

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

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

Name of Company:	BAVC	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment/response in the relevant row. If you have <u>no response</u> to a question, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments/responses which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-14-040@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to Consultation Paper on Further Work on Solvency of IORPs.</p>		
Reference	Comment	
General Comment	<p>The Bundesarbeitgeberverband Chemie e.V. (BAVC) is the federation of Employers Association in the chemical Industries.</p> <p>Employer-financed retirement benefits are an integral part of the modern remuneration systems in our industry. In the German chemical industry this type of supplementary pension system is widely used. The percentage of public employees who have shown a commitment for purely employer-financed retirement benefit schemes has remained</p>	

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stable at around 70 percent for many years. This form of supplementary provision for old age and death has been a long standing tradition in the German chemical industry. The pension funds of many major German chemical companies employing tens of thousands of pensionable employees often date back to the time before 1890 and these pension funds have successfully survived all developments in European history since then.

Since 1998, the German chemical industry has also gradually established a collective agreement of social partnership through the creation of an additional, attractive and powerful system of negotiated pension funds. This occurred particularly due to a significant decline witnessed in the mandatory pension schemes in Germany thus necessitating the need for creation of an indispensable component of adequate and sustainable social representation and protection of workers in the future. Approximately 80 percent of salaried employees in the German chemical industry have now joined this system and convert a part of their remuneration into pension for the purpose of retirement. This is done as a part of the implementation of the occupational pension schemes and collective agreements that guarantee additional financial support by the employers, thus fulfilling their social responsibility in a special manner. In addition to the entitlement from the statutory pension schemes, the vast majority of the workforce in our industry is also entitled to purely employer-financed company pension schemes that provide a well-funded conversion of remuneration into occupational pension systems provided by the employers. Within the collective agreements all companies in the industry are obliged to provide appropriate occupational pensions for their employees for deferred compensation and to promote, organize and finance such pension schemes. In this respect, our industry is affected by changes to the regulatory framework for occupational pension schemes in a particular manner.

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The proposed review, by the European Commission, of the IORP Directive with the aim of fulfilling the goals of social policy - promotion of occupational pension schemes and creation of adequate, sustainable and safe pension systems – does not do justice to the conviction of the employers in the chemical industry and therefore requires fundamental changes.

Although the European Commission's proposal, which does not currently envisage **tightening of capital requirements** in line with Solvency II norms, needs to be warmly welcomed; it has received critical and intensive discussion in the recent years with the European Parliament making its position clear on this topic. However, the application of Solvency II regulatory framework through the work of the EIOPA under the guise of the "Holistic Balance Sheets" (HBS) model continues to impact the present proposal. For example, Article 29 of the proposed Directive imposes the obligation of an assessment of pension-related risk assessment in the future which already clearly picks up elements of the HBS and ultimately the Solvency II model.

Thus, significant advancements have been made in the introduction of such a framework in the form of future quantitative capital requirements or as part of a quality regulatory model within the overall risk management systems of the IORP. This is, however, not consistent and thus the German occupational pension schemes will continue to be threatened with multi-billion additional expenses. The introduction of the HBS or similar models that build on the model of the European Solvency II regime shall prove to be imprudent and strict. Rather, the Directive should provide clarity regarding the capital requirements in the insurance industry. The local policies regarding the valuation of assets and liabilities may not be an appropriate benchmark for the IORP. Therefore, EIOPA should stop its work on the so-called "Holistic Balance Sheet" for finalization of the

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Regulation of the occupational pension schemes is the responsibility of the Member states

The European Commission has repeatedly and correctly emphasized that the responsibility for pension schemes and their regulation lies with the Member States. It therefore seems consistent enough to increasingly want to regulate the operating procedures and tariff schemes as they exist in the German chemical and other industries. Expansion of the European regulatory framework – beyond the existing – may not provide any significant value addition to the occupational pension systems in Germany.

Moreover, there exists no uniform system within the perspective of all the national level regulations, rules and goals for occupational retirement schemes in all the 28 Member States in addition of being capable to deal with the national tax, labour and social conditions at the same time. A single Europe-wide regulation and supervision system could only be appropriate and in accordance with the principle of subsidiarity when national-level measures are no longer in a position to guarantee the social objectives of pension schemes or when a true internal market for this type of company pension schemes emerges.

Both of which are clearly not the case. In particular, the employee is insured through the subsidiary liability of the employer in Section 1, Para. 1, Sentence 3 of the pension provision (BetrAVG) in Germany for the agreements on Company's retirement benefit scheme, through the continuous and comprehensive supervision and control of the German IORP, as well as through the national supervising authority (Federal Financial

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	<p>Supervisory Authority - BaFin) and also the direct /indirect participation of their representatives in IORP regulated bodies, before loss attributable to minority occupational pension benefits. A repeated risk hedging imposed by additional European rules would only lead to a substantial increase in the cost of employee benefits, which would either have a negative impact on the amount of benefits provided to employees, or alternatively, worse, could lead to a withdrawal of employers from the voluntarily offered employer-financed retirement benefits.</p>	
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