Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation			Deadline 02.01.2012 18:00 CET
Company name:	Zentraler Immobilien Ausschuss e.V. (German Property Federation), Berlin		
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. *Please indicate if your comments on this CP should be treated as confidential, by deleting the word **Public** in the column to the left and by inserting the word **Confidential**.*	Public	
	The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006). **Please follow the instructions for filling in the template:** ⇨ Do **not** change the numbering in column "Question". ⇨ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty. ⇨ There are 96 questions for respondents. Please restrict responses in the row "General comment" only to material which is not covered by these 96 questions. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. **Please send the completed template to *CP-006@eiopa.europa.eu*, in MSWord Format, (our IT tool does not allow processing of any other formats).**		
Question	**Comment**		
General comment	Real estate is a unique asset class which provides diversification benefits that are essential for IORPs looking to match long term cash flows with long term investment needs of their policy holders. Real estate cash flows are the single largest pool of long dated cash flows in Europe and IORPs seek to		

	access these return characteristics through many forms of direct and indirect vehicles. The nature of real estate as a capital intensive asset makes costs of capital a critical factor. If the equity costs for property investments will increase. IORPs will likely reduce their property investments. In such a scenario property disinvestments will have a negative impact on the European property market as a whole.	
1.	The responsibility for pensions lies with the Member States. Retirement income systems in the various States have followed a very diverse path of development in last decades. The interaction between funded and non-funded elements as well as government, occupational and personal retirement provision varies greatly. A variety of security mechanisms exist in the Member States to ensure that security and reliability demands are met. These circumstances have to been taken into account in course of introducing a new European legislation. Furthermore, according to the discussed proposal the general layout of the supervisory system should, to the extent necessary and possible, be compatible with the approach and the rule used for the supervision of life assurance undertakings subject to the Solvency II-Directive. ZIA is of the opinion that there are important differences between IORPs and insurers which have to be taken into account. IORPs should be subject to solvency rules that are qualitative and risk-based in nature and respect of their character as social entities with recourse to the sponsor in case of underfunding. The focus of solvency rules should, therefore, be on the long-term ability to meet obligations as they fall due rather than on mitigation of short-term fluctuations. The Solvency II-rules do not fit occupational pensions in this respect. Hence, similar approaches to both insurance and IORPs are not appropriate.	
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38.	If the capital requirements according to Solvency-II apply also to IORPs, the equity costs for property investments will increase and property investments of IORPs will likely to be reduced. This is especially true for properties with a low risk/return structure. Instead, IORPs might invest in property markets with a higher risk/return profiles in order to achieve returns that not only cover the costs of capital but are sufficient to cover contractual obligations. Apart from these general concerns, capital requirements according to Solvency-II should reduce investments in residential property which, at least in Germany, have an extraordinary low risk profile. When IORPs, which are known to be conservative and professional lessors, will reduce their market share in the residential market. This will have an unfavorable impact on lessees on the one hand and insurance policy holders on the others. Lessees will loose a reliable and professional lessor, policy holders will loose a stable cash flow with returns higher than those of most governments bonds with an adequate risk structure. Furthermore, according to Solvency-II the capital requirement (SCR) is calculated by taking into account the actual risk profile of the undertaking and corresponds to the amount of own funds to be held in order to ensure the solvency of the undertaking over a certain time horizon with a given confidence level. ZIA is of the opinion that the calculation of the value-at-risk under Solvency-II is not appropriate for IORPs. Among other things, IORPs differ from insurance companies because they have a risk-sharing mechanism, e.g. the reduction of accrued rights. Under the risk-based approach under Solvency-II insurance companies could use a so called standard model of calculating the required solvency capital. IORPs should be allowed to use this model, too.	

	However, from our point of view, the construction of the standard model is likely to reduce flexibility for IORPs to match real estate returns with the needs of their policy holders and encourage IORPs to decrease their real estate allocations. As a consequence, their portfolios will become less diversified and more vulnerable to economic shocks. Increased portfolio vulnerability will result in increased systemic risk, undermining the effectiveness of solvency-rules as a measure to promote stability. Moreover, we would like to stress that practical issues arise regarding the calibration of the capital requirements in case of a very high degree of confidence. There is little relevant data to allow it to be assessed objectively. Thus, the use of a lower confidence level is adequate for IORPs. Finally, the main structural weakness of the standard model is its approach to fix capital requirements through pre-determined market shock factors. This is a short term approach and is not suitable to a long term investment asset such as real estate. Moreover, calculating the shock factor (especially the property risk shock factor) requires realistic market data. There are currently very few markets in Europe that provide fully sufficient data for the appropriate measurement of property risks.	
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