p> <p>On balance, we would therefore favour option 2, or a compromise wording which would enable efficient outsourcing whilst emphasising the IORP's oversight role.</p>	
246.	Federation of the Dutch Pension Funds	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
247.	Financial Reporting Council	50.	We have not considered this question.	Noted
248.	FNV Bondgenoten	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
249.	Generali vie	50.	Article 132 to 135 of Solvency II Directive should be applied to IORPs.	Noted
250.	Groupe Consultatif Actuariel Européen.	50.	<p>Within the constraint imposed by the short consultation period, we have not thought in detail about other impacts that should be considered.</p> <p>It is clear, however, that the key aspects in the Call for Advice relating to the capital adequacy requirements for IORPs will have a profound effect on IORP investment strategies. Most notably, under the Solvency II Directive capital requirements for</p>	Noted

			government bond investments are such that there is a drive from equity (and other asset classes) in favour of Government bonds. Notwithstanding the geographical concentration issue, this has proven to be a significant problem and one that is likely to exacerbate not ameliorate pro-cyclicality problems.	
251.	Groupement Français des Bancassureurs	50.	FBIA suggests taking the investment principles as described in the Articles 132 – 135 of the Solvency II Directive as a basis. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.	Noted
252.	PMT-PME-Mn Services	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
253.	HM Treasury/Department for Work and Pensions	50.	It is difficult to ascertain from the draft what the practical effect of inserting wording from Article 132(2) of the Solvency II Directive would be.	Noted
254.	Hungarian Financial Supervisory Authority (HFSA)	50.	The HFSA strongly supports the application of the proportionality principle in case of the geographical criterion as well. Without the proportionality principle the application of the geographical criterion for IORPs with about 200 members would be a provision which insurance undertakings that are excluded from the scope of the Solvency II Directive shall not apply.	Noted
255.	IMA (Investment Management Association)	50.	CfA 7.1 - Understanding and control of the investment risks Our view is that Option 1 (no change) is the best approach, since it is not clear why the current wording is deficient:	Noted

			<p>1. As paragraph 11.3.5 points out, the IORP is itself likely often to outsource investment decision-making, which raises questions about the identification, measurement, monitoring, management, control and reporting of risk. We firmly agree with the observation from EIOPA that onerous requirements on the IORP where investment is outsourced could limit the efficiency of asset management activity (11.3.6). In our view, this rules out Option 2. The proposed work-around in Option 3 actually complicates matters further since it does not really clarify which areas the IORP would need to have expertise in.</p> <p>2. The wording proposed in Options 2 itself demonstrates the inappropriateness of trying to import solvency rules from an insurance regulation into the pensions environment. It is far from clear in the DC pensions environment how and why an IORP should be taking into account “its overall solvency needs” in its investment risk control functions. DC should operate, as the holistic balance sheet demonstrates, with a balance between liabilities and assets, commonly determined on the basis of a designated individual account for the scheme member. Risk generally lies directly with the latter and the solvency of the IORP is, broadly speaking, a separate issue. This is reflected in EIOPA’s own comments that “where applicable” should be added to the amended text in Option 3. However, as we note above, we do not think Option 3 would be effective for reasons of broader lack of clarity regarding responsibilities.</p> <p>CfA 7.2 - Application of the quantitative restriction on investment We agree with EIOPA that Option 1 is the best approach.</p>	
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		<p>CfA 7.3 - Application of more detailed investment rules</p> <p>We believe that Option 2 would be the best approach. As EIOPA notes, “this would create a level playing field for the investment rules in all Members States based on the prudent person principle only.” We would like to reiterate our view that DB and DC should not be subject to different investment rules. It would be a mistake to believe that the different nature of the ultimate benefit requires different forms of investment approach or that limiting certain forms of investment is the best way to protect scheme beneficiaries. Allowing national restrictions on investment risks being counter-productive in that the necessary investment flexibility and innovation to help deliver DC benefits may be stifled.</p> <p>Nonetheless, we do recognise the legitimacy of the point made in the document about the risk of exposing “less financially experienced members to unexpected losses” (Negative impacts, Option 2). Once again, this issue comes back to governance and the importance of ensuring that sound investment and communication processes are in place, particularly in DC default fund design.</p> <p>CfA 7.4 / 7.5 – Restrictions on foreign currencies and investment in risk capital markets</p> <p>In line with our response to 7.3, we support the prudent person principle without allowing further quantitative or qualitative restrictions. We do not therefore view the imposition of limits in these areas as helpful, nor do we believe that a distinction should be made between DB and DC. Article 18(5)(b) and Article 18(5)(c) can therefore be deleted, as per Option 2 in both</p>	
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		<p>cases.</p> <p>CfA 7.6 – More stringent investment rules on an individual basis We do not disagree that supervisors in Member States may need to intervene on an individual basis (as opposed to more generalised investment rules). We concur with EIOPA that this issue is covered in Article 14, which should make it possible to delete Article 18(6). Article 18 can then focus specifically on the issue of general investment rules and the consistent establishment of the prudent person principle.</p> <p>CfA 7.7 – Cross-border activity In line with our response to 7.3, we believe that Option 2 is consistent with the prudent person principle operating across a level playing field. Article 18(7) can therefore be deleted.</p> <p>CfA 7.8.1 – Level playing field between IORPs and insurance products where a unit-linked insurance contract may be involved It is not entirely clear to us how this provision would work. If IORPS are using insurance-based investment processes, then surely they will have to be provided by an insurance provider and hence regulated under Solvency II anyway. We believe it would be helpful to have greater information on how this amendment might operate.</p> <p>CfA 7.8.2 - Multi-funds, default funds, lifestyling</p>	
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			<p>The use of compulsory or semi-compulsory DC creates a new class of investor. This is the 'accidental investor' (ie. someone who may not otherwise have invested in stocks and securities, or who may not have any other form of investment products). In circumstances where individuals are compelled to save in a DC scheme or encouraged through automatic enrolment, it is not unreasonable for Member States to require that DC schemes have some form of default option.</p> <p>However, this creates several issues for EU policymakers. The first is political, since there have been national contexts which have seen ideological objections to a default option (eg. Sweden in the early stages of the reforms started in the late 1990s with the Premium Pension Authority - PPM). The second is one of definition. Once there is a requirement to have a default option, there is a potential need to specify what that might constitute.</p> <p>We believe that such decisions – whether to require a default fund and if so, how it should be defined – should be left to national authorities and can be addressed in a way that does not undermine the prudent person principle. In other words, we favour Option 1 and would not support the imposition of quantitative restrictions at either national or EU level, but believe there is potentially room for guidance that encourages a focus on addressing investment issues such as volatility and possible duration mismatch (vis-a-vis annuity rates) in the run-up to retirement. There is also room, as the consultation document suggests, for principles and exchanges regarding good or best practice.</p>	
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		<p>While 'lifestyling' is a convenient term, and the general intent is reasonably clear, another reason for being careful in this area is the evolving nature of investment processes. 'Lifestyling' is associated with the prevailing mechanistic approach to de-risking in the last five or ten years of working life that is already being challenged by other forms of approach. Some of these approaches are using more sophisticated forms of de-risking strategy towards the end of the accumulation phase. Others are adopting a wholly different approach across the accumulation phase. There is no single 'right' or 'wrong' answer. A plurality of approaches is likely to be a defining feature of the DC investment market</p> <p>CfA 7.8.3 – VAR measure</p> <p>We agree with the EIOPA assessment that there is no prudential justification to introduce such a requirement at EU level.</p> <p>CfA 7.9 – Additional requirements regarding biometric and inflation risk</p> <p>We agree that there are a range of risks to which members may be exposed, which may have a significant impact on investment approach. The obvious biometric risk in DC is in fact not in the accumulation phase, but in the decumulation phase in a non-pooled pension product (eg. income drawdown). However, it is neither clear that such risks are best addressed in the IORP Directive (or indeed at EU level at all), nor whether the approach should be based around regulation of the investment process as opposed to other regulation such as on information or advice. We support the pragmatic approach taken by EIOPA in the consultation document.</p>	
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			<p>CfA 7.10 - Other requirements</p> <ol style="list-style-type: none"> 1. Geographic diversification should be adequately covered in prudent person. 2. With respect to derivatives, we support retention of the current wording on the basis that it is not clear why it should be deleted, nor is it clear that decisions would be facilitated by additional definitions of efficient portfolio management within the existing clause. We feel therefore that there should be a third option, which is to leave the article sub-section unchanged. 3. We agree that sponsor support is a separate issue to the question of investment in the sponsor. The latter should be limited under any prudential investment approach. 	
256.	Institute and Faculty of Actuaries (UK)	50.	<p>The overall direction of regulation in general is towards a principles based approach: specific restrictions on individual asset classes appear contrary to that aim. Specific restrictions, if required, are arguably more appropriate to level 2 text.</p> <p>Intervention would need to be targeted to avoid rendering the wider Directive's aims of harmonisation ineffective. In a risk based system intervention would be required in the event of risk-based parameters being exceeded - see our answer to Q49.</p> <p>A balance is required between permitting restrictions to protect members' benefits and complexity. This is particularly an issue for cross-border IORPs where different funds/options/default apply.</p> <p>For DC IORPs the application of minimum standards for default options/lifestyle seems consistent with a risk-based approach.</p>	Noted

			<p>The use of funds that comply with principles and are considered “safe-harbour” are potentially important for encouraging provision.</p> <p>Where possible, disclosure (with suitable options) rather than compulsion is considered appropriate for creating a risk-based DC system.</p> <p>Minimum standards may have the undesired affect of increasing homogeneity of approach and potentially creating systemic risk.</p>	
257.	Italian Banking Association	50.	<p>ABI agrees with EIOPA on the importance of amending Art. 18 of the IORP Directive by option 3, which proposes to adapt the approach provided by Art. 132 (2) of the Solvency Directive in order to properly address the issue of understanding and controlling investment risks, taking into account the characteristics of different types of pension funds. As a matter of fact, it must be underlined that where IORP are obliged to delegate the investment function to professional asset managers (this is the case with many Italian IORP), what it is really important is not the knowledge of the single financial investment, but the whole investment process and its monitoring. Therefore option 3 correctly recognizes that “the IORP is responsible for the supervision and control of the investment process. It may outsource some or all of the investment functions, but it will still keep full responsibility for all its aspects and its general consistency. The IORP shall ensure that its portfolio is invested only in assets and instruments whose risks, directly or through outsourced functions, it can properly identify, measure, monitor, manage, control and report, and, where applicable, appropriately take into account in the assessment of its overall solvency needs”.</p>	Noted
258.	Le cercle des épargnants	50.	<p>Article 132 to 135 of Solvency II Directive should be applied to IORPs.</p>	Noted

259.	Mercer	50.	<p><input type="checkbox"/> We agree that many of the additional requirements in the Solvency II Directive, relative to the IORP Directive, do not impose materially different obligations on IORPs. On that basis, although there may be no harm in amending the IORP Directive to include them, similarly nothing will be lost by not including them: on balance, then, since nothing is gained by their inclusion we suggest they are not included. Instead, it might be appropriate for Level 2 guidance to clarify, where appropriate, what is meant by the prudent person principle, for those member states where the principle is not so well understood.</p> <p><input type="checkbox"/> We do not agree that cross border DC schemes necessarily place more risk on members (indeed, if the EC believes that is the case we wonder why it is keen to encourage them) and so do not agree that there should be more prescription over the choice of default fund in their case.</p> <p><input type="checkbox"/> We agree that the provision under Article 132(3), that (broadly) the assets held by DC funds should match the associated investment mandate.</p>	Noted
260.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
261.	National Association of Pension Funds (NAPF)	50.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>As in the previous answer, the prudent person principle is the key to securing good investment outcomes.</p>	Noted

262.	OECD Secretariat to the Working Party on Private P	50.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>The CfA Response proposes that "IORPs shall only invest in assets and instruments whose risks the institution concerned can properly identify, measure, monitor, manage, control and report". It should be examined whether this would prohibit IORPs from investing in assets such as infrastructure and private equity which may in principle be attractive to long-term investors due to a potential illiquidity premium.</p> <p>For a further discussion, see the OECD paper "Pension Fund Investment in Infrastructure: A Survey" (http://www.oecd.org/dataoecd/59/33/48634596.pdf).</p>	Noted
263.	Pensioenfonds Zorg en Welzijn (PFZW)	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
264.	Predica	50.	Predica suggests taking the investment principles as described in the Articles 132 – 135 of the Solvency II Directive as a basis. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.	Noted
265.	PTK (Sweden)	50.	PTK is of the opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment	Noted

			policy of an IORP will give a suboptimal result.	
266.	Railways Pension Trustee Company Limited ("RPTCL	50.	We have not considered this question.	Noted
267.	Sacker & Partners LLP	50.	Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered? As noted in response to question 49 above, the prudent person principle is fundamental to ensuring security for IORP members.	Noted
268.	TCO	50.	TCO is of the opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted
269.	The Association of Pension Foundations (Finland)	50.	Prudent person rule combined with ultimate responsibility of the board and obligation to invest assets in the best interests of members and beneficiaries enables firm base for investment activity.	Noted
270.	The Association of the Luxembourg Fund Industry (A	50.	As laid out before, the Respondents strongly believe that the prudent person principle gives an optimal regulatory framework; further quantitative restrictions are not necessary and not justified and should therefore be avoided.	Noted
271.	The Society of Actuaries in Ireland	50.	The analysis is fragmented and in some cases inconclusive, so we do not propose to respond to this question other than to refer to our answers to the previous questions which we consider to be the key issues.	Noted
272.	THE SOCIETY OF PENSION CONSULTANTS	50.	The negative impacts on DB schemes should be explored further – especially the danger that the changes could lead to large numbers of such schemes closing down on affordability grounds	Noted

			as assets could not be used in a method appropriate to meeting the long term liabilities of the scheme.	
273.	Towers Watson Deutschland GmbH	50.	<p>We broadly agree. The overall direction of the regulation of investment strategies is towards a principles-based approach, with the 'prudent person' notion at its core. Any divergence from such a principles-based approach in favour of specific restrictions on individual asset classes appears contrary to that aim.</p> <p>It is clear that the key aspects in the Call for Advice capital adequacy requirements for IORPs have the scope to have a profound effect on IORP investment strategies. Most notably, there is likely to be a drive away from equities (and other such 'return-seeking' asset classes) in favour of Government bonds. This will likely exacerbate not reduce the pro-cyclicality risk.</p>	Noted
274.	Transport for London / TfL Pension Fund	50.	The prudent person principle is the primary support for ensuring good outcomes from investment.	Noted
275.	UK Association of Pension Lawyers	50.	<p>CfA 7 (Investment rules): Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>We agree that it would not be beneficial to introduce a Value at Risk limit or specific rules for funds where members bear non-investment risks. We would note that in virtually all defined contribution funds members bear those other risks.</p> <p>We do not support a geographical criterion in investment decisions. Diversification of investments is already required under the existing IORP directive, but geographical diversification will not always be considered a positive, insofar as it can increase the risk of a currency mismatch between the Scheme's assets and liabilities (this issue may be particularly</p>	Noted

			<p>pronounced in countries that do not use the Euro). In any event, many investments are inherently geographically diversified. For example, an investment in shares of an oil company involves exposure to risks and rewards all over the world, not just in the jurisdiction in which the company is incorporated or traded.</p> <p>We do think that the definition of “efficient portfolio management” could be clarified. The UK has interpreted this term as including “the generation of additional capital or income, with an acceptable level of risk” – we think this is within the existing Directive, but greater clarity would be beneficial, provided that such clarification would not prevent the continuance of reasonable and well-established practices that are currently viewed as coming within this term. In particular it would be helpful for there to be clarity that entering into transactions to control risks other than investment risks – for example interest rate risk, inflation risk, longevity risk or counterparty credit risk – are expressly within this definition.</p>	
276.	Universities Superannuation Scheme (USS),	50.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>As in the previous answer, the prudent person principle is the key to securing good investment outcomes.</p>	Noted
277.	Verbond van Verzekeraars	50.	We advice to set the investment principles as described in the Art. 132 – 135 of the Solvency II Directive as a basis.	Noted
278.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	50.	It is our opinion that the prudent person principle will get an optimal investment result. Other restrictions to the investment policy of an IORP will give a suboptimal result.	Noted

279.	Whitbread Group PLC	50.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted
280.	Zusatzversorgungskasse des Baugewerbes AG	50.	<p>65. Investment rules and restrictions are pre-emptive controls to ensure prudent and careful investment behaviour. They are common for a very long time in many European countries and form the basis of their rules-based supervisory systems.</p> <p>66. A choice has to be made between a security system based on principles and one based on rules. A hybrid system with both elements must be balanced very carefully. Otherwise it tends to be overprotective and could cause heavy costs for fulfilling the principle-based security system without having the means to invest in high-return assets to earn these costs. If member states decide to impose investment rules as a pre-emptive control, the risk mitigating effects of these controls have to be taken into account within the holistic approach.</p>	Noted
281.	Towers Watson	50.	<p>51. Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>The overall direction of the regulation of investment strategies is towards a principles-based approach, with the 'prudent person' notion at its core. Any divergence from such a principles-based approach in favour of specific restrictions on individual asset classes appears contrary to that aim.</p> <p>Intervention by supervisory authorities would need to be targeted to avoid the wider Directive's aims of harmonisation becoming ineffective. Such intervention is likely, in a risk-based system, in the event of risk-based parameters being exceeded. We refer to answers in relation to the cross-border and ring-</p>	Noted

			<p>fencing questions (6 and 8 above) where we state that any restrictions permitted by 'Host' States will potentially hamper rather than facilitate cross-border provision.</p> <p>A balance is required between permitting restrictions to protect members' benefits and complexity. Once again, this is particularly an issue for cross-border schemes where different funds/options/defaults apply.</p> <p>For DC schemes the application of minimum standards for default options/lifestyle seems consistent with a risk-based approach. The use of funds that comply with stated principles and are considered "safe-harbour" are important for encouraging provision. Where possible disclosure, with suitable options, rather than compulsion is considered appropriate for creating a risk-based DC system. Minimum standards may have the undesired effect of increasing homogeneity of approach, potentially creating systemic risk. It is also possible that they will restrict innovation.</p> <p>We note that EIOPA suggests that that it is important to distinguish between direct investment in the securities of a sponsoring undertaking and the operation of the employer covenant. We agree.</p> <p>It is clear that the key aspects in the Call for Advice relating to the 'pillar I', capital adequacy, requirements for IORPs have the scope to have a profound effect on IORP investment strategies. Most notably, there is likely to be a drive away from equity (and other such 'return-seeking' asset classes) in favour of government bonds and similar 'low risk' assets. Notwithstanding the geographical concentration issue, this has proven to be a significant problem and one that is likely to exacerbate not reduce the pro-cyclicality risk.</p>	
282.	OPSG (EIOPA	51.	See question 47	Noted

	Occupational Pensions Stakeholder Group)			
283.	AbA Arbeitsgemeinschaft für betriebliche Altersver	51.	We agree with the EIOPA advice regarding the retaining and clarification of Article 18(2) IORP Directive.	Noted
284.	ABVAKABO FNV	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
285.	AEIP	51.	108. We agree that borrowing should only be allowed when it is used for risk management purposes and for hedging of liabilities. Subordinated loans should be exempted from the prohibition of borrowing.	Noted
286.	AFPEN (France)	51.	Borrowing in general should be allowed for if the objective of borrowing is due to risk management and the hedging of liabilities, similar to the provisions for the use of derivatives (see Art. 18, 1d of the current IORP Directive). To avoid excessive risk taking borrowing could be subject to the approval of the national supervisory authority. Moreover subordinated loans should be excluded from the prohibition of borrowing.	Noted
288.	AMICE	51.	AMICE is in line with the current prohibition on borrowing but believes that subordinated loans should not be prohibited.	Noted
289.	AMONIS OFP	51.	What is stakeholders' view of the current prohibition on borrowing in Article 18(2)? We have the opinion that borrowing should be possible, only for effecting the investment management (efficient management) or for risk reduction.	Noted

290.	ANIA – Association of Italian Insurers	51.	The ANIA agrees with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	See CEA
291.	Association of British Insurers	51.	On balance, the proposed retention of prohibition on borrowing but with clarification of where this prohibition does not need to apply seems the right approach. The direct leveraging of investment portfolios is not an appropriate activity for pension saving. It should be noted that, many types of asset, not just derivatives, have implicit leverage embedded within them. It would also be desirable to make sure that this restriction does not prevent borrowing in so far as there is an offsetting cash position against which the borrowing can reasonably be netted. The ABI is not aware of any specific need to exempt subordinated loans from the general restriction on borrowing unless this is of a temporary or transitional nature related to the timings of the IORPs cash-flow requirements.	Noted
292.	Association of Consulting Actuaries (UK)	51.	We agree with EIOPA that the current prohibition on borrowing is on balance desirable, provided clarity is provided that only direct borrowings are covered by the scope of the prohibition. One counterargument to this view is that an IORP may wish to make use of short-term overdraft facilities for reasons of efficient portfolio management, for example in anticipation of an incoming cashflow, or to avoid selling securities and incurring transaction costs, and a restriction on borrowings would restrict an IORP's flexibility with regard to liquidity management.	Noted
293.	Association of French Insurers (FFSA)	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of	Noted

			borrowing.	
294.	Association of Pensioner Trustees in Ireland	51.	See response to question 49.	Noted
295.	Assoprevidenza – Italian Association for supplement	51.	We agree on EIOPA advice. Borrowing should be allowed when it is used for risk management purposes and for hedging of liabilities. Subordinated loans should be exempted from the prohibition of borrowing	Noted
296.	Assuralia	51.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	Noted
297.	Belgian Association of Pension Institutions (BVPI-	51.	What is stakeholders' view of the current prohibition on borrowing in Article 18(2)? We have the opinion that borrowing should be possible, only for effecting the investment management (efficient management) or for risk reduction	Noted
298.	BNP Paribas Cardif	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
299.	BT Pension Scheme Management Ltd	51.	We support retaining the prohibition on borrowing, as long as it is made clear that subordinated loans are acceptable, and that	Noted

			borrowing within investment vehicles is also freely permitted.	
300.	CEA	51.	The CEA agrees with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
301.	Charles CRONIN	51.	Yes, I agree that IORPs should not be allowed to borrow funds other than for liquidity purposes, with the exception of where the IORP is acting as guarantor and possibly making use of subordinated loans. This prohibition should be retained in the revised Directive. The prohibition is one of the defining characteristics of an IORP that separates it from insurance companies and banks. It is a key feature which reduces default and investment risk for scheme M & B. It concerns me that this prohibition could be deliberated circumnavigated through the use of derivative strategies. EIOPA should consider this matter further to make sure that IORPs cannot leverage their assets through covert strategies.	Noted
302.	Chris Barnard	51.	I support the current prohibition on borrowing in Article 18(2) of the IORP Directive. I accept that excessive borrowing would be measured, monitored and limited under a realistic, market-consistent valuation and solvency framework; but I agree with Paragraph 11.3.88 that this prohibition would offer additional, reasonable and timely protection for members and beneficiaries in certain circumstances.	Noted
303.	CMHF (Centrale van Middelbare en Hogere Functionar	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted

304.	De Unie (Vakorganisatie voor werk, inkomen en loop	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
305.	Ecie vie	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
306.	EFI (European Federation of Investors)	51.	Borrowing should not be allowed except in special circumstances with the prior approval of the supervisory authority	Noted
307.	European Association of Public Sector Pension Inst	51.	<p>What is stakeholders' view of the current prohibition on borrowing in Article 18(2)?</p> <p>Borrowing in general should be allowed for if the objective of borrowing is due to risk management and the hedging of liabilities, similar to the provisions for the use of derivatives (see Art. 18, 1d of the current IORP Directive). To avoid excessive risk taking borrowing could be subject to the approval of the national supervisory authority. Moreover subordinated loans should be excluded from the prohibition of borrowing.</p>	Noted
308.	European Federation for Retirement Provision (EFRP	51.	Subordinated loans should be exempted from the prohibition of borrowing. We advise to make clear that borrowing should be possible, only for effecting investment management (efficient management) or for risk reduction. Thus, for example swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted

309.	European Fund and Asset Management Association (EF)	51.	We don't have a strong view regarding the prohibition of borrowing.	Noted
310.	FAIDER (Fédération des Associations Indépendantes)	51.	Borrowing should not be allowed except in special circumstances with the prior approval of the supervisory authority	Noted
311.	Federation of the Dutch Pension Funds	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
312.	Financial Reporting Council	51.	We have not considered this question.	Noted
313.	FNV Bondgenoten	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
314.	Generali vie	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
315.	Groupe Consultatif Actuariel Européen.	51.	We do not believe it necessary to retain article 18(2). Rather, this is a matter that can be left to the prudent person principle. The origins for the inclusion of this prohibition in the first IORP Directive are not clear to us. On the face of it the current use of subordinated loans is either in direct breach of this requirement or, for some reason, considered not to be. (In other words, there is no current exemption for subordinated loans, so it is unclear	Noted

			why it is now required.)	
316.	Groupement Français des Bancassureurs	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
317.	PMT-PME-Mn Services	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
318.	HM Treasury/Department for Work and Pensions	51.	We accept that it may be advantageous to clarify the definition of "borrowing" to relate to direct borrowing only.	Noted
319.	IMA (Investment Management Association)	51.	We do not have a strong view on the broad restriction on borrowing. However, we agree that anything that potentially restricts investment options (for example, where an investment strategy may be using leverage) requires clarification to prevent undue constraints on schemes and managers.	Noted
320.	Institute and Faculty of Actuaries (UK)	51.	Controlling the maximum risk taken by IORPs would generally be expected to improve security for IORP members. However, controlling the concept of leverage through a rule of this sort may not achieve that. For the following reasons: <input type="checkbox"/> Derivative contracts used for risk reduction and efficient portfolio management could be indirectly prohibited by the proposal. <input type="checkbox"/> In addition, the proposal does not address indirect	Noted

			<p>leverage (such as owning equity in companies that issue debt securities).</p> <p><input type="checkbox"/> It would also exclude certain forms of investment, such as accessing illiquid loan portfolios currently funded by banks, which do not appear riskier than equity investment.</p> <p>We believe that EIOPA's objective can be met through the principles based regime. Imposing extra restrictions could have unintended consequences and costs to IORPs.</p>	
321.	KPMG LLP (UK)	51.	We agree that the current prohibition on borrowing should be retained, subject to clarification that it only applies to direct borrowing for other than short-term liquidity requirements.	Noted
322.	Le cercle des épargnants	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
323.	Mercer	51.	We agree that IORPs' ability to borrow should be restricted, but also consider that there could be some circumstances when they would legitimately choose to borrow. For example, it might be appropriate to borrow to achieve risk management objectives or efficient portfolio management, but not solely for the purposes of investment.	Noted
324.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
326.	National Association of Pension Funds (NAPF)	51.	What is stakeholders' view of the current prohibition on borrowing in Article 18(2)?	Noted

			UK IORPs are already barred from borrowing.	
327.	NEST Corporation	51.	Comment withdrawn	
328.	Pan-European Insurance Forum (PEIF)	51.	Possibility of capitalisation through subordinated loans should be retained.	Noted
329.	Pensioenfonds Zorg en Welzijn (PFZW)	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
330.	Predica	51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	Noted
331.	PTK (Sweden)	51.	Subordinated loans should be exempted from the prohibition of borrowing. PTK advises to make clear that borrowing should be possible, only for effecting investment management (efficient management) or for risk reduction. Thus, for example swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
332.	Railways Pension Trustee Company Limited ("RPTCL	51.	We have not considered this question.	Noted

333.	Reed Elsevier Group plc	51.	We agree to the continued prohibition on borrowing	Noted
334.	Sacker & Partners LLP	51.	What is stakeholders' view of the current prohibition on borrowing in Article 18(2)? We do not see any reason to change Article 18(2), which permits Member States to authorise borrowing for liquidity purposes and on a short-term basis only.	Noted
335.	TCO	51.	Subordinated loans should be exempted from the prohibition of borrowing. TCO advises to make clear that borrowing should be possible, only for effecting investment management (efficient management) or for risk reduction. Thus, for example swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
336.	The Association of Pension Foundations (Finland)	51.	Subordinated loans should be exempted on prohibition of borrowing.	Noted
337.	The Association of the Luxembourg Fund Industry (A)	51.	The Respondents agree on EIOPA's suggestion to retain the prohibition of borrowing in the IORP directive. As occupational pension benefit generally form a part of the basic retirement income, additional protection for members and beneficiaries is adequate to protect future benefits. As there is no further clarification in the current wording of Article 18 (1) (d) the Respondents agree that further clarification borrowing terms can only be positive. (7.10. Option 1)	Noted
338.	The Society of Actuaries in Ireland	51.	Borrowing should be permitted where it is facilitates the reduction in or management of risk, but not where it is intended to increase risk. We consider that subordinated loans are a risk mitigating tool and should therefore be permitted.	Noted

339.	Towers Watson Deutschland GmbH	51.	Under the prudent person rule, there is no need for such prohibition.	Noted
340.	Universities Superannuation Scheme (USS),	51.	What is stakeholders' view of the current prohibition on borrowing in Article 18(2)? UK IORPs are already barred from borrowing.	Noted
341.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	51.	Subordinated loans should be exempted from the prohibition of borrowing. Also, we advise to make clear that swaps used for risk management purposes should not be considered as borrowing in this sense, and should therefore also be allowed.	Noted
342.	Whitbread Group PLC	51.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted
343.	Zusatzversorgungskasse des Baugewerbes AG	51.	67. We agree that borrowing should only be allowed when it is used for risk management purposes and for hedging of liabilities. 68. Subordinated loans should be exempted from the prohibition of borrowing.	Noted
344.	Towers Watson	51.	52. What is stakeholders' view of the current prohibition on borrowing in Article 18(2)? 1. In principle, we have no objection to the removal of the current prohibition on borrowing. However, our preferred stance would be to retain it and to make it clear that this does not cover subordinated loans.	Noted