

**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**

EIOPA-BoS-12/016

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

No.	Name	Reference	Comment	Resolution
4,026.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	52.	<p>The OPSG does not agree with the analysis regarding the objective of supervision. The Solvency II Directive's main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort.</p> <p>Occupational Pensions and IORPs are sponsored by an employer or an industry branch and their stakeholders' interests are aligned. Their beneficiaries are protected by a web of interacting security mechanisms in social and labour law. Having regard to this fact, the objective as set out in Solvency II is not relevant.</p> <p>We believe that it is essential to continue in this regard with the concept of IORP I. Taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows:</p> <p>"... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries."</p> <p>In addition we propose to define the purpose of the IORP II Directive as:</p> <p>"This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries."</p> <p>With respect to pro-cyclical behaviour, the OPSG agrees with the EIOPA assertion that IORPs are different from banks and insurance companies due to the longer term duration of their liabilities. Accordingly it is not necessary to have a harmonised approach to pro-cyclicality between all financial institutions.</p> <p>As discussed in the response to CfA 5, the discount rate can provide some</p>	<p>Partially agreed:</p> <p>Whether or not the objective of Solvency II is connected to commercial interest or not is not relevant for the objective itself. The objective to 'strengthen consumer protection' is therefore also relevant for the IORP Directive. However, EIOPA agrees with the OPSG that the IORP Directive should also adequately support a sound and prudent management of IORPs.</p> <p>Noted: for the EIOPA response to the remarks regarding the discount rate, liquidity premium and countercyclical premium, please refer to</p>

			<p>counter-cyclical effect by</p> <ul style="list-style-type: none"> <input type="checkbox"/> Taking into account liquidity premium for the valuation of guaranteed pension liabilities <input type="checkbox"/> Including countercyclical premium as foreseen in Solvency II 	CfA 5.
			<p>Experience with risk based supervision for IORPs clearly indicates that supervisory flexibility is of utmost importance for sustainability, and that long (and flexible) recovery periods should be permitted. Hence the OPSG supports the proposal to include a provision for a Pillar II dampener.</p> <p>The OPSG agrees that the possible inclusion of an equity dampener (Pillar 1), not necessarily modelled on Solvency II, needs further analysis, particularly as this relies on the presumption of mean reversion.</p>	Agreed.
4,027.	AbA Arbeitsgemeinsc haft für betriebliche Altersver	52.	<p>We do not agree with the analysis regarding the objective of supervision.</p> <p>The Solvency II Directive’s main objective (Article 27) is to strengthen consumer protection in the absence of a third party guarantor or lender of last resort. For IORPs, which are sponsored by an employer, whose stakeholders’ interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law, the objective of Solvency II is not relevant.</p> <p>Taking inspiration from Recital 7 in the current IORP Directive, we would redefine the objective for supervision of IORPs as follows:</p> <p>“This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries.”</p>	See OPSG (4,026).
			<p>We do not agree with the analysis regarding the measures to avoid pro-cyclical behaviour.</p> <p>Pro-cyclicality is a direct result of the fundamental use of mark to market valuations of assets, liabilities and capital requirements. Any measures intended to counteract the effects of pro-cyclicality would be merely treating</p>	<p>Noted:</p> <p>The use of mark to market valuations does not necessarily lead to pro-cyclicality. Even</p>

			<p>the symptoms rather than the underlying cause. A far more effective means of reducing pro-cyclicality is to avoid the use of mark to market valuations altogether and strengthen the ability of IORPs to take a long term view. This would include provisions allowing for long recovery periods.</p> <p>Notwithstanding the above, should the Commission decide to go ahead with the use of mark to market valuations, we would want to see all possible methods of reducing pro-cyclicality included in the revised IORP Directive. This includes:</p> <ul style="list-style-type: none"> - a provision that supervisors consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of stress, (Please note that extreme stress should not be a necessary condition, as prevention of systemic risk is better than cure.) - a provision that recovery periods will be suitably long to allow IORPs to regain financial strength and - provisions that would prevent IORPs from having to force sell their assets. 	<p>within mark to market valuation, long term views are quite possible, for instance as a result of longer recovery periods.</p>
4,028.	ABVAKABO FNV	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p>	<p>See Federation of Dutch Pension Funds (4,065)</p>

			Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.	
4,029.	AEIP	52.	AEIP agrees with EIOPA advice on art. 136 and 141.	Noted
4,030.	AFPEN (France)	52.	<p>125. The objective of supervision and the standard formula of the SCR in Solvency II</p> <p>126. In general we support the notion that the supervisory structure should avoid pro-cyclical behavior. Hence we think that the standard formula of the Solvency Capital Requirement (SCR) as the core element of pillar 1 of the Solvency II structure is problematic with respect to investment behavior for several reasons:</p> <p>127. 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>128. 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>129. Both of these aspects 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 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>Noted:</p> <p>These comments are directed towards the development of the standard formula of the SCR, and are therefore primarily aimed at the Solvency II Directive.</p>
			130. The discussed tools to avoid pro-cyclical behaviour	Noted

		<p>131. We agree with EIOPA that the main tool to handle financial distress is a longer recovery period so that the IORP concerned can reach the SCR. It is important to point out, that this so called pillar II dampener of art. 138 in the Solvency II Directive must be seen detached from the question how exactly the solvency capital requirement is determined and therefore not necessarily connected to the pillar I structure of solvency II. In case that the SCR standard formula of Solvency II is being adopted we strongly suggest applying at least the duration dampener (Art. 304 Solvency II) to account for the long term horizon of asset holding.</p> <p>132. We do not fully agree with EIOPA with respect to the equity dampener (Art. 106 Solvency II). The equity dampener reduces the SCR in times of financial crisis, given that EIOPA defines something as "crisis", but, due to the symmetric nature of the dampener, the SCR rises even more in "good" times. This means more volatility and insecurity of the SCR in general and leads to additional effort. This holds true even more for the actual discussion of a counter cyclical premium in form of an interest rate add-on to the risk-free interest rate with respect to Solvency II in order to decrease technical provisions in times of crisis (see Gabriel Bernardino, Opening Speech, EIOPA 1st Annual Conference, Frankfurt a. M., 16.11.2011). We do not support this tool.</p> <p>133. Alternative perspectives on the supervision of IORPs: "individual security and macro stability"</p> <p>134. AFPEN suggests changing the perspectives when thinking of a starting point for the regulation of IORPs: From the Solvency II "insurance"-perspective to a perspective that is more appropriate for IORPs. This also reflects the Commissions Call for Advice directed to EIOPA in March 2011 and the idea of developing a supervisory regime sui generis for IORPs. One of the notions, that should be central to the regulation of IORPs, could be named the "macro-stability"-perspective that enforces the diversification of investment strategies and the long-term-horizon strategies in order to reduce pro-cyclical tendencies and to enhance macroeconomic stability.</p>	
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			<p>142. Remark:</p> <p>The general notion of the counter-cyclical premium is an essential contradiction to the mark-to-market-principle, which is the basic valuation principle of solvency II. The reason is that the counter-cyclical-premium calls into doubt the assumption that prices in financial markets reflect real economic fundamentals and that in consequence the volatility of financial markets is "justified" economically speaking. Consequently this means that the valuation criterion "market-consistency" is only valid until the involved volatility of stock prices, market disruptions and credit spreads is limited. And not only in the light of the financial fluctuations of the financial crisis since 2008 and the actual sovereign debt crisis in Europe it is necessary to ask again if these grave fluctuations and down-turns are justified in economic terms and if we should really map these movements to the balance sheets and the calculation of the SCR? We therefore strongly suggest rethinking the adequacy of the concept of "market-consistency" as the only criterion for the valuation of assets and liabilities, especially in the context of IORPs, as it directly carries the problem of volatility into the solvency balance sheets of the IORPs.</p>	
4,032.	AMICE	52.	<p>AMICE is in favour of the application of measures reducing pro-cyclical behaviour but wishes to stress the need for a calibration which is adapted to the characteristics of pension schemes: long horizon of assets and liabilities and the problem of liquidity.</p>	<p>Noted.</p> <p>It is unclear which specific measures are supported here.</p>
4,033.	AMONIS OFP	52.	<p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>Due to their long term nature, IORPs have a long term funding policy and they have a greater ability for short term shock absorption, thereby avoiding</p>	<p>See BVPI-ABIP (4,041)</p>

			<p>procyclical behaviour and contribute to the global financial stability and the European economy.</p> <p>Therefore, AMONIS OFP advises EIOPA to plead for an IORP Directive which stimulates a countercyclical policy and an impact assessment in order to see the macro-economic effects of a revision of the IORP Directive.</p> <p>AMONIS OFP agrees in principle with EIOPA advice on article 136 and 141. However, the current method to calculate the equity dampener is not appropriate for IORPs. The average return period should at least be increased from three till six years. If this is not retained, AMONIS OFP favours leaving out the equity dampener (option 1).</p> <p>Besides that AMONIS OFP asks EIOPA also to pay attention to the relation between counter cyclicity and recovery periods, capital requirements and the discount rate for the valuation of assets and liabilities which were addressed in the previous questions. For example, if a low discount rate is stipulated in economically bad times and a high one in economically good times that means that IORPs will be poor in bad times and rich in good times. This leads to pro-cyclical behaviour. The same holds for an obliged de-risking of the investment mix during an economic downturn.</p>	
4,034.	ANIA – Association of Italian Insurers	52.	<p>As far as the ANIA is concerned the objective of the review of the IORP Directive is to create an internal market for pensions and to reflect the true risk of pension funds. These have as goals the protection of members and beneficiaries. Therefore, the ANIA strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries.</p>	Agreed

			<p>Regarding the measures to avoid pro-cyclical behaviour, the ANIA agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, the ANIA agrees that there is a need for Pillar I and Pillar II dampeners in the revised Directive.</p> <p>However, the ANIA wishes to stress that the issue of counter-cyclical adjustment to the risk free interest rate should be solved in Solvency II and then be applied in a similar fashion to IORPs. In general, there is broad consensus that short-term fluctuations in financial markets should not lead to significant volatility where this would incentivise actions that are counter-productive with the long term nature of the business. Providers of long term guarantees have limited vulnerability to short term risks and as such should not be subject to a regulatory framework that is volatile. Furthermore, amongst others, the main reasons why providers of long term guarantees in a solvency II-type framework would not “chase the premium” are:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The proposed mechanisms in Solvency II are independent of the change in assets. <input type="checkbox"/> Undertakings would still be penalised for investing in potentially risky assets through the Solvency Capital Requirements. <p>For providers of long term guarantees being forced to move away from long term products, to maintain a traditional long term investment horizon and to avoid pro-cyclical behaviour, the counter cyclical premium must include part of predictable features to be applied in a timely way.</p>	See CEA (4,051).
4,035.	Association of British Insurers	52.	The ABI would support measures to avoid pro-cyclical behaviour.	Noted. It is unclear which specific measures are supported here.

4,036.	Association of French Insurers (FFSA)	52.	<p>72. The FFSA strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries.</p> <p>Regarding the measures to avoid pro-cyclical behaviour, the FFSA agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, the FFSA agrees that at least Pillar I and Pillar II dampeners of the Solvency II Directive should be included in the revised Directive.</p>	Agreed.
4,037.	Assoprevidenza – Italian Association for supplement	52.	We agree with the analysis lead by the advice	<p>Noted.</p> <p>It is unclear which specific measures are supported here.</p>
4,038.	Assuralia	52.	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.
4,039.	Bayer AG	52.	<p>1. We do not agree with the analysis regarding the objective of supervision.</p> <p>2. The Solvency II Directive's main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort. For Occupational Pensions and IORPs, which are per definition sponsored by an</p>	See AbA (4,021)

			<p>employer, whose stakeholders' interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law and also for the IORPs itself, the objective of Solvency II is not relevant. It is essential to continue in this regard with the concept of IORP I.</p> <p>3. So taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows: "... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries." In addition we propose to define the purpose of the IORP II Directive as: "This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries".</p> <p>Furthermore the best way to avoid pro-cyclical effects is to disconnect from regulations based on market to market valuations.</p>	
4,040.	BDA Bundesvereinigung der Deutschen Arbeitgeber	52.	<p>13. We do not agree with the analysis regarding the objective of supervision. The Solvency II Directive's main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort. For Occupational Pensions and IORPs, which are per definition sponsored by an employer, whose stakeholders' interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law and also for the IORPs itself, the objective of Solvency II is not relevant. It is essential to continue in this regard with the concept of IORP I. So taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows: "... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries." In addition we propose to define the purpose of the IORP II Directive as: "This Directive supports the</p>	See AbA (4,021)

			<p>establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries”.</p> <p>14. Furthermore the best way to avoid pro-cyclical effects is to disconnect from regulations based on market to market valuations.</p>	
4,041.	Belgian Association of Pension Institutions (BVPI-	52.	<p>BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>Due to their long term nature IORPs have a long term funding policy they have a greater ability for short term shock absorption, thereby avoiding procyclical behaviour and contribute to the global financial stability and European economy.</p> <p>Therefore, BVPI-ABIP advises EIOPA to plead for an IORP Directive which stimulates a countercyclical policy and an impact assessment in order to see the macro-economic effects of a revision of the IORP Directive.</p> <p>BVPI-ABIP agrees in principle with EIOPA advice on article 136 and 141. However, the current method to calculate the equity dampener is not appropriate for IORPs. The average return period should at least be increased from three till six years. If this is not retained, BVPI-ABIP favours leaving out the equity dampener (option 1).</p> <p>Besides that BVPI-ABIP asks EIOPA also to pay attention to the relation between counter cyclicity and recovery periods, capital requirements and the discount rate for the valuation of assets and liabilities which were</p>	<p>Noted.</p> <p>These comments are mainly addressed to the Solvency II Directive, as they criticize the use of mark to market valuation and the method to calculate the equity dampener, as agreed in the Solvency II Directive.</p>

			addressed in the previous questions. For example, if a low discount rate is stipulated in economically bad times and a high one in economically good times that means that IORPs will be poor in bad times and rich in good times. This leads to pro-cyclical behaviour. The same holds for an obliged derisking of the investment mix during an economic downturn.	
4,042.	BNP Paribas Cardif	52.	<p>BNP Paribas Cardif strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries.</p> <p>Regarding the measures to avoid pro-cyclical behaviour, BNP Paribas Cardif agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, BNP Paribas Cardif agrees that at least Pillar I and Pillar II dampeners of the Solvency II Directive should be included in the revised Directive.</p>	See FFSA (4,036).
4,043.	Bosch Pensionsfonds AG	52.	<p>Supervisory legislation has been predominantly seen as a form of “consumer protection”, achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests.</p> <p>Supervisory tasks, from the perspective of an individualized “consumer protection”, should not interfere with the efficiency of collective concepts in the IORPs and thus, at the same time (often unknowingly), endanger the “not-for-profit” IORP instrument particularly beneficial to members and pensioners.</p> <p>In the current IORP Directive Recital 7 states : “The prudential rules laid down in this Directive are intended both to guarantee a high degree of security for future pensioners ... and to clear the way for the</p>	See OPSG (4,026).

			<p>efficient management of occupational pension schemes.”</p> <p>So it is suggested, that the main supervisory objective under IORP II is formulated as follows: “... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries.”</p> <p>In addition we propose to define the purpose of the IORP II Directive as: “This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries.”</p>	
4,044.	Bosch-Group	52.	<p>Supervisory legislation has been predominantly seen as a form of “consumer protection”, achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests.</p> <p>Supervisory tasks, from the perspective of an individualized “consumer protection”, should not interfere with the efficiency of collective concepts in the IORPs and thus, at the same time (often unknowingly), endanger the “not-for-profit” IORP instrument particularly beneficial to members and pensioners.</p> <p>In the current IORP Directive Recital 7 states : “The prudential rules laid down in this Directive are intended both to guarantee a high degree of security for future pensioners ... and to clear the way for the efficient management of occupational pension schemes.”</p> <p>So it is suggested, that the main supervisory objective under IORP II is formulated as follows: “... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries.”</p> <p>In addition we propose to define the purpose of the IORP II Directive as: “This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of</p>	See OPSG (4,026).

			members and beneficiaries.”	
4,046.	BRITISH PRIVATE EQUITY AND VENTURE CAPITAL ASSOCIA	52.	<p>The BVCA would view the application of Solvency II type standards to IORPs as being pro-cyclical</p> <p>It is imperative that we avoid creating pro-cyclicality with respect to pension fund investments.</p> <p>The long-term nature of pension liabilities and private equity assets mean that IORPs are able to focus on long-term investment returns rather than short-term liquidity. Because of the long-term nature of their activity they are less vulnerable to short-term market volatility and therefore can act as stabilisers in financial markets.</p> <p>The regime being proposed by the European Commission does away with the long-term investor nature of IORPs by forcing them to focus on short-term liquidity despite this being unnecessary to cover their liabilities.</p>	Noted: the use of mark to market valuations does not necessarily lead to pro-cyclicality. Even within mark to market valuation, long term views are quite possible, for instance as a result of longer recovery periods.
4,047.	BT Pension Scheme Management Ltd	52.	<p>We welcome EIOPA’s focus on the overall objective of supervision and on avoiding pro-cyclical behaviour within IORPs. We believe that there should be a general call to limit the pro-cyclical effect of regulation, as any pro-cyclical moves (or the fear of them) hinder the ability of IORPs to take the benefit of their long-term investment horizons and enjoy the premium available for illiquidity, at least within a portion of their portfolios.</p> <p>However, we do not support the mechanistic approach of the equity dampener. First, this assumes that the only possible area of negative impacts from pro-cyclical regulation would be in the area of equity investment; it is just as likely to have a negative impact on infrastructure investing, for example. And second, we believe that supervisors should be expected to exercise their role in relation to avoiding pro-cyclical regulation flexibly and</p>	<p>Agreed.</p> <p>Partially agreed: The use of mark to market valuations does not necessarily lead to pro-cyclicality. Even within mark to market</p>

			with intelligence, responding to the specific circumstances of the troubled markets at the given time. The equity dampener seems to presume that all moments of market stress are like 2008; future events may be like this, but they may not, and supervisors should be responding to the circumstances they face rather than attempting to address the last crisis.	valuation, long term views are quite possible, for instance as a result of longer recovery periods.
4,048.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	52.	<p>8. We do not agree with the analysis regarding the objective of supervision. The Solvency II Directive's main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort. For Occupational Pensions and IORPs, which are per definition sponsored by an employer, whose stakeholders' interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law and also for the IORPs itself, the objective of Solvency II is not relevant. It is essential to continue in this regard with the concept of IORP I. So taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows: "... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries." In addition we propose to define the purpose of the IORP II Directive as: "This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries".</p> <p>Furthermore the best way to avoid pro-cyclical effects is to disconnect from regulations based on market to market valuations.</p>	See AbA (4,021)
4,049.	BUSINESSEUROPE	52.	BUSINESSEUROPE strongly agrees with avoiding pro-cyclical behaviour in the supervision of IORPs. The regime being proposed by the European Commission would force IORPs to focus on ensuring short-term liquidity despite this being unnecessary to cover the liabilities. This is contrary to the long-term investment nature of IORPs. This is why we are strongly opposed	Partially agreed: the use of mark to market valuations does not necessarily lead to pro-cyclicality. Even within

			to a Solvency II-style funding regime for pensions.	mark to market valuation, long term views are quite possible, for instance as a result of longer recovery periods.
4,050.	BVI Bundesverband Investment und Asset Management	52.	BVI agrees with the analysis regarding the objective of supervision. The measures to avoid pro-cyclical behavior need further analysis regarding the market impact of Solvency II adaption over the different regulatory and saving product areas.	Agreed.
4,051.	CEA	52.	<p>As far as the CEA is concerned the objective of the review of the IORP Directive is to create an internal market for pensions and to reflect the true risk of pension funds. These have as goals the protection of members and beneficiaries. Therefore, the CEA strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries.</p> <p>Regarding the measures to avoid pro-cyclical behaviour, the CEA agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, the CEA agrees that there is a need for Pillar I and Pillar II dampeners in the revised Directive.</p> <p>However, the CEA wishes to stress that the issue of counter-cyclical adjustment to the risk free interest rate should be solved in Solvency II and then be applied in a similar fashion to IORPs. In general, there is broad consensus that short-term fluctuations in financial markets should not lead to significant volatility where this would incentivise actions that are counter-</p>	Noted

			<p>productive with the long term nature of the business. Providers of long term guarantees have limited vulnerability to short term risks and as such should not be subject to a regulatory framework that is volatile. Furthermore, amongst others, the main reasons why providers of long term guarantees in a solvency II-type framework would not “chase the premium” are:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The proposed mechanisms in Solvency II are independent of the change in assets. <input type="checkbox"/> Undertakings would still be penalised for investing in potentially risky assets through the Solvency Capital Requirements. <p>For providers of long term guarantees being forced to move away from long term products, to maintain a traditional long term investment horizon and to avoid pro-cyclical behaviour, the counter cyclical premium must include part of predictable features to be applied in a timely way.</p>	
4,052.	Charles CRONIN	52.	<p>As concerns the first part of this two part question I support EIOPA’s view that the main objective of supervision for the IORP Directive is to protect the interests of scheme M & B. However I feel this definition is too narrow, given the not-for-profit status of IORPs and their positive contribution to society, I believe that an equal supervisory objective is to promote their development and sustainability. Unlike insurance companies there is no profit incentive to engage in this activity, hence they need other forms of encouragement to promote and sustain their existence.</p> <p>With regards the second part concerning measures to take account of pro-cyclicality, I support the principle, but would recommend the alternative measure of valuing assets (Discounted Income Value method) discussed in my response to question 13, and the mean reversion method using average corporate bond yields for liabilities as described in my answer to question 21. IORPs differ from insurance companies and banks because the expected stream of benefit payments is fairly predictable and extends along way into the future. Their inability to borrow means that IORPs are unlikely to be forced into liquidation by an external creditor. Hence the need for risk capital</p>	<p>Agreed.</p> <p>Noted. As the consultation paper already points out, EIOPA is of the opinion that there is no unambiguous evidence of the existence of mean reversion, neither for equity prices, nor for interest rates.</p>

			<p>is minimal relative to financial institutions that engage in leveraged business.</p> <p>Given the supervisory aim of protecting the interests of M & B, I suggest that the approaches outlined above are consistent with that objective and illustrate a very limited, and in most cases no need, for reserve capital. As discussed above, where assets (Equities, Bonds, Property and Alternatives) are valued at intrinsic or fair value, they are not inflated or deflated by speculative excess or excessive depression in market prices. The underlying value reflects the economic value of the investments. If assets are valued at fair value, then where there are discrepancies between fair value and market value these discrepancies, if they become significant, send a signal to the scheme managers and investment managers to consider realigning asset weightings in recognition of market risks. The effect is counter-cyclical, when markets become overvalued there is pressure to reduce exposure to overvalued assets, when they are undervalued there is the opportunity to increase exposure to undervalued assets. Such a value methodology increases the adjusted risk/return potential of scheme's the assets, to the benefit of M & B.</p> <p>With respect to liabilities, interest rates have a very strong history of being mean reverting; hence it seems appropriate, where the burden of liabilities is distant, to value them on an average yield, reflecting the mean reverting nature of the underlying discount factor.</p> <p>Given the differences between IORPs and insurance companies, I do not support the pillar II dampener approach to valuing assets, nor the suggested capital charge requirements for equities.</p>	
4,053.	Chris Barnard	52.	I agree with the analysis regarding the objective of supervision and the measures to avoid pro-cyclical behaviour.	Agreed.

			<p>I accept that there are potential issues with procyclicality that may require some form of regulatory response in order to limit their adverse impacts. However I do not support the concept of an equity dampener, either for insurance companies or for IORPs. Its methodology, use and calibration (see under QIS5 as an example) is far too subjective, arbitrary and intransparent and does not promote confidence in the solvency framework.</p>	<p>Noted.</p> <p>This comment is mainly addressed to the Solvency II Directive, as it criticizes the method to calculate the equity dampener, as agreed in the Solvency II Directive.</p>
4,054.	CMHF (Centrale van Middelbare en Hogere Functionar	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	<p>See Federation of Dutch Pension Funds (4,065)</p>
4,055.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	52.	<p>A Solvency II-style funding regime for IORPs is intrinsically pro-cyclical</p> <p>CBI members strongly agrees with the aim of avoiding pro-cyclical behaviour in the supervision of IORPs. This is one reason why we are strongly opposed to the application of a Solvency II-style funding regime for pensions.</p>	<p>Partially agreed: the use of mark to market valuations does not necessarily lead to pro-cyclicality. Even within mark to market valuation, long term</p>

			<p>The long -term nature of pension liabilities mean that IORPs are able to focus in long-term investment returns rather than short-term liquidity. Because of the long-term nature of their activity they are less vulnerable to short-term market volatility and therefore can act as stabilisers in financial markets.</p> <p>The regime being proposed by the European Commission does away with the long-term investor nature of IORPs by forcing them to focus on short-term liquidity despite this being unnecessary to cover their liabilities.</p>	views are quite possible, for instance as a result of longer recovery periods.
4,056.	De Unie (Vakorganisatie voor werk, inkomen en loop	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	See Federation of Dutch Pension Funds (4,065)
4,057.	Direction Générale du Trésor, Ministère des financ	52.	<p>On the issue of cyclicity, we are of the view that the general orientation of the revision of the IORP directive towards solvency 2 should be as comprehensive as appropriate. That is why we think that the same flexibilities should be considered if the requirements are close or similar. Therefore, it seems logical to have a pillar 2 dampener mechanism as</p>	Partially agreed: EIOPA considers that the differences between IORPs and insurers are

			suggested in the draft response. In the same way, we think logical to offer the same possibilities regarding the capital requirement on equities (pillar 1 and duration).	such, that it is too soon to conclude that both the equity and the duration dampener should apply to IORPs.
4,058.	Ecie vie	52.	Articles 27 and 28 of Solvency II Directive should be applied to IORPs.	Noted.
4,059.	EFI (European Federation of Investors)	52.	We agree with the principle of the protection of members and beneficiaries being the main objective of supervision and that it should be included in the directive. Also we will support the necessity for the supervisors to consider the impact of their decisions on the stability of the financial systems and of the economies in case of extreme circumstances. We will be in favour of maintaining an equity and a duration dampener as in the SII directive.	Partially agreed: EIOPA considers that the differences between IORPs and insurers are such, that it is too soon to conclude that both the equity and the duration dampener should apply to IORPs.
4,060.	European Association of Public Sector Pension Inst	52.	<p>1. The objective of supervision and the standard formula of the SCR in Solvency II</p> <p>In general EAPSPI strongly supports the notion that the supervisory structure should avoid pro-cyclical behavior. Hence we think that the standard formula of the Solvency Capital Requirement (SCR) as the core element of pillar I of the Solvency II structure (see CfA 5 and 6) is very problematic with respect to investment behavior for several reasons:</p> <p>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>	See AFPEN (4,030)

		<p>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>Both of these aspects 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 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>EAPSPI’s analysis is supported by the Global Financial Stability Report of the IMF (2009: 43-44*): “Several factors (...) have also affected (...) pension funds. For instance, (1) solvency, accounting, and valuation policies have been procyclical (...), solvency pressures can lead to rapid asset sales in order to reduce risk — as was the case in 2001–03 when stock market falls led to massive equity liquidations. (...) Efforts of (...) pension funds to rebuild solvency are likely to add to the market pressures arising from the need of banks to rebuild capital and reduce leverage”. Therefore the IMF concludes: “Policies should aim to reduce the risk of solvency pressures exacerbating the deleveraging process (...) As such, potential links between (...) pension funds and financial stability need to be considered in designing public support measures.”</p> <p>With respect to the stabilizing potential of long-term investment strategies and risk diversification by IORPs EAPSPI wants to stress that especially the great quantity and variety of small IORPs all over Europe contributes to these</p>	
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		<p>financial and macroeconomic stability goals. A large amount of IORPs avoids the systemic problems of a failing “global player” and the great variety of IORPs amplifies the risk diversification potential due to different investment strategies. Forcing those small IORPs to accomplish all the legal and IT requirements following the Solvency II framework would lead to the disappearance of many institutions due to the lack of capacity and the rise of costs. With respect to the macro stability perspective variety and quantity of IORPs should definitely be appreciated and supported and decreased.</p> <p>2. The discussed tools to avoid pro-cyclical behavior</p> <p>We agree with EIOPA that the main tool to handle financial distress is a longer recovery period so that the IORP concerned can reach the capital requirements. It is important to point out that this so called pillar II dampener of Art. 138 in the Solvency II Directive must be seen detached from the question how exactly the solvency capital requirement is determined and therefore not necessarily connected to the pillar I structure of Solvency II. In case that the SCR standard formula of Solvency II is being adopted EAPSPI strongly supports applying at least the duration dampener (Art. 304 Solvency II) to account for the long term horizon of asset holding.</p> <p>We do not fully agree with EIOPA with respect to the equity dampener (Art. 106 Solvency II). The equity dampener reduces the capital requirements in times of financial crisis, given that EIOPA defines something as “crisis”, but, due to the symmetric nature of the dampener, the capital requirements rises even more in “good” times. This means more volatility and insecurity of the capital requirements in general and leads to additional effort.</p> <p>This holds true even more for the actual discussion of a counter cyclical premium in form of an interest rate add-on to the risk-free interest rate with respect to Solvency II in order to decrease technical provisions in times of</p>	
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			<p>crisis (see Gabriel Bernardino, Opening Speech, EIOPA 1st Annual Conference, Frankfurt a. M., 16.11.2011). We do not support this tool.</p> <p>3. Remark</p> <p>The general notion of the counter-cyclical premium is an essential contradiction to the mark-to-market-principle, which is the basic valuation principle of Solvency II. The reason is that the counter-cyclical-premium calls into doubt the assumption that prices in financial markets reflect real economic fundamentals and that in consequence the volatility of financial markets is "justified" economically speaking. Consequently this means that the valuation criterion "market-consistency" is only valid until the involved volatility of stock prices, market disruptions and credit spreads is limited. And not only in the light of the financial fluctuations of the financial crisis since 2008 and the actual sovereign debt crisis in Europe it is necessary to ask again if these grave fluctuations and down-turns are justified in economic terms and if we should really map these movements to the balance sheets and the calculation of the SCR? We therefore strongly suggest rethinking the adequacy of the concept of "market-consistency" as the only criterion for the valuation of assets and liabilities, especially in the context of IORPs, as it directly carries the problem of volatility into the solvency balance sheets of the IORPs.</p> <p>* Reference: IMF (2009) Global Financial Stability Report. Responding to the Financial Crisis and Measuring Systemic Risk. World Economic and Financial Surveys. International Monetary Funds. April 2009.</p>	
4,061.	European Federation for Retirement Provision (EFRP)	52.	<p>IORPs could contribute to the global financial stability and European economy with having a countercyclical policy. A lot of IORPs have the ability of having a funding deficit. Due to this ability, IORPs do not have to force their sponsor and participants to a huge increase of contributions and that is beneficial for the economy. There is a strong correlation between the probability of a</p>	<p>Partially agreed.</p> <p>EIOPA agrees that there is a strong correlation between the probability of a funding deficit and</p>

			<p>funding deficit and an economic downturn. An increase of pension contributions during an economic downturn will have a negative impact on the recovery due to higher labour costs and lower consumption of participants. Besides that, a lot of IORPs have a countercyclical investment policy. This contributes to stability on global financial markets. According to the EFRP the ability of having a countercyclical policy is something to be careful on. Therefore, the EFRP advises EIOPA to plead for an IORP Directive which stimulates a countercyclical policy and an impact assessment in order to see the macro-economic effects of a revision of the IORP Directive.</p>	<p>an economic downturn. However, the possibility to have a funding deficit should be temporary.</p>
			<p>The EFRP agrees in principle with EIOPA advice on Article 136 and 141. However, the current method to calculate the equity dampener is not appropriate for IORPs. The average return period should at least be increased from three till six years. If this is not retained, the EFRP favours leaving out the equity dampener (option 1).</p> <p>In addition, the EFRP asks EIOPA also to pay attention to the relation between counter cyclicity and recovery periods, capital requirements and the discount rate for the valuation of assets and liabilities which were addressed in the previous questions. For example, if a discount rate is stipulated that in economically bad times is low and high in economically good times, that means that in bad times IORPs will be poor and rich in good times. This provokes pro-cyclical behaviour. The same holds for an obliged derisking of the investment mix during an economic downturn.</p>	<p>Noted.</p> <p>These comments are mainly addressed to the Solvency II Directive, as they criticize the use of mark to market valuation and the method to calculate the equity dampener, as agreed in the Solvency II Directive.</p>
4,062.	European Fund and Asset Management Association (EFAMA)	52.	<p>EFAMA agrees with the analysis regarding the objective of supervision. The measures to avoid pro-cyclical behavior need further analysis regarding the market impact of Solvency II adaption over the different regulatory and saving product areas.</p>	<p>Agreed.</p>
4,063.	FAIDER (Fédération des Associations)	52.	<p>We agree with the principle of the protection of members and beneficiaries being the main objective of supervision and that it should be included in the directive. Also we will support the necessity for the supervisors to consider</p>	<p>See EFI (4,059).</p>

	Indépendantes		the impact of their decisions on the stability of the financial systems and of the economies in case of extreme circumstances. We will be in favour of maintaining an equity and a duration dampener as in the SII directive.	
4,064.	FairPensions	52.	<p>We agree that Article 28 of the Solvency II Directive, which requires supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions, should be included in a future IORP Directive. We agree that IORPs, collectively if not individually, are still systemically relevant and that their role as institutional investors is comparable to that of insurance companies.</p> <p>As indicated in response to Q47, we are concerned that current interpretations of the prudent person principle potentially exacerbate pro-cyclical effects of pension funds' investment decision-making, since IORPs may feel obliged to 'follow the herd'. We appreciate that this does not concern the actions of supervisors in situations of stress, which is the focus of this consultation question. However, we do believe that it would be helpful for supervisors to consider more generally the systemic financial impact of those they regulate – liaising if necessary with other relevant domestic regulators – rather than limiting their consideration to the systemic impact of their own decisions. We also believe that it would be useful for EIOPA and the Commission to consider the potential impacts of European legislation, including Article 18 of the IORP Directive, in this regard.</p>	Agreed.
4,065.	Federation of the Dutch Pension Funds	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already</p>	Noted.

			<p>lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	
4,066.	Financial Reporting Council	52.	<p>If there is to be supervision of IORPs, then we agree that its main objective should be to protect members and beneficiaries.</p> <p>We also agree that supervisors should consider the potential impact of their decisions on the stability of financial systems and to consider the potential pro-cyclical effects of their actions in cases of extreme stress.</p> <p>We consider that these principles are all that is needed.</p> <p>We consider that the Pillar I quantification of the SCR is inappropriate for IORPs where the risk is carried by the sponsor (see response to question 33). Therefore, we suggest it is not necessary to specify any specific supervisory action such as the inclusion of an equity dampener in the determination of the SCR.</p>	Noted.
4,067.	FNMF – Fédération Nationale de la Mutualité Française	52.	<p>Based on results from QIS5 and similar studies at later date, FNMF states that procyclicality may not be avoided within the standard formula. The principle driving procyclicality in management of undertakings is the valuation of assets and liabilities based on market value.</p>	<p>Noted.</p> <p>This comment is addressed to the Solvency II Directive.</p>
4,068.	FNV Bondgenoten	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the</p>	See Federation of Dutch Pension Funds (4,065)

			<p>technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	
4,069.	Generali vie	52.	Articles 27 and 28 of Solvency II Directive should be applied to IORPs.	Noted.
4,070.	GESAMTMETALL - Federation of German employer	52.	<p>13. We do not agree with the analysis regarding the objective of supervision. The Solvency II Directive's main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort. For Occupational Pensions and IORPs, which are per definition sponsored by an employer whose stakeholders' interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law and also for the IORPs itself, the objective of Solvency II is not relevant.</p> <p>14. It is essential to continue in this regard with the concept of IORP I. So taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows: "... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries." In addition we propose to define the purpose of the IORP II Directive as: "This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries".</p>	See AbA (4,021)

			15. Furthermore the best way to avoid pro-cyclical effects is to disconnect from regulations based on market to market valuations.	
4,071.	Groupe Consultatif Actuariel Européen.	52.	<p>We agree with the EIOPA assertion that IORPs are different from banks and insurance companies due to the longer term duration of their liabilities. Accordingly it is not necessary to have a harmonised approach to pro-cyclicality between all financial institutions.</p> <p>The determination of the discount rate can provide some counter-cyclical measures by taking into account a matching premium for the valuation of guaranteed pension liabilities and including a counter-cyclical premium as is currently proposed for Solvency II.</p> <p>Experience with risk based supervision for IORPs clearly indicates that supervisory flexibility is of utmost importance for sustainability, and that long (and flexible) recovery periods should be permitted. Hence we support the proposal to include a provision similar to the Pillar II dampener in Solvency II.</p> <p>We agree that there is less justification for the inclusion of a Pillar 1 equity dampener, and we suggest that needs further analysis, particularly as this relies on the presumption of mean reversion which is not universally accepted.</p> <p>Accordingly we would support Option 1 in 12.3.21.</p>	Partially agreed
4,072.	Groupement Français des Bancassureurs	52.	<p>FBIA strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries.</p> <p>Regarding the measures to avoid pro-cyclical behaviour, FBIA agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the</p>	See CEA (4,051).

			financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, FBIA agrees that at least Pillar I and Pillar II dampeners of the Solvency II Directive should be included in the revised Directive.	
4,073.	PMT-PME-Mn Services	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	See Federation of Dutch Pension Funds (4,065)
4,074.	HM Treasury/Department for Work and Pensions	52.	<p>Application of Solvency II to IORPs has the potential to be profoundly pro-cyclical – much more so than the application to insurers. This partly because the critical dampening effect IOPRs have on pro-cyclical behaviour (due to their ability to hold on to equities and other non-risk-free assets in a financial crisis) is highly likely to be severely damaged. And because the asset portfolios of IORPs in some member states (including the UK) are far greater than those for insurers - the claim at 12.3.13 that the impact would be limited compared to insurers is factually incorrect.</p> <p>The counter-cyclical mechanisms in Solvency II are far from adequate in</p>	<p>Partially agreed.</p> <p>EIOPA agrees that the pro-cyclical nature of Solvency II-like solvency requirements would require further examination. However, EIOPA does not share the comment on the Pillar II dampener, as this</p>

			<p>countering this negative effect. The only measure that would have an impact is the equity dampner, but the impact of this is likely to be minor as IORPs will be strongly incentivised to derisk their portfolios and invest instead in risk-free instruments. None of the other counter-cyclical measures – the pillar II dampner, or the ladder of intervention – would have any effect. And it is far from clear that the counter-cyclical premium or the Matching Premium being developed in Solvency II level 2 would have the necessary effect. In the event that EIOPA recommend application of Solvency II solvency requirements to IORPs, it should recommend a comprehensive examination of the pro-cyclical nature, and the further counter-cyclical mechanisms that would be needed.</p>	<p>measure allows IORPs more time before definite actions have to be undertaken. Hence, EIOPA also fails to see why the possible pro-cyclical effects for IORPs would be significantly higher than for insurers.</p>
4,075.	IMA (Investment Management Association)	52.	<p>We understand the rationale for adopting the form of both Article 27 and Article 28 of Solvency II, using a reference to members rather than policyholders. But the protection of members and beneficiaries should not be the sole primary objective. There are other objectives which should not be relegated to second place, notably market confidence and financial stability. Indeed, the latter has been shown to be key to the assurance of member protection. If the Solvency II approach were adopted then financial stability is relegated to an issue which is considered only in relation to the impact upon it of actions taken for member protection.</p>	<p>Agreed.</p>
4,076.	Institute and Faculty of Actuaries (UK)	52.	<p>It is important that EIOPA considers how any rules that are eventually adopted will affect the operation of markets and whether they maximise chances for solvent institutions to ride out temporary price adjustments or extreme circumstances. This is particularly true in the UK where IORPs are a significant investor in all investment markets. We would disagree with the statement in 12.3.13 “Although the impact of IORPs on financial systems is probably limited compared to the role of insurance companies”. In the UK IORPs will be systemically relevant.</p> <p>The implicit assumption within this section seems to be that it is only equity markets that can give rise to the overshooting that requires something like an equity dampener to moderate systemic risks. This assumption is</p>	<p>Agreed.</p> <p>Text will be changed to reflect the comments on systemic relevance of IORPs and on the possibility for crises stemming from other asset classes than equity only.</p>

			<p>misguided: it is also possible for other asset classes. The extent to which true solvency for IORPs is affected by the price movements in government backed securities used as proxies for risk free assets is something EIOPA should consider when building rules in this area.</p> <p>Experience would suggest that it is very difficult to predict the next combination of circumstances that would require IORPs across Europe to take similar actions and create systematic risks to the financial system. To some extent trying to predict these and then specify actions regulators would take in each circumstance may not be the most effective way of dealing with such risks.</p> <p>An alternative approach would be to ensure regulators are sufficiently resourced to monitor the system and empowered to relax some rules temporarily in order to prevent systemic realignment of assets or other rapidly implemented changes to the IORP that may have long term repercussions for IORP members. EIOPA would need to consider if this is best done at a pan-European level or by individual countries' regulators who may be better placed to access information about each individual countries' stock market. Whichever approach is taken, EIOPA will need to consider the different economic circumstances of countries inside and outside of the eurozone.</p> <p>Whilst it may have many other benefits, the existence of a tighter, more prescriptive IORP Directive for individual regulators to apply does by its nature increase systemic risk. Governing all smaller IORPs by the same rules makes it more likely that their actions will be more closely aligned. This close alignment of actions would create systemic risks that are not in the current system.</p>	
4,077.	Le cercle des épargnants	52.	Articles 27 and 28 of Solvency II Directive should be applied to IORPs.	Noted.
4,078.	Mercer	52.	We are not comfortable with the suggestion that Article 27 of the SII Directive should be transposed into the IORP Directive without amendment.	Partially agreed. EIOPA considers that the

		<p>Our view is that regulatory supervision should ensure that IORPs are operated in line with legislative requirements, and those requirements imposed by their own rules, and to provide members and beneficiaries only with the protection these afford. If there is a requirement to protect members and beneficiaries without this caveat, supervisors are then able to impose additional requirements that could subvert the intended relationship between state, members and the IORP providers and/or employers.</p> <p>We do agree that:</p> <ul style="list-style-type: none"> <input type="checkbox"/> supervisors should take into account the effect their actions might have on the stability of financial systems and the ongoing provision of different pension scheme designs; and <input type="checkbox"/> an important tool in relation to counter cyclical regulation will be to extend the period over which shortfalls need to be recovered. <p>The circumstances covered in Articles 106, 138 and 304 (smoothing equity returns, adjusting recovery plans following exceptional market movements and allowing for the long term nature of liabilities, respectively) are all relevant to this. However, because the sources of capital available to IORPs are often restricted, either because they do not have recourse to external funding, or because employers' ability and/or willingness to pay is likely to be reduced in market down turns, supervisors will need to be flexible about how they exercise their powers. Cross subsidies will be created regardless of whether they exercise their powers in this regard, or not. For example, in schemes where shortfalls in funding are met by reducing benefits, one generation will lose differently to another, depending on how the reduction is made; similarly, where employers are available to meet underfunding, demanding extra contributions could weaken the employer and expose its employees to risk, ultimately undermining members long term security to achieve a short term recovery.</p>	<p>level of protection of members and beneficiaries that IORPs must provide is decided in national social and labour law. Supervision is than aimed at ensuring that this level of protection is actually reached.</p>
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			There is also the question of how the holistic balance sheet will operate in a counter cyclical world. For example, in the absence of other measures, if economic conditions deteriorate then this is likely to lead to a reduction in the value of the employer covenant on the asset side (and possibly other assets), whilst the increased uncertainty could require less risk to be taken on the liability side, exacerbating the size of any shortfall.	
4,079.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	See Federation of Dutch Pension Funds (4,065)
4,080.	National Association of Pension Funds (NAPF)	52.	<p>The analysis is sensible. The NAPF agrees with EIOPA's advice that regulators should take account of the economic impact of their decisions – especially whether their actions would be pro-cyclical. It is important to acknowledge the valuable counter-cyclical role that IORPs can play in the economy due to their long-term investment horizons.</p> <p>The NAPF would urge EIOPA to take its advice to the next level by asking the EC to conduct an impact assessment to assess whether the proposed new</p>	Noted.

			<p>IORP Directive would have a pro or counter-cyclical impact on the EU economy.</p> <p>The NAPF favours leaving the IORP Directive unchanged in this respect.</p>	
4,081.	NORDMETALL, Verband der Metall- und Elektroindustr	52.	<p>13. We do not agree with the analysis regarding the objective of supervision. The Solvency II Directive's main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort. For Occupational Pensions and IORPs, which are per definition sponsored by an employer, whose stakeholders' interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law and also for the IORPs itself, the objective of Solvency II is not relevant. It is essential to continue in this regard with the concept of IORP I. So taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows: "... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries." In addition we propose to define the purpose of the IORP II Directive as: "This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries".</p> <p>14. Furthermore the best way to avoid pro-cyclical effects is to disconnect from regulations based on market to market valuations.</p>	See AbA (4,021)
4,082.	OECD Secretariat to the Working Party on Private P	52.	<p>The OECD believes that funding rules should aim to be counter-cyclical.</p> <p>For a further discussion, see the answer to question 36 and the OECD Working Paper on "The Impact of the Financial Crisis on Defined Benefit Plans</p>	Noted.

			and the Need for Counter-Cyclical Funding Regulations” (http://www.oecd.org/dataoecd/22/11/45694491.pdf).	
4,083.	Pan-European Insurance Forum (PEIF)	52.	<p>In principle, we agree with EIOPA that Article 28 of Solvency II, should be included in IORP II. In principle, at least the Pillar II dampener of Article 138(4) of Solvency II should be included. However, if IORPs have open recovery periods then there is less need for a Pillar II dampener. There is also an interlinkage with the outcome of discussion on MCR and SCR. There might be no need for the dampener.</p> <p>It is not clear how dampeners will work for cross border IORPs. Solvency II Art 304 is a Member State option that not all Member States will allow.</p> <p>Main objective: protect policy holders and beneficiaries;</p> <p>Secondary objectives:</p> <ul style="list-style-type: none"> - stability of financial systems - that the supervisor should to take into account the potential pro-cyclical effects of their actions in case of extreme financial market conditions. 	Noted.
4,084.	Pensioenfonds Zorg en Welzijn (PFZW)	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA’s analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p>	See Federation of Dutch Pension Funds (4,065)

			Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.	
4,085.	Predica	52.	<p>Predica strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries.</p> <p>Regarding the measures to avoid pro-cyclical behaviour, Predica agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, Predica agrees that at least Pillar I and Pillar II dampeners of the Solvency II Directive should be included in the revised Directive.</p>	See CEA (4,051).
4,086.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	52.	<p>We believe it would be very helpful if EIOPA states explicitly what the key objective of pension fund supervision is. We propose:</p> <p>“To make sure that reasonable policyholders expectations are being fulfilled by the pension fund.”</p> <p>From this key objective follows that the key focus of pension fund supervision should be:</p> <p>“To what extent are the contribution policy, investment policy, sponsor commitments, and funding position of the pension fund in line with the benefits and risks communicated to all stakeholders in the pension fund?”</p> <p>Avoiding the triggering of pro-cyclical behaviour is indeed important for supervisors. This should be done in the form of recovery plans (See also</p>	Agreed.

			response to 37.) Using “equity dampers” and/or “duration dampers” is the wrong way to avoid procyclical behaviour, as this deals with the symptom only (“stop calculating risk numbers and hope for the problem to go away”) and not with the underlying problem (deal with the underfunding situation of the pension fund).	
4,087.	PTK (Sweden)	52.	<p>IORPs could contribute to the global financial stability and European economy with having a countercyclical policy. A lot of IORPs have the ability of having a funding deficit. Due to this ability, IORPs do not have to force their sponsor and participants to a huge increase of contributions and that is beneficial for the economy. There is a strong correlation between the probability of a funding deficit and an economic downturn. An increase of pension contributions during an economic downturn will have a negative impact on the recovery due to higher labour costs and lower consumption of participants. Besides that, a lot of IORPs have a countercyclical investment policy. This contributes to stability on global financial markets. The ability of having a countercyclical policy is something to be careful on. Therefore, PTK advises EIOPA to plead for an IORP Directive which stimulates a countercyclical policy and an impact assessment in order to see the macro-economic effects of a revision of the IORP Directive.</p> <p>PTK agrees in principle with EIOPA advice on article 136 and 141. However, the current method to calculate the equity dampener is not appropriate for IORPs. The average return period should at least be increased from three till six years. If this is not retained, PTK favours leaving out the equity dampener (option 1).</p> <p>Besides that, PTK asks EIOPA also to pay attention to the relation between counter cyclicity and recovery periods, capital requirements and the discount rate for the valuation of assets and liabilities which were addressed in the previous questions. For example, if a discount rate is stipulated that in</p>	See EFRP (4,061)

			economically bad times is low and high in economically good times, that means that in bad times IORPs will be poor and rich in good times. This provokes pro-cyclical behaviour. The same holds for an obliged derisking of the investment mix during an economic downturn.	
4,088.	Railways Pension Trustee Company Limited ("RPTCL	52.	We have not considered this question.	Noted.
4,089.	TCO	52.	<p>IORPs could contribute to the global financial stability and European economy with having a countercyclical policy. A lot of IORPs have the ability of having a funding deficit. Due to this ability, IORPs do not have to force their sponsor and participants to a huge increase of contributions and that is beneficial for the economy. There is a strong correlation between the probability of a funding deficit and an economic downturn. An increase of pension contributions during an economic downturn will have a negative impact on the recovery due to higher labour costs and lower consumption of participants. Besides that, a lot of IORPs have a countercyclical investment policy. This contributes to stability on global financial markets. The ability of having a countercyclical policy is something to be careful on. Therefore, TCO advises EIOPA to plead for an IORP Directive which stimulates a countercyclical policy and an impact assessment in order to see the macro-economic effects of a revision of the IORP Directive.</p> <p>TCO agrees in principle with EIOPA advice on article 136 and 141. However, the current method to calculate the equity dampener is not appropriate for IORPs. The average return period should at least be increased from three till six years. If this is not retained, TCO favours leaving out the equity dampener (option 1).</p> <p>Besides that, TCO asks EIOPA also to pay attention to the relation between</p>	See EFRP (4,061)

			counter cyclical and recovery periods, capital requirements and the discount rate for the valuation of assets and liabilities which were addressed in the previous questions. For example, if a discount rate is stipulated that in economically bad times is low and high in economically good times, that means that in bad times IORPs will be poor and rich in good times. This provokes pro-cyclical behaviour. The same holds for an obliged derisking of the investment mix during an economic downturn.	
4,090.	THE ASSOCIATION OF CORPORATE TREASURERS	52.	We believe that it is important that supervisors are able to take cyclical effects into account as too hasty requirements to rebuild IORP funding on sponsors can risk tipping sponsors into crisis to the detriment of the general economy and of the the beneficiaries of the IORP, so judgement is needed to be brought to bear.	Agreed.
4,091.	The Association of Pension Foundations (Finland)	52.	All Finnish DB-Pension funds are closed so they don't take new members. Nowadays regulations strengthens the pro-cyclical behaviour as there is no proper means to react. Counter cyclical measures should be implemented into current IORP directive.	Noted. It is unclear which specific measures are supported here.
4,092.	The Association of the Luxembourg Fund Industry (A	52.	The Respondents support EIOPA 's view to include the principle of the protection of members and beneficiaries into the directive. Concerning the article on financial stability and pro-cyclical and inclusion of the Pillar II dampener into the IOPR Directive the Respondents support option 1 (12.3.21. Option 1). We agree that the inclusion of a general article will force supervisors to consider the potential impact of their actions and decisions on the stability of the financial system. We furthermore agree that the inclusion of equity and a duration dampener into the directive needs further analysis.	Agreed.
4,093.	The Society of Actuaries in Ireland	52.	It seems appropriate to include a reference in the Directive to the main principles of supervision as outlined in the text. It also seems appropriate to require supervisors to consider the potential pro-cyclical effects of their actions although as noted the detail needs further analysis.	Agreed.

4,094.	Towers Watson Deutschland GmbH	52.	<p>It is important that EIOPA considers how any rules that are eventually adopted will impact on the operation of markets and whether they maximise chances for solvent institutions to ride out temporary price adjustments or extreme circumstances.</p> <p>We would disagree with the statement in 12.3.13 “Although the impact of IORPs on financial systems is probably limited compared to the role of insurance companies”. Collectively, IORPs in member states with significant defined benefit liabilities (and consequently investments to meet those liabilities) will be systemically relevant.</p> <p>The implicit assumption that it is only equity markets that can give rise to the overshooting that requires something like an equity dampener to moderate systemic risks is surely also probable for other asset classes. The extent to which true solvency for IORPs is impacted by the price movements in government backed securities used as proxies for risk-free assets is something EIOPA should consider when building rules in this area.</p> <p>Whilst there may be benefits, the existence of a more prescriptive IORP Directive for individual regulators to implement increases systemic risk by its nature. Governing all IORPs by the same rules makes it more likely that their actions will be more closely aligned, which in turn can be expected to lead to new systemic risks that are not in the current system.</p>	See IFA (4,076).
4,095.	UK Association of Pension Lawyers	52.	<p>Subject to one qualification (see below), we have no objection to the principle that the protection of members and beneficiaries is a central object of supervision, and that this should be reflected in the revised Directive. UK law already imposes a duty on the UK regulator of occupational pension schemes (the “Pensions Regulator”) to treat as a main objective the protection of benefits in respect of scheme members, which is consistent with the principle recommended by EIOPA.</p> <p>Our qualification to is that this object of supervision should not be enshrined as the sole “main objective” to the exclusion of other reasonable objectives. The UK Pensions Regulator also has a main objective the reduction of the risk</p>	<p>Agreed.</p> <p>Text is changed to reflect that the pension system of an individual Member State may give rise to additional objectives for the supervisor involved.</p>

		<p>of claims being made on the Pension Protection Fund (the “PPF”), which is the UK’s mandatory pension compensation scheme which provides a defined level of compensation in the event that employer sponsor insolvency means that an occupational pension scheme cannot meet its obligation to pay the requisite level of benefits in full. The PPF is funded by levies on all occupational pension schemes whose members could benefit from its compensation, and because of this claims on the PPF impose costs that must be met by remaining schemes and their sponsoring employers. Given this background, and the need to avoid the potential for moral hazard that is inherent in the obligation on the PPF to provide compensation in the event of insolvency (as the PPF could otherwise be used as a repository to “offload” pension liabilities), we consider it appropriate and necessary that the Pensions Regulator continue to have as one of its main objectives the reduction of the risk of claims being made on the PPF. Our concern is that enshrining the objective of the protection of members and beneficiaries as the sole “main” objective in the Directive could (unless drafted with sufficient care) have the effect of detracting from the Regulator’s ability to exercise its functions with the aim of protecting the PPF from additional liability.</p>	
		<p>As a general principle, we agree with the recommendation to include in the revised Directive the obligation of supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress. This seems to us to be a sensible objective that may help to reduce the de-stabilising and negative effects of market volatility, and in particular mitigate the imposition of additional funding strain at a time when it can be least afforded. We note that for many IORPs, cyclical issues can have a less immediate impact than would be the case for financial institutions such as banks and insurers by reason of the generally long duration of IORPs’ obligations and the fact that many IORPs are backed by the covenants of employer sponsors. For different IORPs and their employer sponsors, the impact of cyclical volatility will vary depending on the duration of the recovery plan for remedying scheme deficits that is permitted under local</p>	<p>Noted.</p>

		<p>law.</p> <p>In relation to the specific anti-cyclical measures discussed in Part 12 the second consultation:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The discussion of whether the “equity dampener” in Article 106 of the Solvency II Directive and the “Pillar II dampener” in Article 138(4) of the Solvency II Directive would be appropriate instruments to include in a revised IORP Directive is based on the assumption that the Solvency II framework is an appropriate starting-point and framework for the regulation of occupational pensions. As stated in our response to the first consultation (and throughout this response to the second consultation in relation to a number of separate issues), we do not agree with this assumption. <input type="checkbox"/> Specifically in relation to the pro-cyclical concerns discussed in Part 12, we do not agree that capital requirements similar to those imposed under the Solvency II Directive would be an appropriate requirement to impose on IORPs across all Member States. 	
		<p>A major negative of mandatory capital requirements would be that they would take no account of the covenant of the employer sponsor supporting the IORP. If capital requirements were nonetheless to be included in a revised Directive, we would recommend that these allow the regulation of IORPs under local law to take due account of the covenant of the employer sponsor and not impose (or minimise) mandatory requirements for the inclusion of additional funding within the IORP itself (though given our concerns in relation to the “holistic balance sheet” approach currently under consideration, as discussed in our response to question 12 above, this approach as currently proposed should not be the mechanism used to take account of sponsor covenant). Such an approach would also help to address pro-cyclicality concerns as fluctuations in IORP assets could be assessed against the ability of the employer sponsor to bear the risk of market movements over the long term, avoiding the requirement to rapidly increase</p>	<p>Not agreed.</p> <p>The holistic balance sheet approach that EIOPA suggests explicitly takes into account the sponsor covenant.</p>

			funding to eliminate shortfalls caused by such fluctuations.	
4,096.	Universities Superannuation Scheme (USS),	52.	<p>USS would urge EIOPA to take its advice to the next level by asking the EC to conduct an impact assessment to assess whether the proposed new IORP Directive would have a pro or counter-cyclical impact on the EU economy.</p> <p>USS favours leaving the IORP Directive unchanged in this respect.</p>	Agreed.
4,097.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	52.	<p>13. We do not agree with the analysis regarding the objective of supervision. The Solvency II Directive’s main objective (Article 27) is to strengthen consumer protection achieving a balance between the commercial interests of insurance or financial service providers and individual consumer interests in the absence of a third party guarantor or lender of last resort. For Occupational Pensions and IORPs, which are per definition sponsored by an employer, whose stakeholders’ interests are aligned and whose beneficiaries are protected by a web of interacting security mechanisms in social and labour law and also for the IORPs itself, the objective of Solvency II is not relevant. It is essential to continue in this regard with the concept of IORP I. So taking inspiration from Recital 7 of the current IORP Directive, we would redefine the objective for supervision of IORPs in IORP II as follows: “.... to achieve the main objective of IORP supervision, namely both to clear the way for a sound development of occupational pension schemes provided by IORPs and to protect members and beneficiaries.” In addition we propose to define the purpose of the IORP II Directive as: “This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries”.</p> <p>14. Furthermore the best way to avoid pro-cyclical effects is to disconnect from regulations based on market to market valuations.</p>	See AbA (4,021)
4,098.	Verbond van Verzekeraars	52.	<p>Considerable volatility as a result of day-to-day fluctuations on the financial markets should be avoided. Providers of long term guarantees should not be subject to a regulatory framework that is volatile. This applies to IORP’s, but</p>	<p>Noted.</p> <p>This comment is mainly</p>

			to insurers as well. Therefore attention must be given to the counter-cyclical adjustment in Solvency II as well.	addressed to the Solvency II Directive.
4,099.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	52.	<p>We are in favour of option 1, to include the general article on financial stability and the Pillar II dampener, but to leave out the equity dampener. We agree with EIOPA's analysis that the equity dampener is reliant on the existence of mean-reversion. When this does not occur on the same horizon as is used for the calculation of the equity dampener, extreme risks will increase. Also, the possibility exists (as is currently the case), that the technical rule set up for the equity dampener is not able to capture the actual development in the market: currently, the equity dampener would already lead to higher buffer requirements while pension funds are not yet recovered from the crisis.</p> <p>If option 2 should eventually be chosen, we advise EIOPA to lengthen the period used for calculation of the equity dampener, in order to avoid higher buffers before the effects of a grave crisis is resolved.</p> <p>Finally, we would still like to point out that pro-cyclical behaviour could also be countered by applying a counter-cyclical premium for the discount rate.</p>	See Federation of Dutch Pension Funds (4,065)
4,100.	Whitbread Group PLC	52.	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.
4,101.	Zusatzversorgungskasse des Baugewerbes AG	52.	<p>69. We agree to the inclusion of Article 27 of the Solvency II directive within the IORP II directive only after the following amendment: supervisors should explicitly take the sponsor's sustainability and the adequacy of accrued rights and pension benefits into account. Without these aims adequacy and sponsor's fitness might easily be sacrificed on the "altar of security".</p> <p>70. Procyclicality is an unwelcome result of a regime like Solvency II. Instead of adjusting it in the wake of this regime and fiddling about the supervisory control mechanisms that follow from it, a solvency regime for pension funds should be created differently. It should avoid any adjustments that could become necessary because the system was designed without recognising the special stabilizing role pension funds play at the capital</p>	<p>Noted.</p> <p>EIOPA considers that the health of a sponsoring employer is also in the best interest of its pension plan members and beneficiaries. Hence, the sponsor's interest are also covered within the proposed supervisory objectives.</p>

			<p>markets even in normal times and especially in times of distress. EIOPA should investigate how suspending mark-to-market valuation of important parts of the asset portfolio and /or the liabilities could help avoiding procyclicality. IAS / IFRS accounting allows for a “hold-to-maturity” part of the portfolio that has not to be marked-to-market but remains stable. Coming back to the completeness of valuation rules instead of leaving important elements out of the equation could mitigate important weaknesses of Solvency II better than artificial constructions like the equity dampener within art. 106 or the duration dampener within art. 304 and even the Ultimate Forward Rate. If this choice EIOPA does not seem applicable it has to provide the above mentioned artificially constructed dampeners and instruments to provide second-best easing mechanisms.</p>	
4,102.	European Private Equity & Venture Capital Associat	52	<p>IORPs have a long-term investment policy calibrated to match their long-term liabilities. This contributes to stability on global financial markets. EVCA deems the ability to take a long-term view in setting investment strategy is extremely valuable and necessary to preserve. Therefore, EVCA advises EIOPA (i) to request that a revised IORP Directive should uphold IORPs ability to set a long-term investment policy and (ii) to request a thorough impact assessment of the macro-economic effects of a revision of the IORP Directive.</p>	<p>Partially agreed. EIOPA agrees with the need for a thorough impact assessment. EIOPA believes that its advice does not hinder IORPs’ capacity to set and use a long-term investment policy in any way.</p>
4,103.	Towers Watson	52.	<p>It is important to consider how any new regime for IORPs will impact on the operation of markets and whether it offers sufficient and appropriate opportunities for solvent institutions to ride out periods of general market stress. This is particularly true in the UK where IORPs are a significant investor in all investment markets. Whilst the UK is not the only Member State with significant defined benefit liabilities (and consequently investments to meet those liabilities), it does constitute the largest – by some considerable margin. In the UK, IORPs will be systemically relevant. In principle, we support the concept of the ‘symmetric adjustment’ contained</p>	<p>See IFA (4,076).</p>

		<p>in Article 106 of the Solvency II Directive. (Although the section in the consultation document is raised in the context of the SCR, which we consider inappropriate for employer-backed IORPs, we feel the notion of such adjustment should apply in the wider context of setting technical provisions.) However, we are concerned about the implicit assumption that it is only equity markets that can give rise to the overshooting that requires something like an equity dampener to moderate systemic risks. It is also possible for other asset classes. In particular, price/yield movements in government-backed securities used as proxies for risk-free assets is something that must be considered seriously when building rules in this area.</p> <p>We do not agree with EIOPA's assertion (paragraph 12.3.16) that pro-cyclical effects for IORPs can be addressed entirely by longer recovery periods. Longer recovery periods, in themselves, are likely to have a limited impact on countering pro-cyclical behaviour.</p> <p>What is required is the flexibility to relax some rules temporarily in order to prevent systemic realignment of assets or other rapidly implemented changes to the IORP that may have long term repercussions for IORP members. Experience suggests that it is very difficult to predict the next combination of circumstances that would require IORPs across Europe to take similar actions, and thereby create systemic risks. The better approach would therefore be to ensure that regulators are sufficiently resourced to monitor the system and empowered to make adjustments when this is deemed to be appropriate. EIOPA would need to consider the extent to which this should be carried out by each individual country's supervisory authority, which is best placed to access information about each individual country's stock market and the particular stresses on domestic IORPs.</p> <p>As we mention in our 'general comments' above, whilst it may have many other benefits, the existence of a tighter, more prescriptive, IORP Directive for individual regulators to implement does by its nature increase systemic risk. Governing all IORPs by the same rules makes it more likely that their actions will be more closely aligned. This close alignment of actions creates new systemic risks that are not in the current system.</p>	
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4,104.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	53.	<p>The OPSG basically supports the adoption of the material elements of the Solvency II requirements in respect of the general principles of supervision, and in relation to transparency and accountability.</p> <p>However, there are major concerns about the need to revise the IORP Directive in respect of these general principles. We agree with EIOPA's conclusion (14.3.8) that "in the context of the supervision of IORPs, it is possible that the goals of Articles 29 and 31 of the Solvency II Directive may be best achieved by means other than revisions to the IORP Directive." In line with EIOPA, we believe that the focus of the Directive should be on the supervision of IORPs, rather than on the objectives and operations of supervisory authorities.</p> <p>Furthermore, the OPSG would also back EIOPA's concerns on the costs and usefulness of implementing additional disclosure requirements (e.g. on a common format as required in Article 31).</p> <p>We agree that the need to enhance benefit security, differences between IORP and insurance supervision and diversity of IORP also require a different treatment of insurers and IORPs.</p> <p>Besides the differences described by EIOPA, we would also point to the following specialities of IORPs that further justify different treatment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Major differences in the governance structure between IORPs and insurance companies: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned <input type="checkbox"/> IORPs are not-for-profit social institutions and often have no or very few members of staff, and no shareholders. Consequently, there is therefore no 	<p>Agreed.</p> <p>The fact that IORPs differ from insurance companies should also be taken into account.</p>
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			incentive to increase “business” or “profits”, or to “diversify” activities, which is different from many (though not all) insurance companies.	
4,105.	AbA Arbeitsgemeinsc haft für betriebliche Altersver	53.	<p>Prudential supervision of IORPs is but one component of the overarching objective of providing adequate, safe and sustainable occupational pensions.</p> <p>As described above, this objective can be formulated as follows:</p> <p>“This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries.”</p> <p>We agree that supervision should be based on a prospective and risk-based approach. This does not mean, however, that the measurement of capital requirements should be risk-based. IORPs that implement modern asset liability management techniques are managed by reference to a risk budget. This implicitly attaches risk weights to the various asset and liabilities to which the IORP is exposed. Imposing additional risk-based capital requirement is piling prudence on prudence and will amplify the stress on IORPs in volatile capital market scenarios.</p> <p>With respect to the transparency and accountability requirements, we agree with the principles as laid down in the OECD Principles of Occupational Pension Regulation and the IOPS Principles of Private Pension Supervision and, therefore, generally agree with EIOPA’s advice. These principles can be integrated into the IORP Directive without the need to adopt Solvency II terminology.</p> <p>We would want to highlight that the supervisor’s obligation to provide transparency and accountability is first and foremost towards the IORP and its sponsor/s. In contrast to the insurance industry, in most cases, individual members cannot choose the IORP, therefore, the supervisor should not disclose information to the public which may be confusing, irrelevant or create a false sense of alarm.</p> <p>The objective of facilitating efficient management and administration should preclude the supervisor from imposing excessive disclosure requirements on IORPs.</p>	Noted.

			Finally, we suggest that the supervisor should be required in regular intervals to report on its activities with respect to meeting the objective as we have formulated above.	
4,106.	ABVAKABO FNV	53.	<p>Yes, the PF agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality.</p> <p>The PF agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p>	See Federation of Dutch pension funds (4,136)
4,107.	AEIP	53.	AEIP agrees with option 3. The wide variety of pension systems and the principle of proportionality should be taken into account.	Noted.
4,108.	AFPEN (France)	53.	<p>143. AFPEN principally endorses the general principles laid down in Art. 29 and 31 of the Directive 2009/138/EC. However, AFPEN would like to remember that the Solvency II Directive should not be the basis of any modification of the IORP-Directive. Instead of that and in line with EIOPA's Call for Advice of April 2011, AFPEN would like to advocate for developing a supervisory regime sui generis, taking the IORP Directive as the starting point. Further elements to be taken into consideration in developing general principles of supervision are international standards developed by the OECD, IOPS and other entities, which are described in this chapter (e.g. the long-term nature of pension funds and the avoidance of pro-cyclical behavior in Principle 6 of IOPS) This approach is justified by the main differences between IORPs and insurance institutions as also identified in this chapter (e.g. 14.3.13 – 14.3.16). Furthermore this opinion is endorsed by the findings of the OPC reports that showed a large variety of supervisory practice without unveiling any evident lack in security for beneficiaries. The respective pension scheme and business objectives have to go along with suitable supervisory approaches. On the one hand, IORPs have limited business spectrum, particularly they have no diversified non-life business. But diversity is required by the Solvency II regime. On the other hand,</p>	See EAPSPI (4,130)

			<p>IORPs have additional security mechanisms compared to insurance companies.</p> <p>Against this background, AFPEN would therefore support option 1 of this section if a decision had to be taken. This point of view is additionally in line with EIOPA's statement in 14.3.8 ("In the context of the supervision of IORPs, it is possible that the goals of Articles 29 and 31 of the Solvency II Directive may be best achieved by means other than revisions to the IORP Directive.").</p>	
4,110.	AMONIS OFP	53.	<p>AMONIS OFP considers that transparency and accountability should be encouraged; but is concerned about how this will be implemented and how this can be applied because the proportionality should always be taken in consideration.</p> <p>AMONIS OFP wishes also to stress that the proposed principles may lead to an important increase of the supervision costs, which may in the end have a negative impact on the final pensions or the costs of the pension engagements in these countries where the costs of the supervision are buried by the pension funds.</p> <p>Therefore the proportionality trade-off between extra burdensome on the pension funds on the extra efficacy and transparency of the supervision should always be taken in consideration.</p>	See BPVI-ABIP (4,117).
4,111.	ANIA – Association of Italian Insurers	53.	<p>The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. Therefore the ANIA is fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs. Moreover, the provisions in articles 29 and 31 could be applied without substantial amendments as they generally make sense and apply to all types of pension schemes. Furthermore, the ANIA stresses to take into account the proportionality principles.</p>	See CEA (4,123).
4,112.	Association Française de la Gestion financière (AF	53.	<p>As a general comment on 53-60, we consider that there are aspects of the insurance supervision that EIOPA is proposing to transpose into the Directive are inappropriate. We encourage EIOPA to start by looking at the nature of the different pension regimes across Europe and asking what regulatory oversight</p>	See EFAMA (4,133)

			they might benefit from. In this respect, the OECD Principles of Occupational Pension regulation are a much better stating point.	
4,113.	Association of British Insurers	53.	The ABI agrees that the adoption of the substance of Articles 29 and 31, at least in part, and to the extent feasible, would benefit the convergence of supervisory approaches and to the transparency and accountability.	Noted.
4,114.	Association of French Insurers (FFSA)	53.	The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. The FFSA is fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs.	See CEA (4,123).
4,115.	Assoprevidenza – Italian Association for supplement	53.	We share EIOPA advice. The material element of art. 29 and 31 of Solvency II Directive should be put in the IORP Directive, but it would preferable to amend IORP directive instead to copy articles	Noted.
4,116.	Assuralia	53.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,117.	Belgian Association of Pension Institutions (BVPI-	53.	<p>BVPI-ABIP considers that transparency and accountability should be encouraged; but is concerned about how this will be implemented and how this can be applied because the proportionality should always be taken in consideration.</p> <p>BVPI-ABIP wishes also to stress that the proposed principles may lead to an important increase of the supervision costs, which may in the end have a negative impact on the final pensions or the costs of the pension engagements in these countries where the costs of the supervision are buried by the IORPs.</p> <p>Therefore the proportionality trade-off between extra burdensome on the IORPs on the extra efficacy and transparency of the supervision should always be taken in consideration.</p>	Noted.

4,118.	BIPAR	53.	BIPAR calls for a level playing field between all financial institutions-insurers, pension funds or others- providing occupational pensions. In our opinion, an activity-based approach should be taken here, meaning that all those institutions providing occupational pension products, regardless the sector they are active in, should comply with similar rules. This is important for consumers/employees, who need a level regulatory playing field to be sure that all their pensions are adequately and on the same basis protected, irrespective of the sector they use to secure their pension. Solvency II could serve as a basis for this level regulatory playing field. BIPAR agrees however with EIOPA that in creating such a level regulatory playing field, there must be room for the application of the principle of proportionality and adaptation to the specificities of the sector.	Noted.
4,119.	BNP Paribas Cardif	53.	The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. BNP Paribas Cardif is fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs.	See CEA (4,123).
4,120.	Bosch Pensionsfonds AG	53.	See answer to question 52 regarding the objective of supervision. Also see under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
4,121.	Bosch-Group	53.	See answer to question 52 regarding the objective of supervision. Also see under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
4,122.	BT Pension Scheme Management Ltd	53.	We believe that these Articles can usefully be applied to IORPs.	Noted.
4,123.	CEA	53.	The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. Therefore the CEA is fully supportive of applying the proposed articles of the Solvency II	Noted.

			Framework Directive also to IORPs. Moreover, the provisions in articles 29 and 31 could be applied without substantial amendments as they generally make sense and apply to all types of pension schemes. Furthermore, the CEA stresses to take into account the proportionality principles.	
4,124.	Charles CRONIN	53.	Yes, I agree in principle to the material elements of the Solvency II requirements in respect of the general principles of supervision, and in relation to transparency and accountability should also apply to IORPs.	Noted.
4,125.	Chris Barnard	53.	I agree with the principle that the material elements of the Solvency II requirements in respect of the general principles of supervision, and in relation to transparency and accountability should also apply to IORPs. This would promote supervisory and regulatory convergence and make explicit the commitment to improve transparency and accountability in the IORP sector.	Noted.
4,126.	CMHF (Centrale van Middelbare en Hogere Functionar	53.	Yes, the CMHF agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject. Any rules in this area should therefore respect the principle of proportionality. The CMHF agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.	See Federation of Dutch pension funds (4,136)
4,127.	De Unie (Vakorganisatie voor werk, inkomen en loop	53.	Yes, De Unie agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject. Any rules in this area should therefore respect the principle of proportionality. De Unie agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.	See Federation of Dutch pension funds (4,136)
4,128.	Direction Générale du	53.	Yes we agree.	Noted.

	Trésor, Ministère des financ			
4,129.	Ecie vie	53.	Yes	Noted.
4,130.	European Association of Public Sector Pension Inst	53.	<p>EAPSPI principally endorses the general principles laid down in Art. 29 and 31 of the Directive 2009/138/EC. However, EAPSPI would like to remember that the Solvency II Directive should not be the basis of any modification of the IORP-Directive. Instead of that and in line with EIOPA's Call for Advice of April 2011, EAPSPI would like to advocate for developing a supervisory regime sui generis, taking the IORP Directive as the starting point. Further elements to be taken into consideration in developing general principles of supervision are international standards developed by the OECD, IOPS and other entities, which are described in this chapter (e.g. the long-term nature of pension funds and the avoidance of pro-cyclical behavior in Principle 6 of IOPS) This approach is justified by the main differences between IORPs and insurance institutions as also identified in this chapter (e.g. 14.3.13 – 14.3.16). Furthermore this opinion is endorsed by the findings of the OPC reports that showed a large variety of supervisory practice without unveiling any evident lack in security for beneficiaries. The respective pension scheme and business objectives have to go along with suitable supervisory approaches. On the one hand, IORPs have limited business spectrum, particularly they have no diversified non-life business. But diversity is required by the Solvency II regime. On the other hand, IORPs have additional security mechanisms compared to insurance companies.</p> <p>Against this background, EAPSPI would therefore support option 1 of this section if a decision had to be taken. This point of view is additionally in line with EIOPA's statement in 14.3.8 ("In the context of the supervision of IORPs, it is possible that the goals of Articles 29 and 31 of the Solvency II Directive may be best achieved by means other than revisions to the IORP Directive.").</p>	Noted.
4,131.	European	53.	In view of its statistical requirements and the potential use of supervisory data	Noted.

	Central Bank, Directorate General Statist		for statistical purposes, the ECB supports the adoption of Solvency II requirements in respect of the general principles of supervision in the context of the availability and disclosure of statistical data. Increased harmonisation of practices in terms of a common reporting format is most welcome in order to fulfil the European System of Central Banks (ESCB) statistical requirements. The reporting format should allow for a standardised, sufficiently frequent and timely reporting of information as this is a precondition of the use of such data for the compilation of statistics. A common reporting format would also contribute to the minimisation of the reporting burden of the reporting IORPs.	
4,132.	European Federation for Retirement Provision (EFRP)	53.	<p>Yes, the EFRP generally agrees with EIOPA's advice that the content of articles 29 and 31 of Solvency II could be introduced without changing the terminology. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality: the objective of facilitating efficient management and administration should preclude the supervisor from imposing excessive disclosure requirements on IORPs.</p> <p>The EFRP agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p> <p>Importantly, the EFRP sees the risk of a steep increase in supervisory costs for IORPs. This should be avoided, since higher supervisory costs will be to the detriment of members' benefits.</p>	Noted.
4,133.	European Fund and Asset Management	53.	As a general comment on 53-60, we consider that there are aspects of the insurance supervision that EIOPA is proposing to transpose into the Directive are inappropriate. We encourage EIOPA to start by looking at the nature of the	Noted.

	Association (EF		different pension regimes across Europe and asking what regulatory oversight they might benefit from. In this respect, the OECD Principles of Occupational Pension regulation are a much better starting point.	
4,134.	European Metalworkers Federation	53.	As said in our general comments, the solvency II regulation is not the appropriate starting point to regulate the specifics of an IORP	Noted.
4,135.	European Mine, Chemical and Energy workers' Fede	53.	As said in our general comments, the solvency II regulation is not the appropriate starting point to regulate the specifics of an IORP	Noted.
4,136.	Federation of the Dutch Pension Funds	53.	Yes, the PF agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject. Any rules in this area should therefore respect the principle of proportionality. The PF agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.	Noted.
4,137.	Financial Reporting Council	53.	We agree with the principle.	Noted.
4,138.	FNV Bondgenoten	53.	Yes, FNV BG agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject. Any rules in this area should therefore respect the principle of proportionality. FNV BG agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.	See Federation of Dutch pension funds (4,136)
4,139.	Generali vie	53.	Yes	Noted.

4,140.	Groupement Français des Bancassureurs	53.	<p>The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. FBIA is fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs.</p>	See CEA (4,123)
4,141.	PMT-PME-Mn Services	53.	<p>Yes, we agree that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality.</p> <p>We agree that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p>	See Federation of Dutch pension funds (4,136)
4,142.	HM Treasury/Department for Work and Pensions	53.	<p>We broadly concur that supervision of IORPs should be prospective and risk based, and different to that for insurance firms. However, we consider that this can be accomplished within the framework of the current Directive.</p> <p>For example, in keeping with the general principle that regulatory bodies are most effective if they adopt a risk-based approach – UK legislation provides the Regulatory Authority with the flexibility to take a proactive, risk-based approach to regulation, with discretion in how it interprets and implements its main statutory objectives to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> protect member benefits; <input type="checkbox"/> promote good scheme administration; and <input type="checkbox"/> reduce the risk of situations arising that may lead to claim for compensation from the Pension Protection Fund (the UK Guarantee Scheme). <p>This flexibility allows the Regulatory Authority to focus resources on those areas</p>	Noted.

			where it identifies greatest risk to members' benefits.	
4,143.	IMA (Investment Management Association)	53.	A general comment that we could make on Q.53-60 is that aspects of the insurance supervision that EIOPA is proposing to transpose into IORPs are inappropriate. For example, stress-testing is not relevant for pure DC schemes (Q.55), nor would capital add-ons be required (Q.60). We would strongly encourage EIOPA to start by looking at the nature of the different pension regimes across Europe and asking what regulatory oversight they might benefit from. In this respect, the OECD Principles of Occupational Pension regulation are a much better starting point.	See EFAMA (4,133)
4,144.	Institute and Faculty of Actuaries (UK)	53.	<p>We believe that supervision should be based on a risk-based approach under which the impact of the requirements on an IORP is proportionate not simply to the risks faced by that IORP in isolation but to the risk of adverse outcomes for members (taking account the resources available to the IORP including recourse to a sponsoring employer). This would be consistent with the principles set out in paragraph 3.4 of our general comments.</p> <p>The number and diversity of IORPs means that proportionality can only be achieved with a principles-based approach and that it would be ineffective and inefficient to adopt detailed rules adapted from the regulatory regime for insurance companies. Appropriate checks and balances would be required to ensure consistent application of the principles and a key feature of such a regime would be transparency and accountability in decision-making.</p> <p>The concept of "verification on a continuous basis" seems unlikely to be compatible with our preferred risk-based principles-based approach. We would therefore encourage EIOPA and the Commission to consult further on the subject of verification once the possible interpretations of this phrase have been identified.</p>	Noted.
4,145.	Le cercle des épargnants	53.	Yes	Noted.
4,146.	Macfarlanes LLP	53.	No	Noted.

4,147.	Mercer	53.	<p>It is worth remembering that there are considerably more IORPs than there are insurance companies, and that they are very different in terms of risk exposure and legal structure, so the resource required to regulate them is likely to be greater. For it to be possible for the general supervisory principles of the Solvency II regime to be applied to IORPs, we consider that the provision of IORPs might need a fundamental review. If more member states' regulatory regimes facilitated the provision of multi employer or 'master trust' IORPs, then the resulting economies of scale within some IORPs could result in better management of risk, more accountability and less onerous regulatory supervision. Implementing a Solvency II type regime in relation to IORPs without easing the transition of small IORPs into larger structures seems to put the cart before the horse.</p>	Noted.
4,148.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	53.	<p>Yes, the MHP agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality.</p> <p>The MHP agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p>	See Federation of Dutch pension funds (4,136)
4,149.	National Association of Pension Funds (NAPF)	53.	<p>The NAPF agrees that Articles 29 and 31 of Solvency II could usefully be incorporated into the IORP Directive. However, the IORP Directive should continue to provide flexibility for national regulators to set rules that take account of the particular circumstances of their own pension systems.</p>	Noted.
4,151.	Pan-European Insurance Forum (PEIF)	53.	<p>In principle we agree that, assuming that the Solvency II Framework Directive is the model, then the material elements of a Solvency II-type environment should apply to IORPs to ensure regulatory consistency.</p> <p>However, please see opening general comments. In any event, the regimes for IORPs and insurers should be consistent.</p>	Noted.

4,152.	Pensioenfonds Zorg en Welzijn (PFZW)	53.	<p>Yes, we agree that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality.</p> <p>PFZW agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p>	See Federation of Dutch pension funds (4,136)
4,153.	Predica	53.	<p>The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. Predica is fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs.</p>	See CEA (4,123)
4,154.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	53.	Agree	Noted.
4,155.	PTK (Sweden)	53.	<p>Yes, PTK agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality.</p> <p>PTK agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p> <p>Importantly, PTK notes the risk of a steep increase in supervisory costs for</p>	See EFRP (4,132)

			IORPs. This should be avoided, since higher supervisory costs will be to the detriment of members' benefits.	
4,156.	Railways Pension Trustee Company Limited ("RPTCL	53.	RPTCL has concerns that the significant number of detailed rules that would arise from Solvency II would impose high costs on IORPs. A principles-based rules-based system with lots of flexibility for local supervisors would be more appropriate. Our comments here also apply to Q61.	Noted.
4,157.	TCO	53.	Yes, TCO agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation and supervision to which IORPs are subject. Any rules in this area should therefore respect the principle of proportionality. TCO agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive. Importantly, TCO sees the risk of a steep increase in supervisory costs for IORPs. This should be avoided, since higher supervisory costs will be to the detriment of members' benefits.	See EFRP (4,132)
4,158.	The Association of Pension Foundations (Finland)	53.	Investigatory and enforcement rules should always be proportional to the size of IORP and risks taken to avoid excessive administration.	Noted.
4,159.	The Association of the	53.	The Respondents agree with the principle of clarity, transparency and comparability.	Noted.

	Luxembourg Fund Industry (A)		<p>However, structures and procedures proposed by Solvency II implementing measures are not appropriate to IORP. We recommend a specific regulatory framework adapted for IORPs.</p> <p>The Respondents retain status quo of the IORP Directive.</p>	
4,160.	THE SOCIETY OF PENSION CONSULTANTS	53.	<p>We believe that the supervisory authority should operate in line with the first principle of Solvency II Directive Article 29, namely that supervision should be based on a prospective and risk-based approach. Also, as Article 29(3) states, supervision should be applied in a proportionate manner – indeed EIOPA at 14.3.5 recognises that proportionality is even more important for IORPs. What is not explained, however, is what EIOPA (and the Commission) means by proportionate. Transparency and accountability are also essential. However, the requirement that supervision should involve verification on a continuous basis is not appropriate for sponsor-backed occupational pension schemes. As recognised in EIOPA’s CfA response, occupational pension schemes are not run as businesses. Accordingly, they do not operate on the basis of ongoing reporting; data is processed on an annual or triennial basis and governance is typically conducted on a monthly or three-monthly basis.</p> <p>More frequent reporting and continuous verification could make schemes unworkable in practice and so deter employers from continuing to operate them – see also our answer to question 54. As mentioned at 14.3.6, it is essential that the wording from article 29(1) is not merely replicated in a revised IORP Directive. Rather, the wording should be modified to amend ‘continuous’ to something more appropriate to IORPs.</p>	Noted.
4,161.	Towers Watson Deutschland GmbH	53.	<p>We believe that supervision should be applied in a proportionate manner. As recognised by EIOPA in 14.3.7 the requirement that supervision should involve verification on a continuous basis might not be appropriate or proportionate for all sponsor-backed occupational pension schemes. It is essential that the</p>	Noted.

			<p>wording from article 29(1) is not merely replicated in a revised IORP Directive. Rather the wording should be modified to amend 'continuous' to something more appropriate to the range of IORPs present across Europe.</p> <p>Transparency and accountability are also essential. Supervisory authorities should be under an explicit obligation to be consistent and even-handed when dealing with the regulated entities and transparency is a key way to achieve this. We recognise however that there is a challenge to ensure consistent treatment between potentially very diverse IORPs. Again transparency in decision making should help.</p>	
4,162.	Trades Union Congress (TUC)	53.	<p>The TUC recognise that it would be reasonable to adopt elements of Articles 29 and 31 of the Solvency II Directive into the IORP Directive. This would mean that the general principles of supervision were explicitly detailed in the Directive as they currently are not. We would, however, like the specific details to be determined by national regulators in order to take account of the variations in pension arrangements between Member States. Hence there would be a need for flexibility in the revised IORP Directive.</p>	Noted.
4,163.	UK Association of Pension Lawyers	53.	<ol style="list-style-type: none"> 1. We support policy option 1: Retain status quo. 2. As we have said elsewhere in this response, we consider that the application of Solvency II Directive principles to IORPs is invalid. It is attempting to adapt a regime applicable to insurance company regulation to IORPs: <ol style="list-style-type: none"> 2.1. which are performing a different function in providing second pillar retirement savings for employees and the self-employed, and 2.2 which are, at least in the UK, not being established and supported by employers as a business with a view to profit but to provide retirement and risks benefit for their employees and former employees and their dependants. 3. An increase in regulation: <ol style="list-style-type: none"> 3.1 leads to an increase in cost (and, ultimately, a reduction in retirement benefits), and 	Noted.

			<p>3.2 leads to a further disincentive for employers to engage positively in the retirement provision for their employees (thereby going directly against the key principles of sustainability and affordability).</p> <p>4. We note from Appendix 1 to this Response that the impact of any change to the IORP Directive will have a very substantial disproportionate impact on the United Kingdom. Out of the 27 EU member states assets held in UK IORPs would appear to comprise more than 52% of the total assets held by IORPs established in the EU.</p> <p>5. We also note, if you take the Netherlands and the UK together, more than 75% of the assets held in IORPs established in the EU are held in IORPs established in the Netherlands or the United Kingdom (see further Appendix 1). Any change to the IORP Directive will have a disproportionate impact on those 2 countries, while having a minimal impact on France or Germany.</p> <p>6. In this context, we note there is a specific carve-out from the IORP Directive for unfunded German second pillar occupational pension schemes. There can be no basis for extending Solvency II to IORPs if it is not also extended to unfunded German pension schemes (i.e. book reserve schemes – see Article 2(2)(e) of Directive 2003/41/EC).</p> <p>7. Furthermore, if you follow the logic you should extend Solvency II to pillar one public sector pension schemes.</p>	
4,164.	UNI Europa	53.	As said in our general comments, the solvency II regulation is not the appropriate starting point to regulate the specifics of an IORP.	Noted.
4,165.	Universities Superannuation Scheme (USS),	53.	USS agrees that Articles 29 and 31 of Solvency II could usefully be incorporated into the IORP Directive. However, the IORP Directive should continue to provide flexibility for national regulators to set rules that take account of the particular circumstances of their own pension systems.	See NAPF (4,149)
4,166.	VHP2 (Vakorganisatie voor middelbaar	53.	Yes, the VHP2 agrees that the content of articles 29 and 31 of Solvency II could be introduced. However, it urges EIOPA and the Commission to respect the diversity of national occupational pension systems and the degrees of regulation	See Federation of Dutch pension funds (4,136)

	en hoger pers		<p>and supervision to which IORPs are subject.</p> <p>Any rules in this area should therefore respect the principle of proportionality.</p> <p>The VHP2 agrees that these rules would make explicit the elements that are already implicitly included in the IORP Directive.</p>	
4,167.	Whitbread Group PLC	53.	<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.
4,168.	Zusatzversorgungskasse des Baugewerbes AG	53.	<p>71. We agree that some material elements of supervision, transparency and accountability should also apply to IORPs. But the way to achieve these ultimate aims cannot be the same like that for insurance companies.</p>	Noted.
4,169.	Towers Watson	53.	<p>We believe that the supervisory authorities should operate in line with the first principle of Solvency II Directive Article 29, namely that supervision should be based on a prospective and risk-based approach.</p> <p>Perhaps more importantly, as Article 29(3) states, supervision should be applied in a proportionate manner – indeed EIOPA at 14.3.5 recognises that proportionality is even more important for IORPs than other regulated entities, including insurers. What is not explained, however, is what EIOPA (and the Commission) means by 'proportionate'. We believe that it is essential that the Commission and/or EIOPA explain further how it/they consider judgements on what is or is not proportionate are made. Indeed, it seems likely to us that a 'proportionate' approach might, in practice, mean different things in different situations. In particular, it should be stated as to whether such judgements are to be made by individual supervisory authorities rather than EU-wide.</p> <p>Transparency and accountability are also essential. Supervisory authorities should be under an explicit obligation to be consistent and even-handed when dealing with the regulated entities and transparency is a key way to achieve this. We recognise however that there is a challenge to ensure consistent treatment between potentially very diverse IORPs. Again transparency in decision making should help.</p>	Noted.

			As recognised by EIOPA at 14.3.7 the requirement that supervision should involve verification on a continuous basis might not be appropriate or proportionate for sponsor-backed occupational pension schemes. In our view, it is essential that the wording from article 29(1) is not merely replicated in a revised IORP Directive. Rather the wording should be modified to amend 'continuous' to something more proportionate to the range of IORPs present across Europe.	
4,170.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	54.	See question 53	Noted.
4,171.	AbA Arbeitsgemeinschaft für betriebliche Altersver	54.	<p>In part. We do not agree with the formulation "the need to enhance benefit security". This implies that occupational benefits are in some way less secure than those provided by insurers, which is not the case. The difference between the supervision of IORPs and insurers is that the supervisor also has an obligation towards the sponsor who will ultimately be taken to account for the actions of the IORP.</p> <p>In addition to the above, we would also highlight – in support of the IVS Institut – the following specific aspects of IORPs that further justify a different treatment:</p> <p>1. The business model: The vast majority of insurers (and effectively all of the major players) is profit-oriented and operate in a competitive market. Neither applies to IORPs, whether company-own or restricted to a profession or a pre-specified set of beneficiaries (e.g. members of a profession) alone. IORPs in this sense do not include those that compete directly with insurers in the pensions market. We believe that this aspect alone justifies that a fundamentally different approach between the two types of entities is more appropriate.</p>	<p>Noted.</p> <p>By referring to 'the need to enhance benefit security', EIOPA does not intend to criticise the security of pensions as opposed to the security of insurance. Instead, EIOPA meant to refer to the fact that supervisory measures and powers should not be overly burdensome.</p>

		<p>2. Ownership structure: The vast majority of insurers (and effectively all of the major players) is oriented towards the capital markets, i.e. the shares in the entity are effectively held-for-sale by its owners. In contrast, an IORP is held by a single owner (or its beneficiaries if a mutual structure) and is essentially held-to-maturity, since the entity as such is not publicly traded. It follows that, for measurement purposes, a mark-to-market or fair value approach makes sense for the valuation of an insurer's assets/liabilities. In contrast, for measurement purposes, a fulfilment value or held-to-maturity approach makes more sense for the measurement of IORPs' assets/liabilities. The fact that the owners of those corporate entities holding interests in an IORP are also effectively held-for-sale does not necessarily permit the conclusion that this requires treatment similar to insurers: the business model, the legal framework, diversity and risk profiles typically differ from those of insurers.</p> <p>3. Legal framework: This aspect is dealt with partly in section 2.6.5. We believe, however, that not all repercussions have been thoroughly considered. Insurance contracts are contracted in a free and open market (i.e. the consumer has a choice) and are therefore subject to contract/civil law because beneficiaries are contract holders. In contrast, in most countries, pension promises are subject to labour law, which can differ significantly from contract law; the consumer is thus generally not operating in a free and open market. In Germany, for example, the underlying contract is generally agreed upon (and amended) by collective bargaining agreements. The individual employee does not give his consent nor can he disagree, even if his rights are reduced.</p> <p>The pension promise can be weaker / softer and more malleable in the context of an IORP (for example, in Germany, pension agreements can be and are changed by agreements with employee representatives, not every employee individually - often with legal effect for accrued benefits too). Actuarial valuation principles of liabilities and security requirements for IORPs must thus reflect the prevailing labour and social law and take account of this flexibly over time since</p>	
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		<p>labour and social law are not static.</p> <p>In short, insurers generally grant “hard” guarantees while IORPs grant “softer” guarantees.</p> <p>In some member states (e.g. Germany, The Netherlands), most IORPs do not necessarily guarantee benefits at all, since the IORP has the right to reduce the benefits in accordance with the assets available – i.e. “soft” benefit ambitions rather than “hard” guarantees. In Germany, for example, in the vast majority of situations the law requires an employer to underwrite any shortfall not met by the IORPs.</p> <p>This framework is clearly more flexible than that typically applying to life insurers. This flexibility is often justified, to varying degrees, by the existence of an employer covenant. In some jurisdictions there is a further safeguard: should the employer too be unable to fulfil the pension promise given, the promise can be protected by an insolvency protection institution for occupational pensions.</p> <p>Within the context of the holistic balance sheet we understand that EIOPA and the Commission interpret the value of the employer covenant and the insolvency protection as not being assets that can be directly held against the technical provisions but rather only against the SCR and the Risk Buffer. We believe that this approach is not appropriate when viewed in the context of an IORP’s characteristics.</p> <p>4. Diversity: This aspect is partly dealt with in section 2.6.7. However, we believe that here too, not all repercussions have been considered thoroughly. There are about 5,000 insurers and about 140,000 IORPs in Europe. As EIOPA</p>	
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			<p>quite correctly states, the aspect of relative cost of satisfying any regulatory requirements is thus of much greater significance for IORPs. However, EIOPA does not mention that the types of products offered by IORPs (i.e. pension promises) are far more diverse in nature than insurance products. The combination of this numbers / diversity issue must have a significant repercussion on regulation, since otherwise, diversity will be intentionally extinguished. The result will very likely be that all risk will be shifted onto beneficiaries. This aspect falls firmly into the area of social policy and should not be brushed aside by the Commission as “not our responsibility”.</p> <p>5. Risk profiles: Typically, insurance contracts exclude a large number of specific risks (e.g. unhealthy lives), whereas IORPs are more inclusive (because normally all employees are to be covered).</p>	
4,172.	ABVAKABO FNV	54.	<p>Yes, the PF agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. The PF would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase “business” or “profits”, or to “diversify” activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	See Federation of Dutch pension funds (4,197)
4,173.	AEIP	54.	<p>109. EIOPA has correctly assessed the impact of an adoption of the material elements of the Solvency II requirements in respect of the general principles of</p>	Noted.

			<p>supervision, and in relation to transparency and accountability to IORPs.</p> <p>Concerning the transparency rules we would like EIOPA to take potential additional burdens for IORPs stemming from supervisor curiosity into account. These should be avoided because every excessive transparency could diminish the value of the pension scheme.</p>	
4,174.	AFPEN (France)	54.	<p>144. To AFPEN's opinion, EIOPA has correctly identified those issues and in particular the differences between IORPs and insurance undertakings. Additionally, AFPEN would like to mention further distinctive features that differentiate institutions of the so-called "second" and "third" pillar as far as benefit security is concerned.</p> <p>145. IORPs have got specific inbuilt security mechanisms that ensure the solvency position of pension schemes. In some pension schemes, contributions and the main benefit parameters can be modified by the employers and the employees' representatives. Many pension schemes, especially of the public sector in the Netherlands, the Scandinavian countries or in Germany, foresee paritarian management. Paritarian management involves social partners in the Board of Directors of the IORP or in similar internal supervisory bodies. Due to paritarian representation, the interests both of the employers and of the employees and beneficiaries are well-balanced and the benefit security can therefore be ensured.</p> <p>146. Another element, which certifies benefit security, is the long term investment horizon of IORPs since they uniquely administrate pensions. Therefore, long-term developments are more important than short term evolutions that have to be considered by other companies submitted under the Solvency II regime. And for DB- and hybrid DB-/DC-schemes, in at least some Member States, employers have the ultimate responsibility for the fulfilment of the pension promise as additional benefit security mechanism.</p> <p>Additionally to this responsibility for the fulfilment, many IORPs have the possibility to adjust the premium or benefit by threat to solvency. Hence, IORPs require less capital resources than life insurers with a bounded relation between</p>	See EAPSPI (4,193)

			premium and benefit. Particularly with regard to an interest rate scenario reduction, this adjustment mechanism institutes an adequate approach to “close” a potential duration gap. In contrast to insurance tariffs, business lines of IORPs have almost no embedded policy holder options. Consequently, speculation against the community of policyholders just as much the antiselection risk are negligible.	
4,176.	AMONIS OFP	54.	<p>The need to enhance benefit security, differences between IORP and insurance supervision and diversity of IORP are indeed issues that justify a difference in treatment between insurers and IORPs.</p> <p>AMONIS OFP would also stress other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment. Irrespectively of the presence of a sponsor, IORPs are not-for-profit and often have no shareholders. There is therefore no incentive to increase “business” or “profits”, or to “diversify” activities, which is different from many (though not all) insurance companies. There is an alignment of stakes between the shareholders and the members, because they largely are the same. The conflict of interest between equity capital remuneration and the clients’ interest is apparent with insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	See EFRP (4,194)
4,177.	ANIA – Association of Italian Insurers	54.	<p>The ANIA acknowledges that there are some differences between the various Member States in data availability and disclosure formats and comparability. However, as EIOPA correctly indicates in paragraph 14.3.16, these concerns are in relation to the current situation regarding IORPs across Member States. The aim of the revised Directive should be to increase harmonization of practice and therefore result in reporting in a common format that would be both useful and</p>	See CEA (4,187)

			comparable across Member States. In addition, the proportionality principle should be consistent for insurers and IORPs. Only where IORPs and insurers are not comparable, a different treatment should apply.	
4,178.	Association of British Insurers	54.	Yes. In particular the ABI agrees with EIOPA that there is a need for the Commission to establish what the phrase 'verification on a continuous basis' means in the insurance context to see if it is appropriate for IORPs.	Noted.
4,179.	Association of French Insurers (FFSA)	54.	73. The aim of the revised Directive must be to increase harmonization of practice and therefore result in reporting in a common format that would be both useful and comparable across Member States. The FFSA strongly disagrees with EIOPA's view on the fact that the differences of IORPs across Europe are much higher than in the insurance sector. According to EIOPA this diversity would justify a less ambitious prudential regime for IORPs. The FFSA rejects this idea and as regarding France, high level harmonized prudential rules (Solvency II framework) have been adopted by very different entities such as private insurance companies, mutual and cooperative insurers and paritarian institutions.	Noted.
4,180.	Assoprevidenza – Italian Association for supplement	54.	EIOPA has correctly assessed the impact of an adoption of the material elements of the Solvency II requirements in respect of the general principles of supervision, and in relation to transparency and accountability to IORPs.	Noted.
4,181.	Assuralia	54.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,182.	Belgian Association of Pension	54.	The need to enhance benefit security, differences between IORP and insurance supervision and diversity of IORP are indeed issues that justify a difference in treatment between insurers and IORPs.	See EFRP (4,194)

	Institutions (BVPI-		<p>BVPI-ABIP would also underline other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justify a difference in treatment.</p> <p>IORPs are not-for-profit and often have no staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,183.	BNP Paribas Cardif	54.	<p>The aim of the revised Directive must be to increase harmonization of practice and therefore result in reporting in a common format that would be both useful and comparable across Member States.</p> <p>BNP Paribas Cardif strongly disagrees with EIOPA's view on the fact that the differences of IORPs across Europe are much higher than in the insurance sector. According to EIOPA this diversity would justify a less ambitious prudential regime for IORPs. BNP Paribas Cardif rejects this idea and as regarding France, high level harmonized prudential rules (Solvency II framework) have been adopted by very different entities such as private insurance companies, mutual and cooperative insurers and paritarian institutions.</p>	See FFSA (4,179)
4,184.	BT Pension Scheme Management	54.	<p>We believe that these are core elements of differentiation between IORPs and insurers, but we would note further highly significant differences which we believe also need to be actively considered when assessing any application of</p>	<p>Agreed.</p> <p>Text amended to recognise differences</p>

	Ltd		<p>Solvency II standards to pensions:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the bulk of occupational pensions are provided on a non-profit, non-competitive basis, purely as an element of the wider employment relationship between the social partners. In this context, we do not believe that the EIOPA focus on a level playing field and fair competition is necessary or relevant. <input type="checkbox"/> the EIOPA focus on consumer protection is of limited relevance to IORPs which enjoy the benefit of a corporate sponsor and a pension protection scheme, since no matter what the performance of the pension scheme the benefits which the sponsor has promised under its employment contract with staff will be paid. Security is provided not so much by the solvency of the IORP but by the covenant provided by the sponsor, and even should the sponsor default, by the pension protection scheme. <input type="checkbox"/> the close involvement of the social partners in the governance of IORPs is also a striking difference with the insurance market: IORP beneficiaries enjoy a good deal of protection and benefit from the good sense of the member-nominated trustees and their equivalents. 	between insurers and IORPs.
4,185.	Bundesarbeitge bverband Chemie e.V. (BAVC)	54.	<p>We agree that the need to enhance benefit security differences between IORP and insurance supervision and diversity of IORP also require a different treatment of insurers and IORPs.</p> <p>The different roles and functions of IORPs and insurers should be reflected.</p>	Noted.
4,186.	BUSINESSEURO PE	54.		Noted.
4,187.	CEA	54.	<p>The CEA acknowledges that there are some differences between the various Member States in data availability and disclosure formats and comparability. However, as EIOPA correctly indicates in paragraph 14.3.16, these concerns are in relation to the current situation regarding IORPs across Member States. The aim of the revised Directive should be to increase harmonisation of practice and therefore result in reporting in a common format that would be both useful and comparable across Member States.</p>	Noted.

			In addition, the proportionality principle should be consistent for insurers and IORPs. Only where IORPs and insurers are not comparable, a different treatment should apply.	
4,188.	Charles CRONIN	54.	Yes, I agree that EIOPA has correctly identified the issues concerning the need to enhance benefit protection, the differences between insurance and IORP supervision, IORP diversity, and where there should be differences between insurance and IORPs on supervision and transparency and accountability.	Noted.
4,189.	Chris Barnard	54.	Yes, I agree that EIOPA has correctly identified the main issues. Given the small size of many IORPs, I would recommend that we should apply a proportionate approach here.	Noted.
4,190.	CMHF (Centrale van Middelbare en Hogere Functionar	54.	<p>Yes, the CMHF agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. The CMHF would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	See Federation of Dutch pension funds (4,197)
4,191.	De Unie (Vakorganisatie voor werk, inkomen en loop	54.	Yes, De Unie agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. De Unie would also point to other differences between IORPs and insurers:	See Federation of Dutch pension funds (4,197)

			<p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,192.	Ecie vie	54.	We do support harmonization and the principle: "same risk same rules".	Noted.
4,193.	European Association of Public Sector Pension Inst	54.	<p>In EAPSPI's opinion, EIOPA has correctly identified those issues and in particular the differences between IORPs and insurance undertakings. Additionally, EAPSPI would like to mention further distinctive features that differentiate institutions of the so-called "second" and "third" pillar as far as benefit security is concerned.</p> <p>IORPs have got specific inbuilt security mechanisms that ensure the solvency position of pension schemes. In some pension schemes, contributions and the main benefit parameters can be modified by the employers and the employees' representatives. Many pension schemes, especially of the public sector in the Netherlands, the Scandinavian countries or in Germany, foresee paritarian management. Paritarian management involves social partners in the Board of Directors of the IORP or in similar internal supervisory bodies. Due to paritarian representation, the interests both of the employers and of the employees and beneficiaries are well-balanced and the benefit security can therefore be ensured.</p> <p>Another element, which strengthens benefit security, is the long term</p>	Noted.

			<p>investment horizon of IORPs given that they uniquely administrate pensions. Therefore, long-term developments are more important than short term evolutions that have to be considered by other companies submitted under the Solvency II regime. And for DB- and hybrid DB-/DC-schemes, in at least some Member States, employers have the ultimate responsibility for the fulfilment of the pension promise as additional benefit security mechanism.</p> <p>Additionally to this responsibility for the fulfilment, many IORPs have the possibility to adjust the premium or benefit by threat to solvency. Hence, IORPs require less capital resources than life insurers with a bounded relation between premium and benefit. Particularly with regard to an interest rate scenario reduction, this adjustment mechanism institutes an adequate approach to "close" a potential duration gap. In contrast to insurance tariffs, business lines of IORPs have almost no embedded policy holder options. Consequently, speculation against the community of policyholders just as much the antiselection risk are negligible.</p>	
4,194.	European Federation for Retirement Provision (EFRP)	54.	<p>The need to enhance benefit security, differences between IORP and insurance supervision and diversity of IORP are indeed issues that justify a difference in treatment between insurers and IORPs.</p> <p>The EFRP would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the sponsor to back the pension promise, where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits",</p>	<p>Noted. See also BT (4,184)</p>

			<p>or to “diversify” activities, which is different from many (though not all) insurance companies.</p> <p>Unlike insurance companies, pension schemes meet their liabilities over the long term and in a reasonably predictable way.</p> <p>IORPs have a number of built-in flexibilities (for example, the potential to adjust benefits or contributions) that allow them to adjust to changing economic or demographic.</p> <p>Many IORPs target a certain level of pension provision, rather than providing an absolute guarantee of it.</p> <p>The different roles and functions of IORPs and insurers should be reflected in supervisory regulation.</p>	
4,195.	European Metalworkers Federation	54.	The present regulation is sufficient	Noted.
4,196.	European Mine, Chemical and Energy workers’ Fede	54.	The present regulation is sufficient	Noted.
4,197.	Federation of the Dutch Pension Funds	54.	<p>Yes, the PF agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. The PF would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social</p>	See EFRP (4,194)

			<p>partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,198.	Financial Reporting Council	54.	We have not considered this question.	Noted.
4,199.	FNV Bondgenoten	54.	<p>Yes, FNV BG agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. FNV BG would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	See Federation of Dutch pension funds (4,197)
4,200.	Generali vie	54.	We do support harmonization and the principle: "same risk same rules".	Noted.
4,201.	Groupement	54.	The aim of the revised Directive must be to increase harmonization of practice	See FFSA (4,179)

	Français des Bancassureurs		<p>and therefore result in reporting in a common format that would be both useful and comparable across Member States.</p> <p>FBIA strongly disagrees with EIOPA's view on the fact that the differences of IORPs across Europe are much higher than in the insurance sector. According to EIOPA this diversity would justify a less ambitious prudential regime for IORPs. FBIA rejects this idea and as regarding France, high level harmonized prudential rules (Solvency II framework) have been adopted by very different entities such as private insurance companies, mutual and cooperative insurers and paritarian institutions.</p>	
4,202.	PMT-PME-Mn Services	54.	<p>Yes, we agree with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. We would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	See Federation of Dutch pension funds (4,197)
4,203.	HM Treasury/Department for Work and Pensions	54.	See response to Q53	
4,204.	Institute and Faculty of	54.	<p>The issues EIOPA has identified are correct but incomplete:</p> <p><input type="checkbox"/> Firstly we would add that UK IORPs are not financial institutions in the</p>	<p>Noted.</p> <p>See also BT (4,184)</p>

	Actuaries (UK)		<p>same sense as banks and insurers, for whom the customer-provider relationship is commercial and contractual and, in particular, where customers choose between providers and need corresponding “consumer protection”. By contrast an IORP is part of the social security and employment framework delivering “deferred pay” and the member-provider relationship is fiduciary, which means the primary duty of those running the IORP is to act in the best interest of the members, not a third party, such as shareholders. This difference means that it is not clear that further “member protection” is required in order to achieve the same level of security.</p> <p><input type="checkbox"/> We would also point out that currently all UK retirement benefit provision by employers is voluntary, which means that it would be inappropriate to make any changes to the IORP Directive without assessing the likely impact on the adequacy of future provision.</p>	
4,205.	Le cercle des épargnants	54.	We do support harmonization and the principle: “same risk same rules”.	Noted.
4,206.	Macfarlanes LLP	54.	The issues have been correctly identified, although we would question whether there is actually a need to enhance benefit security given the extensive levels of protection already accorded to members and upgraded to the UK since the determination in <i>Robins v Secretary of State for Work and Pensions (2007) C-278/05</i> , and the need to address other policy objectives.	See AbA (4,171)
4,207.	Mercer	54.	<p>We do not agree that the object of all pension supervision should be to improve members’ benefit security: there is a point at which benefit security is sufficient and providing greater security can be counter productive. For example, if too onerous obligations are placed on one form of provision, providers will move to a different, less regulated form of provision, in which case member security is actually reduced.</p> <p>EIOPA should consider what an appropriate level of security for benefits is, taking into account all risks and how information, good governance and benefit design can be used to manage these risks, as well as financial measures.</p>	See AbA (4,171)

			<p>Although the level of security to target via the Directive is likely to be political decision, EIOPA and other parties involved in providing and regulating the financial products have a responsibility to make it clear that complete security of all financial products is not a realisable objective. The question of how security can be delivered does not appear to have been addressed at all in the consultation.</p> <p>Similarly, although the way administrative differences between IORPs and insurance companies should affect amendments to the drafting of Solvency II principles, before they can be translated into the IORP Directive, other more fundamental differences have not been addressed. In particular, IORPs often serve a social aim, by ensuring employees have access to incomes once they are too old to participate in labour markets. For this social aim to be met it is important that all types of employer are able to provide, and all types of employee are able to access, occupational pension provision. Otherwise, those most in need of employer sponsored retirement provision will be unable to access this form of saving and the social aspect of the IORP will be lost.</p> <p>Insurance companies are not part of a similar social contract: if regulation results in certain products being too expensive for some people to access, then they do not buy them, just as they do not buy other 'luxury' goods. Our view is that this model does not translate well to pension provision and that, certainly, some member states have established a relationship between state and employer sponsored provision that assumes that it will not translate.</p> <p>So, whilst we agree that at an administrative level EIOPA's draft response appears to recognise some differences between IORPs and insurers, we see no evidence that the more important differences have been considered.</p>	
4,208.	MHP (Vakcentrale)	54.	Yes, the MHP agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed	See Federation of Dutch pension funds (4,179)

	voor Middengroepen en Hoger Perso		<p>differences in supervision, transparency and accountability. The MHP would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,209.	National Association of Pension Funds (NAPF)	54.	<p>The NAPF agrees that these are key differences between IORPs and insurers.</p> <p>Further differences include the involvement of social partners in pension provision (for example through trade union representatives serving as member-nominated trustees), the role of trustees in general, and – crucially – the close involvement and support of the employer as sponsor of the scheme.</p> <p>Unlike insurance companies, IORPs are run on a not-for-profit basis.</p> <p>6. Work-based pension funds are social protection vehicles, not financial services enterprises. Unlike insurers and other financial institutions, they do not compete with each other to offer pensions to the public at large.</p> <p>7.</p> <p>8. There is a great diversity of pensions systems across Europe. Unlike other financial institutions whose 'products' are much more homogeneous (such as</p>	<p>Noted.</p> <p>See also BT (4,184)</p>

			banks and insurance companies), work-based pensions vary considerably across Member States. The tax rules that shape pension provision are also set at member state level. These factors make a 'one-size-fits-all' solution to security impossible to deliver. Moreover, the diversity of EU pension systems should be seen as strength - one that has helped insulate both pension systems and national economies from systemic risk. So the objective should be to develop a system that is flexible enough to deliver effective security for scheme members in each Member State, rather than to harmonise pension systems across the EU.	
4,210.	Pan-European Insurance Forum (PEIF)	54.	<p>EIOPA has identified correctly those issues where there should be differences between insurers and IORPs as regards supervision, transparency and accountability.</p> <p>Although different treatment is appropriate when the nature of the IORP and the risks they bear are different from the risks of an insurance company, where risks are identical the approach should be the same. However, we would like greater clarity on what verification on a continuous basis would in practice mean for IORPs.</p>	Noted.
4,211.	Pensioenfonds Zorg en Welzijn (PFZW)	54.	<p>Yes, PFZW agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. PFZW would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase "business" or "profits", or to "diversify" activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	See Federation of Dutch pension funds (4,179)

4,212.	Predica	54.	<p>The aim of the revised Directive must be to increase harmonization of practice and therefore result in reporting in a common format that would be both useful and comparable across Member States.</p> <p>Predica strongly disagrees with EIOPA's view on the fact that the differences of IORPs across Europe are much higher than in the insurance sector. According to EIOPA this diversity would justify a less ambitious prudential regime for IORPs. Predica rejects this idea and as regarding France, high level harmonized prudential rules (Solvency II framework) have been adopted by very different entities such as private insurance companies, mutual and cooperative insurers and paritarian institutions.</p>	See FFSA (4,179)
4,213.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	54.	<p>We find that the current proposals focus very strongly on quantitative supervisory instruments. Quantitative requirements have the advantage of simplifying supervision, since most red flags are unambiguously based on objective data. However, a risk of using quantitative requirements only is that the reporting framework is too restrictive to adequately reflect the specific situation of a pension fund. Most supervisory regimes therefore complement the quantitative instruments with qualitative instruments. An underpinning of the specificities of the IORP in order to mitigate supervisory actions is usually possible.</p> <p>The specific situation of a pension fund may be further identified using qualitative instruments. As mentioned, qualitative instruments may require more subjective judgment and interpretation than quantitative instruments the available to the supervisor. We identify the following qualitative instruments: the checklist, the self assessment, document sharing and disclosure requirements.</p> <p>* Checklist: With a broader use than mechanically checking the financial health of an IORP, a checklist approach can be a simple and effective way to quickly overview important elements. Especially for a supervisor, it is a good way to quickly overview a large amount of pension funds to gain insight in the overall status of the entire sector. Checklists are also suitable to cover governance, communication and risk management elements. Without further detail, 'yes or</p>	Noted.

			<p>no' questions can be the first stage before giving rise to additional information or discussion.</p> <p>* Self Assessment: (see also our responses to CfA 16) The most common principle based instrument for supervisors is to ask IORPs to periodically submit a self assessment for a specific area of management. An insightful example can be taken from the insurance sector, where insurers are periodically required to submit an Own Risk and Solvency Assessment. The ORSA is 'free form': an insurer has to show that appropriate risk controls are in place, regularly updated and are an integral part of the day to day business. An ORSA for IORPs would be adequate in reporting about non-standard situations since the way of reporting is left free.</p> <p>* Document Sharing: At first sight it might not seem an actual instrument for supervision, but many principles can easily be monitored by simply providing existing documentation: annual reports, websites or newsletters can be an important source for the pension funds to show how their communication policy works out in practice and whether it adheres to the desired standard. Since documentation is non-standardized, a qualitative approach needs to be followed.</p> <p>* Disclosure Requirements:</p> <p>Communication to participants is increasingly being recognized as an important factor to retain broad support for the pension sector, especially since financial and demographic developments have put pressure on pension agreements. Rules based requirements can ask all IORPs to periodically provide certain overviews to its participants, to provide more transparency in policy or policy adjustments or to communicate about relevant developments in the sector. As an illustration, Dutch pension funds are required to provide participants at least annually with an overview of their expected benefit at retirement. Also, specific communication requirements have been developed to provide information about the quality of the indexation policy.</p>	
4,214.	PTK (Sweden)	54.	The need to enhance benefit security, differences between IORP and insurance supervision and diversity of IORP are indeed issues that justify a difference in	See EFRP (4,194)

			<p>treatment between insurers and IORPs.</p> <p>PTK would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase “business” or “profits”, or to “diversify” activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,215.	Railways Pension Trustee Company Limited (“RPTCL	54.	We have not considered this question.	
4,216.	TCO	54.	<p>The need to enhance benefit security, differences between IORP and insurance supervision and diversity of IORP are indeed issues that justify a difference in treatment between insurers and IORPs.</p> <p>TCO would also point to other differences between IORPs and insurers:</p>	See EFRP (4,194)

			<p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase “business” or “profits”, or to “diversify” activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,217.	The Association of Pension Foundations (Finland)	54.	IORPs differ from insurance undertakings in many relation. Differences may justife different treatment. Both members and sponsors are repressed in governance body of IORP at least in Finland. IORP doesn't offer pension scheme benefits to public at large public and IORP is not organized to make profit for shareholders.	See BT (4,184)
4,218.	The Association of the Luxembourg Fund Industry (A)	54.	<p>Yes, EIOPA identified main differences between IORP and Insurance Supervision:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Proportionality principle is even more important for IORPs due to diversity of IORPs across Europe <input type="checkbox"/> Verification on a continuous basis may not be possible for certain IORPs <input type="checkbox"/> Degree to which disclosures can be made in a common format is limited considering diversity of IORPs. 	Noted.
4,219.	THE SOCIETY OF PENSION CONSULTANTS	54.	Paragraph 2.6.5 of the response identifies three key differences between IORPs and insurers which should impact on the level of supervision. The first of these is that, unlike insurers, IORPs have a social and employment context. A feature of	<p>Noted.</p> <p>See also BT (4,184)</p>

			<p>this is that legislation applicable to that area is applied to the IORP. For example, UK legislation on consulting employees on certain changes to their working terms and conditions extends to prescribed matters relating to their occupational pension schemes. Another feature is that the employers – as well as scheme members – are involved in the supervision and operation of the occupational scheme. More importantly, there is another (fourth) key difference which needs to be taken into account. This is where – as in the UK – the provision of an occupational pension scheme is voluntary on the part of the employer. Unlike an insurer – where adherence to a regulatory framework is a prerequisite of it operating its business – employers do not have to provide pension schemes for their workforce and submit to the associated regulatory burdens. They can run their businesses without these.</p> <p>The supervision of the activities of sponsor-backed occupational pension schemes and insurers therefore needs to reflect this fundamental difference. Whereas an intensive, continuous verification basis is a day-to-day accepted model of running an insurance business, it would be too burdensome for employers and would be likely to deter them from providing an occupational scheme.</p> <p>A major pillar of supervision in the UK is based on scheme managers, trustees, professional advisers and members reporting breaches to the Regulator. This incident-based approach, backed by legislation requiring reporting in prescribed circumstances, avoids day-to-day interference in the operation of the employer’s business.</p>	
4,220.	Towers Watson Deutschland GmbH	54.	<p>We believe that EIOPA has not holistically dealt with the differences between insurers and IORPs. As set out in our general comments, we believe that EIOPA has insufficiently taken account of the fundamental differences in business models, legal environments, diversity, risk profiles and the basic economics of IORPs. An in-depth understanding of the differences throughout Europe is</p>	Noted.

			essential before restructuring the supervision of IORPs.	
4,221.	Trades Union Congress (TUC)	54.	We agree that there are key differences between IORPs and insurers. In addition to the points listed, the TUC would cite the crucial role of lay trustees and member nominated trustees (MNTs), including trade union representatives as MNTs in the running of IORPs. The TUC would like to see fifty per cent member nominated trustees made a requirement in the running of trust-based pension schemes. The scheme sponsor also has a key role in the support of IORPs, and unlike insurance-based pension schemes they do so on a not-for-profit basis and do not have to pay returns to shareholders.	See BT (4,184)
4,222.	Transport for London / TfL Pension Fund	54.	In terms of supervision there are key differences between insurance companies and pension schemes. In particular there is the involvement of lay members and trade union representatives on the Trustee Board together with the role played by the sponsoring employer.	See BT (4,184)
4,223.	UK Association of Pension Lawyers	54.	As we have said elsewhere in this response, we consider that the application of Solvency II Directive principles to IORPs is invalid and therefore IORPs and insurers should not be treated in the same way.	Noted.
4,224.	UNI Europa	54.	The present regulation is sufficient.	Noted.
4,225.	Universities Superannuation Scheme (USS),	54.	<p>USS agrees that these are key differences between IORPs and insurers.</p> <p>Further significant differences include the involvement of social partners in pension provision (for example through trade union representatives serving as member-nominated trustees), the role of trustees in general, and – crucially – the close involvement and support of the employer as sponsor of the scheme. So pension funds have extensive and legally binding commitments from their providers of funds.</p> <p>Unlike insurance companies, IORPs are run on a not-for-profit basis. Furthermore, the Types of risk covered are fundamentally different. Insurers can</p>	See NAPF (4,209)

			<p>cover the possibility of catastrophic and unpredictable events (for example, a natural disaster such as a flood or hurricane) whereas a pension fund aims to provide an individual with income in retirement (covering risks such as longevity, salary increases, and poor investment performance). As such the insurer could be exposed to significant, one off claims at any point in time from a large number of policy holders so will need to have sufficient capital to cover this.</p> <p>Work-based pension funds are social protection vehicles, not financial services enterprises. Unlike insurers and other financial institutions, they do not compete with each other to offer pensions to the public at large.</p> <p>There is a great diversity of pensions systems across Europe. Unlike other financial institutions whose 'products' are much more homogeneous (such as banks and insurance companies), work-based pensions vary considerably across Member States. The tax rules that shape pension provision is also set at member state level. These factors make a 'one-size-fits-all' solution to security impossible to deliver. Moreover, the diversity of EU pension systems should be seen as strength - one that has helped insulate both pension systems and national economies from systemic risk. So the objective should be to develop a system that is flexible enough to deliver effective security for scheme members in each Member State, rather than to attempt to harmonise pension systems across the EU.</p>	
4,226.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	54.	<p>Yes, the VHP2 agrees with the need to enhance benefit security. Differences between IORP and insurance supervision and diversity of IORP allow indeed differences in supervision, transparency and accountability. The VHP2 would also point to other differences between IORPs and insurers:</p> <p>The governance structure justifies different treatment: the involvement of social partners, the role of trustees (and/or persons carrying out similar fiduciary responsibilities) and the backing of the employer where IORPs are concerned</p>	See Federation of Dutch pension funds (4,179)

			<p>justifies a difference in treatment.</p> <p>IORPs are not-for-profit and often have no or very few members of staff, and no shareholders. There is therefore no incentive to increase “business” or “profits”, or to “diversify” activities, which is different from many (though not all) insurance companies.</p> <p>The different roles and functions of IORPs and insurers should be reflected in regulation.</p>	
4,227.	Whitbread Group PLC	54.	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.
4,228.	Zusatzversorgungskasse des Baugewerbes AG	54.	<p>72. EIOPA has correctly assessed the impact of an adoption of the material elements of the Solvency II requirements in respect of the general principles of supervision, and in relation to transparency and accountability to IORPs.</p> <p>73. Concerning the transparency rules we would like EIOPA to take potential additional burdens for IORPs stemming from supervisor curiosity into account. These should be limited because every excessive transparency could diminish the value of the pension scheme.</p>	See AEIP (4,173)
4,229.	Towers Watson	54.	<p>Paragraphs 2.6.5 to 2.6.7 of the consultation document identify three key differences between IORPs and insurers which should impact on the level of supervision.</p> <p>The first of these is that, unlike insurers, IORPs have a social and employment context. A feature of this is that social and employment legislation is applied to the IORP. This adds key aspects of ‘member protection’ that are not present in the insurer/policyholder relationship. Critical here is the fact that the Solvency II Directive (and the Level 2 and 3 regulation/guidance made under it) is a standalone piece of legislation that covers the supervision of insurers and, to an extent, the relationship between insurers and policyholders. Whilst IORPs are subject to supervision of their operations much of the substance of what they do is subject to separate social/employment legislation covering the negotiations between the sponsor and the membership. For example, UK legislation on</p>	<p>Noted.</p> <p>See also BT (4,184)</p>

		<p>consulting employees on certain changes to their working terms and conditions extends to prescribed matters relating to their occupational pension schemes. Another feature is that the employers – as well as scheme members – are involved in the supervision and operation of the occupational scheme – both parties typically participating in management boards (albeit, in the UK, the ‘trustees’ take on a separate, independent and non-partisan role).</p> <p>The importance of the difference in the ‘fiduciary’ roles of the management/trustee body and that of a contractual situation between policyholders and insurers should not be underestimated. As recognised in the first IORP Directive there is legal separation between the IORP and the sponsoring undertaking. In the UK and Ireland centuries of ‘Trust Law’ have established that the trustee body has to act in the interests of the members and beneficiaries – although, in the context, the sponsoring undertaking can also be considered to be a contingent beneficiary. This is quite different from the structure of most insurance undertakings.</p> <p>We agree with the second and third differences outlined in paras 2.6.6 and 2.6.7. However, the differences between insurers and IORPs are not limited to these three. More importantly, there is another key difference which needs to be taken into account. This is where – as in the UK – the provision of an occupational pension scheme is voluntary on the part of the employer. Unlike an insurer – where adherence to a regulatory framework is a prerequisite of it operating its business – employers do not have to provide pension schemes for their workforce and submit to the associated regulatory burdens. They can run their businesses without these.</p> <p>The supervision of the activities of sponsor-backed IORPs and insurers therefore needs to reflect this fundamental difference. Whereas an intensive, continuous verification basis is a day-to-day accepted model of running an insurance business, it would be too burdensome for employers and would be likely to deter them from providing an occupational scheme.</p> <p>A major pillar of supervision in the UK is based on scheme managers, trustees, professional advisers and members reporting breaches to the Regulator. This</p>	
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			incident-based approach, backed by legislation requiring reporting in prescribed circumstances, avoids day-to-day interference in the operation of the employer's business.	
4,230.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	55.	<p>The OPSG understands the possible benefits of EU-wide stress tests, since many supervisory authorities already conduct stress tests on a national level.</p> <p>Stress tests allow improving knowledge of the risks by supervisors, IORPs and their stakeholders. This provides an effective basis for supervisors and IORPs to take proactive measures.</p> <p>Against this background, we believe that Art. 34.4 of the Solvency II Directive provides a good basis for developing necessary tools to test the financial situation of IORPs.</p> <p>As already laid down in CfA EC n\167 9 the OPSG would also back EIOPA's concerns on the costs arising from additional administrative burdens.</p> <p>On the one hand, the OPSG agrees with EIOPA that effective administrative sanctions are part of a good governance of the supervisory authority (15.3.10). On the other hand, the OPSG is concerned about reinforcing the sanction regime for IORPs and the resulting costs for IORPs and beneficiaries. We believe that further analysis is needed here.</p> <p>In terms of publishing of penalties imposed the OPSG records different opinions. On the one hand, the OPSG does recognize that the publishing of penalties imposed could positively contribute to a better transparency for beneficiaries. On the other hand, a number of OPSG members are concerned that publishing of penalties imposed could have major negative impacts not only on the IORPs themselves but also on the sponsoring undertaking, thereby counterproductively affecting the business of the sponsoring undertaking and consequently the sponsor covenant.</p> <p>However, the OPSG can recommend that penalties would be made public as a</p>	Noted.

			<p>matter of transparency.</p> <p>The OPSG supports EIOPA's proposal for further analysis to identify if there is a case for a harmonised approach.</p> <p>We believe that IORPs should have one single Home supervisor in the home state. The host member state's competent authority should thereby supervise the activities of the IORP via cooperation with the Home supervisor.</p>	
4,231.	AbA Arbeitsgemeinsc haft für betriebliche Altersver	55.	<p>No. Stress tests are an important component of the ALM process but not as a supervisory tool at the individual IORP level. For the IORP it is important to know how the scheme will develop if the long-term valuation assumptions are significantly under- or overestimated for at least part of the estimation period. The results of this exercise will influence the strategic asset allocation. It must be noted in this context that by law lump-sum payments for example by cancellation of employers or employees are more or less minor exceptions for German IORPs.</p> <p>The system of stress-testing as we know it from the insurance industry is not relevant for IORPs as the investment horizon of IORPs is more than one year, IORPs have sponsor backing and funding targets make allowance for recovery periods. Insurance style stress tests will only serve to promote pro-cyclicality.</p> <p>At the macro level, stress testing can be useful for gauging the potential for systemic risk.</p>	Noted.
4,232.	ABVAKABO FNV	55.	<p>The PF agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive of the material elements from article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>The PF is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in</p>	See EFRP (4,257)

			<p>Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	
4,233.	AEIP	55.	<p>110. We think that supervisors have already this power to ask for stress tests under the current IORP Directive.</p> <p>AEIP wants to underline again that the operation of an IORP is fundamentally different from an insurance company. As a consequence we believe that if a supervisor considers it necessary to have a stress test conducted by the IORP, it should be a tailor made stress test wich takes in consideration all the particular characteristics of an IORP as well as the principle of proportionality.</p>	Noted.
4,234.	AFPEN (France)	55.	<p>147. AFPEN is of the opinion that supervisory authorities should also have powers to require IORPs to conduct stress tests. However, any EU rules in this field should only contain basic principles because of the uncontested divergences in the calculation of liabilities and others, which are typical for the European occupational pension landscape and which have prevented EIOPA to conduct an EU-wide stress-test on all IOPRs.</p> <p>148. Before discussing the introduction of any EU wide regulation in this field, AFPEN suggests that EIOPA analyses thoroughly the different national supervisory approaches to stress testing as mentioned in 15.2.6 and 15.2.7. Even though half of the participating countries have apparently not introduced such a procedure, AFPEN proposes that EIOPA considers whether the reasons for a lack of national regulation in this field might also apply for any EU-wide rules.</p> <p>149. Especially because of the diversity of the pension funds in the EU Member States, AFPEN is also in line with EIOPA's findings in 15.3.5 according to which the principle of proportionality has definitely to be taken into consideration because of the wide diversity of pension funds in size, type of pension benefits, level of capital cover, restructuring options and the level of risk-taking. Hence, AFPEN endorses EIOPA's suggestion to integrate explicitly the principle of</p>	Noted.

			proportionality and diversity of business lines in any future regulation for stress tests for clarification purpose.	
4,236.	AMONIS OFP	55.	<p>No. We think that supervisors have already this power to ask for stress tests under the current IORP Directive.</p> <p>AMONIS OFP underlines that the vehicle/function/structure of an IORP is fundamentally different from an insurance company; therefore AMONIS OFP considers that if the regulator considers it necessary to conduct a stress test on IORP's this has to be a tailor made stress test which takes in consideration all the particular characteristics of an IORP as well as the principle of proportionality.</p>	Noted.
4,237.	ANIA – Association of Italian Insurers	55.	The ANIA believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs. Furthermore, although there is some overlap between the provisions of Art. 13 and 14 of the IORP Directive and the remaining provisions of Article 34 of the Solvency II Directive, all provisions of the latter Article should apply to IORPs directly for consistency reasons. This applies in particular to the proportionality of supervisory powers supervision of outsourced activities as stated in Art. 34(6) and 34(7) respectively.	Noted.
4,238.	Association of British Insurers	55.	<p>Yes, for DB schemes. The ABI believes EIOPA correctly points out the diversity in size, type of benefits managed, and the level of risk taking that exist within IORPs and therefore the principle of proportionality should be applied both EU wide and within Member States.</p> <p>The ABI does not believe stress tests are appropriate for DC schemes and therefore should be exempted.</p>	Noted.
4,239.	Association of Consulting Actuaries (UK)	55.	We agree that the above recommendations are sensible, as long as additional burdens on IORPs are avoided/minimised in the normal course of events.	Noted.
4,240.	Association of French Insurers (FFSA)	55.	The FFSA believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs.	Noted.

4,241.	Assoprevidenza – Italian Association for supplement	55.	We think that supervisors have already this power, under current IORP Directive. If a supervisor considers it necessary to have a stress test conducted by the IORP, it should be a tailor made stress test which takes in consideration all the particular characteristics of an IORP as well as the principle of proportionality.	Noted.
4,242.	Assuralia	55.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,243.	Belgian Association of Pension Institutions (BVPI-	55.	No. We think that supervisors have already this power to ask for stress tests under the current IORP Directive BVPI-ABIP underlines that the vehicle/function/structure of an IORP is fundamentally different from an insurance company; therefore BVPI-ABIP considers that if the regulator considers it necessary to conduct a stress test on IORPs this has to be a tailor made stress test which takes in consideration all the particular characteristics of an IORP as well as the principle of proportionality.	Noted.
4,244.	BNP Paribas Cardif	55.	BNP Paribas Cardif believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs.	Noted.
4,245.	Bosch Pensionsfonds AG	55.	The system of stress-testing applicable to the insurance industry is not suitable and not proportionate for IORPs. They have a longer investment horizon, employer backing and funding targets make allowance for recovery periods. Additionally, insurance style stress tests would promote pro-cyclicality.	Noted.
4,246.	Bosch-Group	55.	The system of stress-testing applicable to the insurance industry is not suitable and not proportionate for IORPs. They have a longer investment horizon, employer backing and funding targets make allowance for recovery periods. Additionally, insurance style stress tests would promote pro-cyclicality.	Noted.

4,247.	BT Pension Scheme Management Ltd	55.	We believe that it may be appropriate to grant supervisory authorities the power to require stress tests, but we would note that these should only be required in practice when the markets are facing significant stresses as otherwise the cost burden of the stress tests is likely to be wholly unwarranted.	Noted.
4,248.	CEA	55.	The CEA believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs. Furthermore, although there is some overlap between the provisions of Art. 13 and 14 of the IORP Directive and the remaining provisions of Article 34 of the Solvency II Directive, all provisions of the latter Article should apply to IORPs directly for consistency reasons. This applies in particular to the proportionality of supervisory powers and supervision of outsourced activities as stated in Art. 34(6) and 34(7) respectively.	Noted.
4,249.	Charles CRONIN	55.	Yes, I agree with the recommendation that supervisory authorities should have broadly the same powers to require IORPs to conduct stress tests as it has in respect of insurers. However with 140k IORPs allegedly in existence it seems that the supervisor's ability to effectively monitor a significant sample of IORPs will be problematic. The situation calls for standardised reporting at the very least at national level, but preferably at an EU level to allow electronic entry, coupled with computer driven risk enquiry to minimise the cost of effective supervision.	Noted.
4,250.	Chris Barnard	55.	I believe that it is reasonable that Supervisory authorities should have broadly the same powers to require IORPs to conduct stress tests as they have in respect of insurers. Such powers should be applied reasonably and should be exercised proportionately.	Noted.
4,251.	CMHF (Centrale van Middelbare en Hogere Functionar	55.	The CMHF agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation. The CMHF is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.	See EFRP (4,257)

			<p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	
4,252.	De Unie (Vakorganisatie voor werk, inkomen en loop)	55.	<p>De Unie agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>De Unie is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	See EFRP (4,257)
4,253.	Direction Générale du Trésor, Ministère des financ	55.	Yes we agree.	Noted.
4,254.	Ecie vie	55.	Yes	Noted.
4,255.	EFI (European Federation of Investors)	55.	Yes we agree.	Noted.
4,256.	European Association of Public Sector Pension Inst	55.	EAPSPI is of the opinion that supervisory authorities should also have powers to require IORPs to conduct stress tests. However, any EU rules in this field should only contain basic principles because of the uncontested divergences in the calculation of liabilities and others, which are typical for the European occupational pension landscape and which have prevented EIOPA to conduct an EU-wide stress-test on all IOPRs.	Noted.

			<p>Before discussing the introduction of any EU wide regulation in this field, EAPSPI suggests that EIOPA analyses thoroughly the different national supervisory approaches to stress testing as mentioned in 15.2.6 and 15.2.7. Even though half of the participating countries have apparently not introduced such a procedure, EAPSPI proposes that EIOPA considers whether the reasons for a lack of national regulation in this field might also apply for any EU-wide rules.</p> <p>Especially because of the diversity of the pension funds in the EU Member States, EAPSPI is also in line with EIOPA's findings in 15.3.5 according to which the principle of proportionality has definitely to be taken into consideration because of the wide diversity of pension funds in size, type of pension benefits, level of capital cover, restructuring options and the level of risk-taking. Hence, EAPSPI endorses EIOPA's suggestion to integrate explicitly the principle of proportionality and diversity of business lines in any future regulation for stress tests for clarification purpose.</p>	
4,257.	European Federation for Retirement Provision (EFRP)	55.	<p>The EFRP agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive of the material elements from article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>The EFRP supports tailor-made stress tests for IORPs, which take into account their specificities.</p> <p>The EFRP is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p>	Noted.

			Beneficiaries risk having to pay the price, whereas they are the ones who deserve protection. Further analysis is therefore needed.	
4,258.	European Metalworkers Federation	55.	Supervisors already have the power to ask for stress tests under the current IORP Directive. EMF wants to underline again that the operation of an IORP is fundamentally different from an insurance company. As a consequence we believe that if a supervisor considers it necessary to have a stress test conducted by the IORP, it should be a tailor-made stress test which takes into consideration all the particular characteristics of an IORP as well as the principle of proportionality.	Noted.
4,259.	European Mine, Chemical and Energy workers' Fede	55.	Supervisors already have the power to ask for stress tests under the current IORP Directive. EMCEF wants to underline again that the operation of an IORP is fundamentally different from an insurance company. As a consequence we believe that if a supervisor considers it necessary to have a stress test conducted by the IORP, it should be a tailor-made stress test which takes into consideration all the particular characteristics of an IORP as well as the principle of proportionality.	Noted.
4,260.	FAIDER (Fédération des Associations Indépendantes)	55.	Yes we agree.	Noted.
4,261.	Federation of the Dutch Pension Funds	55.	The PF agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation. The PF is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in	See EFRP (4,257)

			<p>Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	
4,262.	Financial Reporting Council	55.	<p>Stress tests are helpful to governing bodies and employers sponsoring IORPs as well as supervisors. However, tests need to be proportionate and appropriate for specific circumstances. The wide range of circumstances makes it difficult to specify a test which can be performed uniformly. So it might be preferable to allow local regions to specify the stress tests or to adopt a principles based approach.</p>	Noted.
4,263.	FNV Bondgenoten	55.	<p>FNV BG agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive of the material elements from article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>FNV BG is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	See EFRP (4,257)
4,264.	Generali vie	55.	Yes	Noted.
4,265.	Groupe Consultatif Actuariel Européen.	55.	<p>We note that EIOPA has the obligation to develop EU wide stress tests for IORPs, as well as for insurance undertakings. We strongly support EIOPA's comments regarding the importance of proportionality given the large number of small IORPs for whom the cost of carrying out such stress testing could be excessive.</p> <p>We consider that the detail of the stress tests to be undertaken be left to each Member State, subject to high level principles established by EIOPA, and we would support the inclusion in a revised IORP Directive of text similar to that in</p>	Noted.

			Article 34(4) of the Solvency II Framework Directive, suitably amended to allow for the specificities of IORPs.	
4,266.	Groupement Français des Bancassureurs	55.	FBIA believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs.	Noted.
4,267.	PMT-PME-Mn Services	55.	<p>We agree that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>We are not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	Noted.
4,268.	HM Treasury/Department for Work and Pensions	55.	<p>Whilst we accept the important role that stress testing plays in terms of certain financial institutions, including insurance firms, we do not consider that stress testing per se is applicable to IORPs. The current technical provisions requirements in Article 15 of the IORP Directive, and investment requirements in Article 18 of that Directive have proved robust and flexible enough to deal with recent economic trends, recognising that pension schemes are very long-term undertakings. Requiring stress-testing along the lines of banking and insurance would effectively treat IORPs as going concerns that are at risk of insolvency, forced sale of assets, or significant capital raising, under certain economic or market scenarios. However, this misses the purpose and status of IORPs as vehicles by which the employer carries out its pensions promise. They are not trading bodies. Furthermore, the existence of long recovery periods means that short-term stresses will not create any risk for IORPs. Stress-testing would therefore at worst demonstrate that an IORP would require a long recovery plan.</p>	<p>Noted.</p> <p>Article 23 of the EIOPA Regulation requires EIOPA to develop EU-wide stress tests on IORPs.</p>

			We therefore strongly disagree that authorities should have the powers to carry out stress tests on IORPs.	
4,269.	Institute and Faculty of Actuaries (UK)	55.	We agree that supervisory authorities should have powers to require IORPs to conduct stress tests but such tests can be expensive and for small IORPs the idiosyncratic risk is proportionately higher than for similar large IORPs. For both these reasons there needs to be appropriate checks and balances on such powers to ensure that they are not used in a way that would result in small IORPs having reduced benefit security and/or benefit levels for members: i.e. the nature of the tests and the frequency of testing needs to be proportionate.	Noted.
4,270.	Le cercle des épargnants	55.	Yes	Noted.
4,271.	Macfarlanes LLP	55.	No	Noted.
4,272.	Mercer	55.	The answer depends on how the information will be used and the requirement would need to be applied proportionately. We agree that stress testing gives rise to useful information: for example, where an IORP has no recourse to the employer covenant, then stress testing could be useful information for indicating the likelihood that conditional benefits might have to be reduced; where an IORP does have recourse to the employer covenant, then it can help it understand the extent to which, for example, investment risk is correlated with risk that the employer covenant will fail. So stress testing would enable supervisory authorities to consider whether IORPs need to take additional steps in relation to their risk management policies or disclosures to members. However, because IORPs have limited ability to demand additional funds from external sources, we do not see the usefulness of a test that triggers this requirement.	Noted.
4,273.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	55.	The MHP agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.	See EFRP (4,257)

			<p>The MHP is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	
4,274.	National Association of Pension Funds (NAPF)	55.	<p>The NAPF is not opposed in principle to giving EIOPA and national regulators powers to conduct stress tests of IORPs. However, it is vital that these tests do not add a major additional administrative or cost burden.</p> <p>NAPF urges EIOPA to conduct an impact assessment on this measure before including it in its final advice to the EC.</p>	Noted.
4,276.	Pan-European Insurance Forum (PEIF)	55.	Agree, with due respect to the principle of proportionality.	Noted.
4,277.	Pensioenfondsen Zorg en Welzijn (PFZW)	55.	<p>PFZW agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>PFZW is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	See EFRP (4,257)
4,278.	Predica	55.	Predica believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs.	Noted.

4,279.	PTK (Sweden)	55.	<p>PTK agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive of the material elements from article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>PTK supports tailor-made stress tests for IORPs, which take into account their specificities.</p> <p>PTK is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Beneficiaries run the risk of having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	See EFRP (4,257)
4,280.	Railways Pension Trustee Company Limited ("RPTCL)	55.	Stress tests can be expensive to carry out, so any stress tests would need to be proportionate to the size of the IORP.	Noted.
4,282.	TCO	55.	<p>TCO agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive of the material elements from article 34(4) of Solvency II. This should however be subject to proportionality. The proportionality principles should be laid out in level 1 regulation.</p> <p>TCO supports tailor-made stress tests for IORPs, which take into account their specificities.</p>	See EFRP (4,257)

			<p>TCO is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Beneficiaries run the risk of having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	
4,283.	Tesco PLC	55.	We don't object to this on principle – but it needs to be used appropriately given the cost of the test to the sponsoring employer. The use of the outcome from these tests will differ from when they're applied to insurance companies as the sponsor has the ability to meet any strains showing in the test over the long term (unlike an insurance company).	Noted.
4,284.	The Association of Pension Foundations (Finland)	55.	The principle of proportionality should be stressed and laid down in level I regulation.	Noted.
4,285.	The Association of the Luxembourg Fund Industry (A)	55.	Stress testing is already possible under the current legislation. The Respondents would prefer Option 1.	Noted.
4,286.	THE SOCIETY OF PENSION CONSULTANTS	55.	We agree, with the principle of proportionality being applied so that the national supervisory authority can decide the appropriate level and frequency of testing, in particular having regard to cost and employer time involved in collecting data to carry out testing.	Noted.

4,287.	Towers Watson Deutschland GmbH	55.	We agree with EiOPA that supervisory authorities should have “broadly” the same powers as it has in respect of insurers. We probably understand “broadly” here to be wider in scope than EIOPA understands it: We believe that, in particular, proportionality, subsidiarity and the consequences of IORPs’ characteristics should be taken into account.	Noted.
4,288.	Transport for London / TfL Pension Fund	55.	We are concerned that introducing additional tests will involve significant additional cost and administrative burdens.	Noted.
4,289.	UK Association of Pension Lawyers	55.	We support option 1: do not change the current IORP Directive.	Noted.
4,290.	UNI Europa	55.	Supervisors already have the power to ask for stress tests under the current IORP Directive. UNI Europa would like to underline again that the operation of an IORP is fundamentally different from an insurance company. As a consequence we believe that if a supervisor considers it necessary to have a stress test conducted by the IORP, it should be a tailor-made stress test which takes into consideration all the particular characteristics of an IORP as well as the principle of proportionality.	Noted.
4,291.	Universities Superannuation Scheme (USS),	55.	USS is not opposed in principle to giving EIOPA and national regulators powers to conduct stress tests of IORPs. However, it is vital that these tests do not add a major additional administrative or cost burden. USS urges EIOPA to conduct an impact assessment on this measure before including it in its final advice to the EC.	Noted.
4,292.	VHP2 (Vakorganisatie voor middelbaar	55.	The VHP2 agrees that stress testing could be introduced for IORPs through inclusion into the IORP Directive the material elements of article 34(4) of Solvency II. This should however be subject to proportionality. The	See EFRP (4,257)

	en hoger pers		<p>proportionality principles should be laid out in level 1 regulation.</p> <p>The VHP2 is not convinced that Article 36 of Regulation 1060/2009 (Credit rating agencies) is an appropriate basis for reinforcing the sanctioning regimes in Member States.</p> <p>Stakeholders risk having to pay the price, whereas they are the ones who deserve protection.</p> <p>Further analysis is therefore needed.</p>	
4,293.	Whitbread Group PLC	55.	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.
4,294.	Zusatzversorgungskasse des Baugewerbes AG	55.	<p>74. We think that supervisors have already the power to ask for stress tests under the current IORP directive.</p> <p>75. Due to the diversity of IORPs it is important that if a supervisor considers it necessary to have a stress test conducted by the IORP, this should be a tailor-made stress test which takes into account the particular characteristics of an IORP as well as the principle of proportionality.</p>	Noted.
4,295.	Towers Watson	55.	<p>In principle, yes – we agree that supervisors should have powers to require IORPs to carry out stress tests. However, the scale and complexity of such tests should be appropriate to the size and resources of IORPs. Stress tests should also be capable of adaptation so that smaller IORPs are not affected disproportionately</p> <p>Given the above, it is essential that any provision of powers to the supervisory authorities are such that it is they who can decide whether and, if so, when and how stress tests should be undertaken.</p>	Noted.
4,296.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	56.	See question 55	Noted.

4,297.	AbA Arbeitsgemeinsc haft für betriebliche Altersver	56.	<p>We believe that Article 14(2) is perfectly adequate in conveying the appropriate powers to supervisors to impose sanctions.</p> <p>Any sanctions regime for IORPs needs to take into account that</p> <ul style="list-style-type: none"> - prudential regulation is only one part of a web of interacting regulations that govern the security of pension benefits - IORPs are not financial services entities comparable to banks and insurance companies, f.i. due to the close link with the sponsoring employer - the long term nature of IORPs - financial sanctions will ultimately be borne by the members, given that IORPs generally cannot raise capital. <p>As a result, we believe it would be inappropriate to harmonise a sanctions regime across banks, insurers and IORPs.</p>	Noted.
4,298.	ABVAKABO FNV	56.	The PF is opposed to reinforcing the sanctions regime for IORPs. The PF would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,299.	AEIP	56.	AEIP thinks that it is not needed to reinforce the sanctions regime for IORPs. A tight follow up can be an effective support to a principle based supervisory regime. We oppose however administrative penalties.	Noted.
4,300.	AFPEN (France)	56.	AFPEN is not of the opinion that the sanction regime should be enforced. AFPEN has not seen any evidence of severe irregularities of pension institution in the recent past that would require enhanced sanctions beyond the current rules in the IORP Directive. AFPEN furthermore believes that the sanctions in Art. 36 of the Regulation 1060/2009 are not appropriate for pension institutions since that Regulation applies to rating agencies whose activities are not comparable with those of IORPs.	Noted.
4,302.	AMONIS OFP	56.	AMONIS OFP thinks that it is not needed to reinforce the sanctions regime for IORPs. A tight follow up can be an effective support to a principle based	See AEIP (4,299)

			supervisory regime. We oppose however administrative penalties	
4,303.	ANIA – Association of Italian Insurers	56.	The ANIA strongly disagrees on using article 36 as a starting point. It is unclear, why the Commission is taking Art. 36 of Regulation No 1060/2009 on credit rating agencies as a starting point for the provisions on administrative sanctions. To ensure a level playing field, equivalent provisions should be sought in the Solvency II Framework Directive in articles 155(3) – 155(6).	See CEA (4,312)
4,304.	Association of British Insurers	56.	Yes, the ABI believes this is appropriate.	Noted.
4,305.	Association of French Insurers (FFSA)	56.	The FFSA agrees on using article 36 as a starting point.	Noted.
4,306.	Assoprevidenza – Italian Association for supplement	56.	NO	Noted.
4,307.	Assuralia	56.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,308.	Belgian Association of Pension Institutions (BVPI-	56.	BVPI-ABIP thinks that it is not needed to reinforce the sanctions regime for IORPs. A tight follow up can be an effective support to a principle based supervisory regime. We oppose however administrative penalties	See AEIP (4,299)
4,309.	BNP Paribas Cardif	56.	BNP Paribas Cardif agrees on using article 36 as a starting point.	Noted.
4,310.	BT Pension	56.	Without knowing the likely nature and scale of any sanctioning powers to be	Noted.

	Scheme Management Ltd		awarded to supervisory authorities, we find it impossible to express a view on whether granting such powers would be warranted or not. We would welcome greater clarity, and believe EIOPA will also need such clarity in order to consider its impact assessment in this regard.	
4,311.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	56.	BAVC is opposed to reinforcing the sanctions regime for IORPs.	Noted.
4,312.	CEA	56.	The CEA strongly disagrees on using article 36 as a starting point. It is unclear, why the Commission is taking Art. 36 of Regulation No 1060/2009 on credit rating agencies as a starting point for the provisions on administrative sanctions. To ensure a level playing field, equivalent provisions should be sought in the Solvency II Framework Directive in articles 155(3) – 155(6).	Noted.
4,313.	Charles CRONIN	56.	Yes, I agree with the measures to reinforce the sanctions regime for IORPs using regulation No. 1060/2009 for credit rating agencies as the basis for the new standard.	Noted.
4,314.	Chris Barnard	56.	Yes. I agree with reinforcing the sanctioning regime for IORPs. An effective sanctioning regime should be proportionate and dissuasive. (As an aside, I would like to see more encouragement and protection for whistleblowers alongside an effective sanctioning regime.)	Noted.
4,315.	CMHF (Centrale van Middelbare en Hogere Functionar	56.	The CMHF is opposed to reinforcing the sanctions regime for IORPs. The CMHF would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,316.	De Unie (Vakorganisatie voor werk, inkomen en loop	56.	De Unie is opposed to reinforcing the sanctions regime for IORPs. De Unie would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)

4,317.	Direction Générale du Trésor, Ministère des financ	56.	Yes we agree.	Noted.
4,318.	Ecie vie	56.	Yes	Noted.
4,319.	EFI (European Federation of Investors)	56.	Yes we agree.	Noted.
4,320.	European Association of Public Sector Pension Inst	56.	EAPSPI is not of the opinion that the sanction regime should be enforced. EAPSPI has not seen any evidence of severe irregularities of pension institution in the recent past that would require enhanced sanctions beyond the current rules in the IORP Directive.	Noted.
4,321.	European Federation for Retirement Provision (EFRP)	56.	The EFRP is opposed to reinforcing the sanctions regime for IORPs. The EFRP would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	Noted.
4,322.	FAIDER (Fédération des Associations Indépendantes)	56.	Yes we agree.	Noted.
4,323.	Federation of the Dutch Pension Funds	56.	The PF is opposed to reinforcing the sanctions regime for IORPs. The PF would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,324.	Financial Reporting Council	56.	Sanctions against IORPs may penalise members reducing amounts available to meet retirement benefits. We agree that further analysis should be conducted to see if there is any need for harmonisation of sanctioning regimes.	Noted.

4,325.	FNV Bondgenoten	56.	FNV BG is opposed to reinforcing the sanctions regime for IORPs. FNV BG would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,326.	Generali vie	56.	Yes	Noted.
4,327.	Groupement Français des Bancassureurs	56.	FBIA agrees on using article 36 as a starting point.	Noted.
4,328.	PMT-PME-Mn Services	56.	We are opposed to reinforcing the sanctions regime for IORPs. We would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,329.	HM Treasury/Department for Work and Pensions	56.	We note that the current IORP Directive has no provisions for a sanctions regime. The UK Government agrees that the general supervisory power at Article 34(2) of the Solvency II Directive provides a suitable starting point, although in accordance with the principles of subsidiarity, we see no purpose in a common sanctioning regime across the EU, other than perhaps for schemes that operate across borders.	Noted.
4,330.	Institute and Faculty of Actuaries (UK)	56.	<p>We believe that the sanctions available to the UK regulator are already adequate. However we question whether the conditions that need to be satisfied for those sanctions to be imposed are sufficiently well-defined and, if so, whether they are appropriate.</p> <p>Any powers to impose sanctions should be subject to appropriate checks and balances. Particular care is required for financial sanctions to the extent that they would reduce the resources available to satisfy benefit obligations. In general sanctions should be timely, proportionate, meaningful, consistent and transparent.</p>	Noted.
4,331.	Le cercle des épargnants	56.	Yes	Noted.
4,332.	Macfarlanes LLP	56.	No. The approach suggested is wholly out of balance with regard to the need for	Noted.

			member security and the health of the employer which (voluntarily in most cases) provides pension benefits. The principal risk for members' benefits in a UK defined benefit IORPs is the risk of weakening the employer by unnecessary additional costs or unnecessary acceleration of funding liabilities and the ultimate insolvency of the employer. A failure to manage this balance is therefore likely to damage the interests of the members. It will also reduce, not enhance, pension provision.	
4,333.	Mercer	56.	We do not believe a case has been made in the consultation document for this. Member states already have sanctions in place if IORPs are not managed in accordance with local legislation, which includes measures taken to implement the requirements under the IORP Directive. There seems to be no evidence that these provisions are inadequate, so no need for them to be strengthened.	Noted.
4,334.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	56.	The MHP is opposed to reinforcing the sanctions regime for IORPs. The MHP would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,335.	National Association of Pension Funds (NAPF)	56.	The NAPF agrees with EIOPA's advice that there is still lack of research in this area. Until there is a clearer evidence basis – and a clearer understanding of how any sanctions would be implemented, the NAPF would oppose any policy initiative in this area. In any case, this area should remain a matter for Member States.	Noted.
4,337.	Pan-European Insurance Forum (PEIF)	56.	Life insurers and IORPs should have the same regime.	Noted.
4,338.	Pensioenfonds Zorg en Welzijn (PFZW)	56.	PFZW is opposed to reinforcing the sanctions regime for IORPs. PFZW would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)

4,339.	Predica	56.	Predica agrees on using article 36 as a starting point.	Noted.
4,340.	PTK (Sweden)	56.	PTK is opposed to reinforcing the sanctions regime for IORPs. PTK would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,341.	Railways Pension Trustee Company Limited ("RPTCL)	56.	RPTCL does not agree with this proposal. If sanctions were imposed against IORPs, this may penalise members and reduce the amounts available to meet retirement benefits.	Noted.
4,342.	TCO	56.	TCO is opposed to reinforcing the sanctions regime for IORPs. TCO would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,343.	The Association of the Luxembourg Fund Industry (A	56.	The Respondents prefer not to change the current IORP Directive.	Noted.
4,344.	THE SOCIETY OF PENSION CONSULTANTS	56.	We agree: UK pensions legislation already includes adequate sanctions, details of which are visible to the regulated community.	Noted.
4,345.	Towers Watson Deutschland GmbH	56.	To the extent that the provisions of the directive are to be exercised consistently and transparently, we agree. Otherwise we are not convinced that any further reinforcement is required.	Noted.
4,346.	UK Association of Pension Lawyers	56.	We support option 1: do not change the current IORP Directive.	Noted.
4,347.	Universities Superannuation Scheme (USS),	56.		

4,348.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	56.	The VHP2 is opposed to reinforcing the sanctions regime for IORPs. The VHP2 would therefore agree to stress testing of IORPs, but would oppose administrative penalties.	See EFRP (4,321)
4,349.	Whitbread Group PLC	56.	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.
4,350.	Zusatzversorgungskasse des Baugewerbes AG	56.	76. We believe that the current IORP I regime is sufficient to provide a sanctions regime.	Noted.
4,351.	Towers Watson	56.	We are not convinced that any further reinforcement is required – at least within the existing UK regime. UK pensions legislation already includes adequate sanctions, details of which are visible to the regulated community. However, there is a need to ensure that these powers are exercised consistently and transparently. Moreover, in the context of significant changes to the solvency requirements, it would not be unreasonable that this should be looked at further.	Noted.
4,352.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	57.	See question 55	Noted.
4,353.	AbA Arbeitsgemeinschaft für betriebliche Altersver	57.	<p>We cannot imagine a situation in which financial penalties would be appropriate for IORPs other than in cases of fraud which would be covered under the criminal code and apply to the individual committing the crime. We would welcome further research on this matter.</p> <p>Currently, in Germany the most extreme sanction an IORP can experience before its licence is revoked, is the appointment of a special representative who takes over the management of the institution. We do not believe that publicizing events such as these would add any value.</p>	Noted.

4,354.	ABVAKABO FNV	57.	The PF would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. The PF agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,355.	AEIP	57.	AEIP thinks that the public knowledge of penalties could be made proportional. Supervisors should restrict knowledge if penalties had to be inflicted for the first time. Repeat offenders within a given timeframe should be treated accordingly, this contains public disclosure.	Noted.
4,356.	AFPEN (France)	57.	150. Due to the fact that AFPEN does not endorse any modification of the existing penalty system of the IORP Directive, AFPEN advocates that the knowledge of any imposition of penalties should remain restricted.	Noted.
4,358.	AMONIS OFP	57.	AMONIS OFP would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. AMONIS OFP agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,359.	ANIA – Association of Italian Insurers	57.	The ANIA believes that the publication of a penalty or measure imposed should be restricted. Only in extraordinary circumstances – to be decided at level 2, a sanction should be made public. However, the scheme members should be informed about penalties, if appropriate. Furthermore, future beneficiaries should be provided with the necessary information, if appropriate, so they can make an informed decision whether or not to transfer their past pensions savings.	See CEA (4,367)
4,360.	Association of British Insurers	57.	The ABI believes that given the special status of IORPs, (in general not being commercial financial institutions), that the imposition of penalties should not be made public.	Noted.
4,361.	Association of French Insurers (FFSA)	57.	The FFSA believes that knowledge of the imposition of penalties should be public. This is consistent with a better transparency in the members/beneficiaries best interest.	Noted.
4,362.	Assoprevidenza – Italian	57.	We share analysis in 15.4.3 and we agree with the need of more analys.	Noted.

	Association for supplemen			
4,363.	Assuralia	57.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,364.	Belgian Association of Pension Institutions (BVPI-	57.	BVPI-ABIP would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. BVPI-ABIP agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,365.	BNP Paribas Cardif	57.	BNP Paribas Cardif believes that knowledge of the imposition of penalties should be public. This is consistent with a better transparency in the members/beneficiaries best interest.	See FFSA (4,361)
4,366.	BT Pension Scheme Management Ltd	57.	We agree with EIOPA that there is currently a lack of information in this area, and therefore it is difficult to take a strong view on whether sanctions should be made public. However, in principle transparency on such activities seems more appropriate than sanctions being made in private such that their effect is solely on those individuals or organisations directly affected rather than on the industry as a whole.	Noted.
4,367.	CEA	57.	The CEA believes that the publication of a penalty or measure imposed should be restricted. Only in extraordinary circumstances – to be decided at level 2, a sanction should be made public. However, the scheme members should be informed about penalties, if appropriate. Furthermore, future beneficiaries should be provided with the necessary information, if appropriate, so they can make an informed decision whether or not to transfer their past pensions savings.	Noted.
4,368.	Charles CRONIN	57.	I am a firm advocate for the public disclosure of sanctions for individuals found	Noted.

			falling short of their duties, acting criminally or incompetently. I do not believe they can cause disproportionate damage to the parties involved, providing disclosure is accompanied with a fair summary of the infringement and remedies. Aside from reinforcing deterrence, the difference in wealth between Member States makes it difficult to levy monetary fines with consistent effect across the EU, particularly in a single market encouraging the free mobility of labour. However the value of person's good name (good repute and integrity), see EIOPA's remarks on proper in CFA 14 'fit and proper', is universal. Hence public disclosure is probably the most proportionate and dissuasive sanction that can be levied across the EU.	
4,369.	Chris Barnard	57.	Although I accept the argument in Paragraph 15.3.11, I would also recommend that sanctions imposed should normally include a public reprimand and / or be published. This is because there are still choices to be made by members and beneficiaries, for example whether to join or stay in the IORP, possibly voting on IORP or management issues and staffing etc. Greater accountability, transparency and disclosure of imposed sanctions may help members and beneficiaries make more informed decisions in such cases.	Noted.
4,370.	CMHF (Centrale van Middelbare en Hogere Functionar	57.	The CMHF would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. The CMHF agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,371.	De Unie (Vakorganisatie voor werk, inkomen en loop	57.	De Unie would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. De Unie agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,372.	Ecie vie	57.	Public	Noted.
4,373.	EFI (European Federation of Investors)	57.	Yes we agree.	Noted.

4,374.	European Association of Public Sector Pension Inst	57.	Due to the fact that EAPSPI does not endorse any modification of the existing penalty system of the IORP Directive, EAPSPI advocates that the knowledge of any imposition of penalties should remain restricted.	Noted.
4,375.	European Federation for Retirement Provision (EFRP	57.	The EFRP would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. The EFRP agrees with EIOPA that further analysis is needed here.	Noted.
4,376.	FAIDER (Fédération des Associations Indépendantes	57.	Yes we agree.	Noted.
4,377.	Federation of the Dutch Pension Funds	57.	The PF would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. The PF agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,378.	Financial Reporting Council	57.	We have not formed any views on this matter.	Noted.
4,379.	FNV Bondgenoten	57.	FNV BG would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. FNV BG agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,380.	Generali vie	57.	Public	Noted.
4,381.	Groupement Français des Bancassureurs	57.	FBIA believes that knowledge of the imposition of penalties should be public. This is consistent with a better transparency in the members/beneficiaries best interest.	See FFSA (4,361)
4,382.	PMT-PME-Mn Services	57.	We would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. We agree with EIOPA that further analysis is needed here.	See EFRP (4,375)

4,383.	HM Treasury/Department for Work and Pensions	57.	We consider that this matter should be left to the discretion of member states and their Regulatory Authorities. The UK Regulatory Authority already has discretion to make the imposition of penalties public.	Noted.
4,384.	Institute and Faculty of Actuaries (UK)	57.	<p>We believe there is certainly a role for the potential publication of sanctions in ensuring good governance of IORPs and so we do believe that supervisory authorities should have powers to make public the imposition of penalties when it is in the public interest to do so but we also believe that such powers should be subject to appropriate checks and balances.</p> <p>We suggest that a distinction be drawn between publication by the supervisory authority itself, which would normally be appropriate only for serious offences (particularly if a financial penalty would be inappropriate because it would prejudice the security of member benefits), and disclosure to members at their request or, for example, in the IORP's annual report.</p>	Noted.
4,385.	Le cercle des épargnants	57.	Public	Noted.
4,386.	Macfarlanes LLP	57.	No. As we have repeated, companies providing benefits for their employees are not the same as companies going to the market to sell products to consumers. The proposed regime is inappropriate as a whole. If such sanctions were to be applied and then publicised the share price of the company would in all likelihood be materially affected, and the company immediately weakened. As adverse effect on the security of pension scheme members as employees, as well as pension scheme members, is likely to be the result.	Noted.
4,387.	Mercer	57.	This will depend on the events that gave rise to the penalty. We would not support 'naming and shaming' for minor breaches.	Noted.
4,388.	MHP (Vakcentrale voor Middengroepen)	57.	The MHP would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. The MHP agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)

	en Hoger Perso			
4,389.	National Association of Pension Funds (NAPF)	57.	The NAPF would support making such penalties public. Transparency is vital for good pension provision.	Noted.
4,390.	Pan-European Insurance Forum (PEIF)	57.	There are aspects of the question that may deserve clarification. If by a 'penalty' is meant a measure taken to penalize as a result of gross negligence or misdemeanour, then it is difficult to see why this should be concealed. If, however, 'penalties' refers more generally to corrective measures demanded a competent authority there may be less need to publish this. It is also unclear from the question what the scope of the 'public' in 'publishing' is: does it include the employer? Does it include members and beneficiaries?	Noted.
4,391.	Pensioenfondszorg en Welzijn (PFZW)	57.	We would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. PFZW agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,392.	Predica	57.	Predica believes that knowledge of the imposition of penalties should be public. This is consistent with a better transparency in the members/beneficiaries best interest.	See FFSA (4,361)
4,393.	PTK (Sweden)	57.	PTK would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. PTK also agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)
4,394.	Railways Pension Trustee Company Limited ("RPTCL)	57.	We have not considered this question.	
4,395.	TCO	57.	TCO would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. TCO also agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)

4,396.	The Association of Pension Foundations (Finland)	57.	Imposition of penalties should not be public as pension fund doesn't offer services outside its members (to large public).	Noted.
4,397.	The Association of the Luxembourg Fund Industry (A)	57.	The Respondents think that this is not applicable for IORPs since IORPs are in general not commercial financial institutions.	Noted.
4,398.	THE SOCIETY OF PENSION CONSULTANTS	57.	The supervisory authority should be able to make public the imposition of penalties in appropriate cases.	Noted.
4,399.	Towers Watson Deutschland GmbH	57.	The supervisory authority should be able to make public the imposition of penalties in the most serious of cases e.g. those where certain approaches cause regulatory concern in the event of such approaches becoming widespread.	Noted.
4,400.	UK Association of Pension Lawyers	57.	For the reasons stated above there should be no penalties.	Noted.
4,401.	Universities Superannuation Scheme (USS),	57.		
4,402.	Verbond van Verzekeraars	57.	The imposition of penalty measures should be made public, as a measure of last resort, in order to enhance transparency towards (future) members and beneficiaries.	Noted.
4,403.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	57.	The VHP2 would agree with paragraph 15.4.3., that an overall obligation to make penalties public would not be suitable. The VHP2 agrees with EIOPA that further analysis is needed here.	See EFRP (4,375)

4,404.	Whitbread Group PLC	57.	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.
4,405.	Zusatzversorgungskasse des Baugewerbes AG	57.	77. We propose to react according to the situation: First time offenders should not be made public. Repeat offenders within a given timeframe should be treated proportionally, this may also contain public disclosure.	Noted.
4,406.	Towers Watson	57.	The supervisory authority should be able to make public the imposition of penalties in appropriate cases. However, it should once more be borne in mind that IORPs differ from insurers – as recognised in para 15.3.11. – and the public disclosure of penalties should be reserved for the most serious of cases or should be reserved for situations where 'innovative' approaches cause regulatory concern in the event of such approaches becoming widespread.	Noted.
4,407.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	58.	See question 55	Noted.
4,408.	AbA Arbeitsgemeinschaft für betriebliche Altersver	58.	We believe that the current Article 20(10) IORP Directive should be maintained. IORPs should have one main supervisor, namely in the home state, with the host state competent authority supervising the IORP via co-operation with the home state.	Noted.
4,409.	ABVAKABO FNV	58.	The PF disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. The PF believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)

4,410.	AEIP	58.	<p>111. Giving the host state power to impose sanctions goes against the principle of home state supervision. If a host state could impose direct sanctions against the IORP that is established in another state, this would not only lead to an extra overhead cost, but possibly also to contradictive messages and requirements from the different supervisors to the same IORP.</p> <p>An updated Budapest protocol should stay the basis for the collaboration between supervisors. Possible differences in interpretation should be resolved within EIOPA, taking in consideration the unique competence of the host state on its social and labour law.</p>	Noted.
4,411.	AFPEN (France)	58.	<p>Since the main business of AFPEN's members, the public sector pension institutions, is regularly restricted to the domestic level, AFPEN does not have any experience in cross border activities to answer to this question.</p>	Noted.
4,412.	AMONIS OFP	58.	<p>No. Host states should not be able to impose direct sanctions on IORPs.</p> <p>The IORP directive underwrites and promotes the mutual recognition of the competences of the different national regulators; if host states could impose direct sanctions against IORP's this will not only lead to an extra overhead cost, but possibly also to contradictive messages/requirements from the different supervisors to the same IORP.</p> <p>AMONIS OFP considers that the updated Budapest protocol should stay the basis of the collaboration between supervisors and that eventual differences in interpretation should be resolved within EIOPA, taking in consideration the unique competence of the host state on his social and labour law.</p>	Noted.
4,413.	ANIA – Association of Italian Insurers	58.	<p>Yes, the ANIA agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive.</p> <p>In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation.</p> <p>Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the</p>	See CEA (4,423)

			additional powers to conduct its supervision and interfere directly in case of emergency.	
4,414.	Association of British Insurers	58.	<p>No. The ABI believes that allowing host Member States to impose sanctions without going through the home Member State would go against the concept of regulation by the home state, which is at the centre of most financial services Directives.</p> <p>There is a risk that some host states will overly penalise infractions to protect national players and restrict competition. If this was allowed, absolute parity with the treatment of 'local' IORPs must be assured.</p> <p>The ABI believes that the better way to deal with this would be for the host state to collaborate with the home state regulator to ensure that any infractions were dealt with on a par with home state expectations.</p>	Noted.
4,415.	Association of Consulting Actuaries (UK)	58.	No. The home state is the supervisor of the IORP and should be responsible for enforcing its regulation and to require "double" regulation will act as a substantial barrier to the development of cross-border plans.	Noted.
4,416.	Association of French Insurers (FFSA)	58.	<p>74. The FFSA agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive.</p> <p>75. In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation.</p> <p>Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.</p>	Noted.
4,417.	Assoprevidenza – Italian Association for supplement	58.	<p>Giving the host state power to impose sanctions goes against the principle of home state supervision. it could be better to put a precise and short timing for the intervention of home state authority.</p> <p>If a host state could impose direct sanctions against the IORP that is established in another state, this would not only lead to an extra overhead cost, but possibly</p>	See AEIP (4,410)

			<p>also to contradictive messages and requirements from the different supervisors to the same IORP.</p> <p>An updated Budapest protocol should stay the basis for the collaboration between supervisors. Possible differences in interpretation should be resolved within EIOPA, taking in consideration the unique competence of the host state on its social and labour law.</p>	
4,418.	Assuralia	58.	<p>The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.</p>	Noted.
4,419.	Belgian Association of Pension Institutions (BVPI-	58.	<p>No. Host states should not be able to impose direct sanctions on IORPs.</p> <p>The IORP directive underwrites and promotes the mutual recognition of the competences of the different national regulators; if host states could impose direct sanctions against IORP's this will not only lead to an extra overhead cost, but possibly also to contradictive messages/requirements from the different supervisors to the same IORP.</p> <p>BVPI-ABIP considers that the updated Budapest protocol should stay the basis of the collaboration between supervisors and that eventual differences in interpretation should be resolved within EIOPA, taking in consideration the unique competence of the host state on his social and labour law.</p>	Noted.
4,420.	BNP Paribas Cardif	58.	<p>BNP Paribas Cardif agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive.</p> <p>In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation.</p> <p>Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.</p>	See CEA (4,423)

4,421.	BT Pension Scheme Management Ltd	58.	We believe that the home state supervisor should always be involved in any sanctioning decision.	Noted.
4,422.	BVI Bundesverband Investment und Asset Management	58.	We believe that the current Article 20(10) IORP Directive should be maintained. IORPs should have one main supervisor, namely the home state competent authority, with the host state competent authority supervising the IORP via co-operation with the home state.	Noted.
4,423.	CEA	58.	Yes, the CEA agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive. In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation. Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.	Noted.
4,424.	Charles CRONIN	58.	I support the view that host states should be able to impose sanctions on IORPs without going through the home state. In an environment of greater harmonisation, this should not create a problem due to greater communality in the articles of regulation. There is certainly an attraction if this provision can speed up the time required to remedy an irregular situation.	Noted.
4,425.	Chris Barnard	58.	In general I concur with the analysis and conclusions regarding the competence of host member states to take measures.	Noted.
4,426.	CMHF (Centrale van Middelbare en Hogere Functionar	58.	The CMHF disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. The CMHF believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP	See EFRP (4,433)

			via cooperation with the Home supervisor.	
4,427.	De Unie (Vakorganisatie voor werk, inkomen en loop	58.	De Unie disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. De Unie believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,428.	Derek Scott of D&L Scott	58.	Different countries have different approaches to pension scheme supervision, which have been developed over time to suit local requirements. Harmonisation introduces change, which adds unwelcome costs (ultimately paid for by citizens). This must surely be justified within an impact assessment.	Noted.
4,429.	Direction Générale du Trésor, Ministère des financ	58.	Yes, host States should be allowed to impose sanctions on IORPs without going through the home States.	Noted.
4,430.	Ecie vie	58.	We consider Articles 155(1), 155(4) and 155(8) of Solvency II should be applied to IORPs.	Noted.
4,431.	EFI (European Federation of Investors)	58.	This is more a political issue ?	Noted.
4,432.	European Association of Public Sector Pension Inst	58.	Since the main business of EAPSPI's members, the public sector pension institutions, is regularly restricted to the domestic level, EAPSPI does not have any experience in cross border activities to answer to this question.	Noted.
4,433.	European Federation for Retirement Provision (EFRP	58.	The EFRP believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	Noted.

			The EFRP advises against granting all powers to the Host supervisor, thus giving them the ability to intervene directly without a priori advising the Home supervisor.	
4,434.	FAIDER (Fédération des Associations Indépendantes)	58.	This is more a political issue ?	Noted.
4,435.	Federation of the Dutch Pension Funds	58.	The PF disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. The PF believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,436.	Financial Reporting Council	58.	We have not formed any views on this matter.	Noted.
4,437.	FNV Bondgenoten	58.	FNV BG disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. FNV BG believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,438.	Generali vie	58.	We consider Articles 155(1), 155(4) and 155(8) of Solvency II should be applied to IORPs.	Noted.
4,439.	Groupement Français des Bancassureurs	58.	FBIA agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive. In the context of article 155(1) this will allow the Host supervisor to immediately	See CEA (4,423)

			and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation. Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.	
4,440.	PMT-PME-Mn Services	58.	We disagree with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. We believe that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,441.	HM Treasury/Department for Work and Pensions	58.	The UK Government would prefer the agreement between the supervisory authorities in question	Noted.
4,442.	Institute and Faculty of Actuaries (UK)	58.	The checks and balances on such powers need to be strong enough to ensure that they are only exercised in extreme circumstances otherwise such provisions would act as a major disincentive to operating cross-border IORPs In particular we think it important that: <input type="checkbox"/> a Host state should only be able to impose sanctions if the Home state does not impose sanctions and does not have a good reason for failing to do so <input type="checkbox"/> the Home state should then cease to have jurisdiction in the particular matter at issue. otherwise there can never be absolute certainty as to the rules that are to be followed.	Noted.
4,443.	Le cercle des épargnants	58.	We consider Articles 155(1), 155(4) and 155(8) of Solvency II should be applied to IORPs.	Noted.
4,444.	Mercer	58.	It seems appropriate that host states can apply sanctions on an IORP that fails	Noted.

			to meet (for example) relevant aspects of its requirements. Although it does not seem necessary for the host state to go through the home state to achieve this, we would expect there to be some collaboration between the two states' supervisory authorities. Otherwise the home state might not have sufficient information to carry out its responsibilities.	
4,445.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	58.	The MHP disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. The MHP believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,446.	National Association of Pension Funds (NAPF)	58.	The NAPF does not agree with this proposal. National-level regulators are best placed to decide what sanctions would be most effective in raising standards in the IORPs that it supervises. Host nation regulators should only be allowed to initiate sanctions via the home supervisor.	Noted.
4,447.	Pan-European Insurance Forum (PEIF)	58.	Arguably, the general rule should be always that on prudential issues sanctions should only be possible through the home state supervisor. On compliance with social and labour law in the host State, PEIF notes EIOPA's comments that the lack of experience as regards Article 20(10) prevents assessment of the effectiveness of that provision. Rather than an amendment, the answer may be to ensure better cooperation between home and host State supervisors.	Noted.
4,448.	Pensioenfonds Zorg en Welzijn (PFZW)	58.	PFZW disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. PFZW believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,449.	Predica	58.	Predica agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive.	See CEA (4,423)

			<p>In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation.</p> <p>Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.</p>	
4,450.	PTK (Sweden)	58.	<p>PTK believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.</p> <p>PTK advises against granting all powers to the Host supervisor, thus giving them the ability to intervene directly without a priori advising the Home supervisor.</p>	See EFRP (4,433)
4,451.	Railways Pension Trustee Company Limited ("RPTCL)	58.	We have not considered this question.	
4,452.	Standard Life Plc	58.	No. Host member states should not be able to impose sanctions without going through the home member state. We believe this would undermine the concept of regulation by the home state, which is necessary for the effective operation of this Directive and the reduction in some potential impediments to cross-border activity.	Noted.
4,454.	TCO	58.	<p>TCO believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.</p> <p>TCO advises against granting all powers to the Host supervisor, thus giving them the ability to intervene directly without a priori advising the Home supervisor.</p>	See EFRP (4,433)

4,455.	The Association of the Luxembourg Fund Industry (A	58.	Generally no. Option 2: the host states should not be able to impose sanctions on IORPs without going through the home state.	Noted.
4,456.	THE SOCIETY OF PENSION CONSULTANTS	58.	There should be an emergency power for the host state to act without going through the home state but the home state supervisor should be informed simultaneously of action communicated to the IORP. However, we see no reason to amend article 20(1) of the existing Directive, which EIOPA freely admits is untested. We disagree, therefore, with EIOPA's conclusion at 15.4.5 and 15.4.6.	Noted.
4,457.	Towers Watson Deutschland GmbH	58.	As is currently the case under Article 20(1) of the Directive, there should be an emergency power for the Host state to act without going through the Home state. But the Home state supervisor should be informed simultaneously of action communicated to the IORP. We have seen no evidence that the current regime is deficient and, indeed, EIOPA admits as much at 15.3.14. We disagree, therefore, with EIOPA's conclusion at 15.4.5 and 15.4.6.	Noted.
4,458.	UK Association of Pension Lawyers	58.	For the reasons given above there should be no ability to impose sanctions with or without going through the home state.	Noted.
4,459.	Universities Superannuation Scheme (USS),	58.		
4,460.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	58.	The VHP2 disagrees with EIOPA's recommendation to give all powers necessary to the Host supervisor with the ability to intervene directly without a priori advising the Home supervisor. The VHP2 believes that IORPs should continue to have one main supervisor, namely in the home state, with Host competent authority supervising the IORP via cooperation with the Home supervisor.	See EFRP (4,433)
4,461.	Whitbread	58.	We see no reason for change to the current regulatory regime for UK pension	Noted.

	Group PLC		schemes, which provides strong protection for member's pension benefits	
4,462.	Zusatzversorgungskasse des Baugewerbes AG	58.	78. We do not believe that giving host state supervisors the power to impose sanctions without going through the home state would promote cross border IORPs as is the intention of the directive.	Noted.
4,463.	Towers Watson	58.	<p>As now, under article 20(1) of the Directive, there should be an emergency power for the Host state to act without going through the Home state but the Home state supervisor should be informed simultaneously of action communicated to the IORP. We have seen no evidence that the current regime is deficient and, indeed, EIOPA admits as much at 15.3.14. We disagree, therefore, with EIOPA's conclusion at 15.4.5 and 15.4.6.</p> <p>Moreover, we think it important that the Home state (which has supervisory/prudential responsibility) should be the first choice with regard to imposition of sanctions. Only if that state does not impose sanctions (without good reason for not doing so) should the Host state be able to impose sanctions. In such an extreme case the Home state should cease to have jurisdiction in the particular matter at issue. If the Host state is allowed a priori to impose sanctions there can never be absolute certainty as to the rules that are to be followed. In the event of dispute between the supervisory authorities of the Home and Host states, the Budapest Protocol provides a route for resolution.</p>	Noted.
4,464.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	59.	<p>The OPSG supports EIOPA's view that a supervisory review process is necessary in order to check the compliance of IORPs with supervisory requirements. The OPSG observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Against this background, we agree that Article 36 of the Solvency II Directive can be used as a starting point for IORPs in order to clarify the supervisory process. However, we would like to highlight that the supervisory review process should be flexible enough to allow for reflecting the diversity of the type, size,</p>	Noted.

			<p>complexity and the legal form of IORPs across MS.</p> <p>We are strictly opposed to providing supervisors with the power to impose capital add-ons. In contrast to insurers, it is not possible for IORPs to acquire additional capital in the short term.</p>	
4,465.	AbA Arbeitsgemeinsc haft für betriebliche Altersver	59.	<p>We believe that the supervisory review process needs to adequately reflect the objective of the Directive as we see it:</p> <p>“This Directive supports the establishment and operation of IORPs, facilitates their efficient management and administration and supports the protection of members and beneficiaries.”</p> <p>It would make sense to outline a supervisory review process in the IORP Directive with this objective in mind. As stated by EIOPA, this process also needs to take due consideration of the value and strength of other security mechanisms of IORPs as well as the diversity of the type, size, complexity and the legal form of IORPs across member states.</p>	Noted.
4,466.	ABVAKABO FNV	59.	<p>The PF prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>The PF observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	See EFRP (4,492)
4,467.	AEIP	59.	<p>AEIP would have no objections or comments against the application of art. 36 of Directive 2009/138/EC if the model in place is significantly different from the one applicable to insurance companies under Solvency II. IORPs need a proper</p>	Noted.

			supervisory review process that takes their specificities, diversity and their own characteristics into account.	
4,468.	AFPEN (France)	59.	<p>151. AFPEN is of the opinion that the current powers of intervention of the IORP Directive are adequate and should therefore be retained. (option 3). This solution has, above all, the advantage that Member States are able to determine the suitable supervisory powers for their population (see 16.3.5). Such a flexible approach is necessary to cope with the divergences of occupational pension schemes within the European Union and to optimize beneficiaries' protection.</p> <p>152. To EAPSP's point of view, EIOPA has correctly analysed the negative impacts of an introduction both of the supervisory review process and the imposition of capital add-ons. AFPEN is in line with EIOPA's findings that there are different ways in which pensions are successfully delivered and that any changes will have cost impacts. Consequently, it is questionable to change regulations that have revealed to be successful in practice. With respect to EIOPA's conclusion that option 1 would ensure cross-sectoral consistency, AFPEN is of the opinion that IORPs and insurance undertakings are operating on different sectors. Whereas IORPs traditionally deliver supplementary pensions only for employees of a certain (group of) employer(s), insurance undertakings are operating on the free market. Hence any consistency cannot be achieved since both are basically active on different sections.</p> <p>If ever EIOPA does not follow AFPEN's opinion and recommends a supervisory process along the lines of Art. 36 of the Solvency II Directive (option 2), AFPEN strongly recommends considering the uncontested particularities of IORPs in relationship to insurance undertakings as EIOPA has identified under 16.3.4.</p>	See EAPSPI (4,491)
4,470.	AMONIS OFP	59.	<p>No. The supervisory review process for insurers is not a good starting point for IORPs.</p> <p>IORPs need an own supervisory review process –written from the scratch- that takes in consideration their own proportionality, diversity and their own characteristics.</p>	See EFRP (4,492)

			<p>AMONIS OFP would prefer option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>AMONIS OFP would observe that in Belgium and probably many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs.</p>	
4,471.	ANIA – Association of Italian Insurers	59.	The ANIA fully agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, the ANIA believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about. Finally, the ANIA can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.	See CEA (4,483)
4,472.	Association of British Insurers	59.	The ABI believes that the duties and powers in the IORP Directive should be retained, so that Member States can determine the most appropriate supervisory powers for their population of IORPs.	Noted.
4,473.	Association of Consulting Actuaries (UK)	59.	<p>We agree that Member States should have a supervisory review process which is proportionate and spans to the diverse nature of IORPs within that Member State. There is clear public interest in (the existence and effectiveness of) such a process.</p> <p>We believe that prescribing the supervisory review process at European level could result in significant inefficiency. Member States should be capable of developing a satisfactory, robust supervisor, which can specify solvency,</p>	Noted.

			governance, reporting and internal control mechanisms on a risk based and proportionate basis. The sheer number of IORPs and the diversity of the social legislative frameworks within which the IORPs provide pensions merely reinforces this argument.	
4,474.	Association of French Insurers (FFSA)	59.	76. The FFSA agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, the FFSA believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about. The FFSA can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.	Noted.
4,475.	Assoprevidenza – Italian Association for supplement	59.	We have no objections or comments against the application of art. 36 of Directive 2009/138/EC if the model in place is significantly different from the one applicable to insurance companies under Solvency II. IORPs need a proper supervisory review process that takes their specificities, diversity and their own characteristics into account.	See AEIP (4,467)
4,476.	Assuralia	59.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,477.	Belgian Association of Pension Institutions (BVPI-	59.	No. The supervisory review process for insurers is not a good starting point for IORPs. IORPs need an own supervisory review process –written from the scratch- that takes in consideration their own proportionality, diversity and their own characteristics. BVPI-ABIP would prefer option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.	See EFRP (4,492)

			<p>BVPI-ABIP would observe that in Belgium and probably many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs.</p>	
4,478.	BNP Paribas Cardif	59.	<p>BNP Paribas Cardif agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, BNP Paribas Cardif believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about.</p> <p>BNP Paribas Cardif can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.</p>	See CEA (4,483)
4,479.	Bosch Pensionsfonds AG	59.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
4,480.	Bosch-Group	59.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
4,481.	BT Pension Scheme Management Ltd	59.	We believe that the basis stated for supervisory review makes equal sense for IORPs as it does for insurance operations. We would suggest, however, that the level of attention to the different factors may be different: the governance structure and approach being one of the most significant protections for IORP beneficiaries, and (as will be apparent from our wider response) questions as to solvency and adequacy of assets being much less relevant for consumer protection at many IORPs.	Noted.
4,482.	Bundesarbeitge	59.	Member States should be free to determine the most suitable ways of	Noted.

	bverband Chemie e.V. (BAVC)		supervision for their IORPs. BAVC therefore prefers option 3: The IORP Directive provides adequate principles for supervisory review process and there is therefore no need to use the Solvency II Directive as a starting point.	
4,483.	CEA	59.	The CEA fully agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, the CEA believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about. Finally, the CEA can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.	Noted.
4,484.	Charles CRONIN	59.	Best practice would suggest that the supervisory review process of insurance companies should apply to IORPs. However as mentioned above, due to the sheer number of IORPs, it will be difficult to implement such a process without some form of standardised report that can be read and analysed by computer.	Noted.
4,485.	Chris Barnard	59.	I agree that the requirements for the supervisory review process for insurers should also apply to IORPs. This is consistent with Solvency II, and would lead to more consistency in supervisory standards between IORPs and insurance companies.	Noted.
4,486.	CMHF (Centrale van Middelbare en Hogere Functionar	59.	The CMHF prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs. The CMHF observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors. Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.	See EFRP (4,492)
4,487.	De Unie (Vakorganisatie	59.	De Unie prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.	See EFRP (4,492)

	voor inkomen loop	werk, en	<p>De Unie observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>		
4,488.	Direction Générale Trésor, Ministère financ	du des	59.	<p>The requirements for the supervisory review process for insurance undertakings should also apply to IORPs.</p>	Noted.
4,489.	Ecie vie		59.	<p>We consider Articles 36 of Solvency II should be applied to IORPs.</p>	Noted.
4,490.	EFI (European Federation of Investors)		59.	<p>Yes we agree.</p>	Noted.
4,491.	European Association of Public Sector Pension Inst		59.	<p>EAPSPI is of the opinion that the current powers of intervention of the IORP Directive are adequate and should therefore be retained (option 3). This solution has, above all, the advantage that Member States are able to determine the suitable supervisory powers for their population (see 16.3.5). Such a flexible approach is necessary to cope with the divergences of occupational pension schemes within the European Union and to optimize beneficiaries' protection. Considering the diversity of business lines with different complexity across European IORPs, EAPSPI would prefer an optimization approach. But such an approach is inconsistent with European standardization to evaluate technical provisions, capital requirements and investment rules.</p> <p>In EAPSPI's point of view, EIOPA has correctly analysed the negative impacts of</p>	Noted.

			<p>an introduction both of the supervisory review process and the imposition of capital add-ons. EAPSPI is in line with EIOPA's findings that there are different ways in which pensions are successfully delivered and that any changes will have cost impacts. Consequently, it is questionable to change regulations that have revealed to be successful in practice.</p> <p>If ever EIOPA does not follow EAPSPI's opinion and recommends a supervisory process along the lines of Art. 36 of the Solvency II Directive (option 2), EAPSPI strongly recommends considering the uncontested particularities of IORPs in relationship to insurance undertakings as EIOPA has identified under 16.3.4.</p>	
4,492.	European Federation for Retirement Provision (EFRP)	59.	<p>The EFRP prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs. The IORP Directive provides adequate principles for supervisory review process and there is therefore no need to use the Solvency II Directive as a starting point.</p> <p>The EFRP would observe that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs.</p>	Noted.
4,493.	European Fund and Asset Management Association (EFAMA)	59.	<p>We agree that it is appropriate to have in place a supervisory process to check the compliance of IORPs with the regulations of the revised IORP Directive, to clarify what supervision is about. However, that supervisory review processes should be determined by member states so that they are appropriate and tailored to the types of IORP in existence within the state.</p>	Noted.

4,494.	FAIDER (Fédération des Associations Indépendantes)	59.	Yes we agree.	Noted.
4,495.	Federation of the Dutch Pension Funds	59.	<p>The PF prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>The PF observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	See EFRP (4,492)
4,496.	Financial Reporting Council	59.	We consider that the requirements for the supervisory review process for insurers should only apply to IORPs if on a proportionate basis.	Noted.
4,497.	FNV Bondgenoten	59.	<p>FNV BG prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>FNV BG observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	See EFRP (4,492)
4,498.	Generali vie	59.	We consider Articles 36 of Solvency II should be applied to IORPs.	Noted.

4,499.	Groupement Français des Bancassureurs	59.	<p>FBIA agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, FBIA believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about.</p> <p>FBIA can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.</p>	Noted.
4,500.	PMT-PME-Mn Services	59.	<p>We prefer option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>We observe that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	See EFRP (4,492)
4,501.	Institute and Faculty of Actuaries (UK)	59.	<p>Convergence of supervisory review processes is potentially welcome but, as noted in our response to Question 53, we believe that the number and diversity of IORPs means that proportionality can only be achieved with an approach based on principles and risk management and that it would be ineffective and inefficient to adopt detailed rules adapted from the regulatory regime for insurance companies. Naturally appropriate checks and balances would be required to ensure consistent application of the principles and a key feature of such a regime would be transparency and accountability in decision-making.</p>	Noted.
4,502.	Le cercle des épargnants	59.	<p>We consider Articles 36 of Solvency II should be applied to IORPs.</p>	Noted.
4,503.	Macfarlanes LLP	59.	<p>EIOPA recommends that Article 18 in the IORP directive should be simplified, with several existing provisions removed such as Article 18(5)(c), which permits investment in "risk capital markets". Equally, the draft response suggests Article</p>	<p>Noted.</p> <p>This comment seems to</p>

			18(1)(d), referring to investment in derivatives, should be either deleted or clarified. Instead, EIOPA says member states can rely on current safeguards such as the "prudent person" rule in Article 18(1) and the ability for individual states to impose further investment restrictions under Article 18(5). While EIOPA favours retaining the prohibition on borrowing by IORPs in Article 18(2), it seeks clarification that this only applies to direct borrowing and does not cover subordinated loans. Although the proposals to clarify the Article 18 investment rules are sensible, EIOPA does not put forward any measures to clarify the apparent contradiction in Article 18(1)(b), which requires assets to be invested "in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole". These individual goals are impossible to reconcile collectively.	refer to an other question.
4,504.	Mercer	59.	<p>We agree that supervisory authorities would need to be able to collect some information from IORPs in relation to the measures they take to implement the requirements under a revised IORP Directive. However, there are considerably more IORPs than there are insurance companies, so the review process provided for under Solvency II is likely to be onerous, without resulting in much improved outcomes.</p> <p>Because the resource challenge is likely to differ between member states, it might be appropriate for member states to be able to determine the most suitable ways of achieving regulatory oversight, within high level principles set in the Directive, that are proportionate to the risk and take into account the resources available to each IORP in providing the information that could be required.</p>	Noted.
4,505.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	59.	<p>The MHP prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>The MHP observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers</p>	See EFRP (4,492)

			<p>and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	
4,506.	National Association of Pension Funds (NAPF)	59.	<p>The NAPF favours Option 3: allow Member State to determine the most suitable approaches to supervision for their IORPs.</p> <p>Many Member States, including the UK, already have robust regulatory oversight in place, supported by the existing Articles 13 and 14 of the IORP Directive.</p> <p>As explained throughout this response, Solvency II is the wrong starting point for initiatives to strengthen the security of pensions.</p>	Noted.
4,507.	NEST Corporation	59.	<p>NEST does not consider that this would be an appropriate measure for DC schemes as it fails to recognise the differences between IORPS and insurance companies. Supervision by a competent regulatory authority should focus on local risks and local needs.</p>	Noted.
4,509.	Pan-European Insurance Forum (PEIF)	59.	<p>They should apply to IORPs but with due account taken of proportionality.</p>	Noted.
4,510.	Pensioenfond's Zorg en Welzijn (PFZW)	59.	<p>We prefer option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>The Pensioenfederatie has observed that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be</p>	See EFRP (4,492)

			subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.	
4,511.	Predica	59.	<p>Predica agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, Predica believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about.</p> <p>Predica can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.</p>	See CEA (4,483)
4,512.	PTK (Sweden)	59.	<p>PTK prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>PTK notes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	See EFRP (4,492)
4,513.	Railways Pension Trustee Company Limited ("RPTCL)	59.	If such a process were to be applied to IORPs, it would be important for a proportionate approach to be adopted so that the checks carried out are proportionate to the risk to member benefits.	Noted.
4,515.	TCO	59.	TCO prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.	See EFRP (4,483)

			<p>TCO notes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	
4,516.	The Association of Pension Foundations (Finland)	59.	We are in favour of option 3 which enables member states necessary powers.	Noted.
4,517.	The Association of the Luxembourg Fund Industry (A	59.	Option 3 is preferred: Member States can determine the most suitable ways of supervision for the IORPs established under their territory. This would enable a diversity of approach that better reflects the diversity of IORPs across EU.	Noted.
4,518.	THE SOCIETY OF PENSION CONSULTANTS	59.	As noted in paragraph 16.3.2 of the response, a supervisory review process is implicit in the IORP Directive. We believe that this allows flexibility for states to design a process to suit their types of scheme and align with national legislation, particularly employment and social security law, which significantly impact on the operation of pension schemes.	Noted.
4,519.	Towers Watson Deutschland GmbH	59.	A supervisory review process is already part of the existing IORP Directive. We believe that this allows flexibility for states to design a process to suit their types of IORP and align with national legislation, particularly employment and social security law which significantly affect the operation of pension schemes.	Noted.

4,520.	UK Association of Pension Lawyers	59.	<p>We share EIOPA's view that a suitable supervisory review process should be in place and, to the extent that this is not explicit in IORP, that it can be made explicit. We believe that the existing IORPs process is adequate so any proposal to make explicit requirements should not go beyond existing supervisory powers. There are aspects of Article 36 of Solvency 2 that are inappropriate for IORPs and would require, for instance, a level of professional advice on covenant support that is not appropriate in an employer funded scheme where covenant information can be made available by the employer. However, without sight of specific drafting of how any express supervisory regime would look (whether based on Article 36 or otherwise), it is difficult to comment further.</p>	Noted.
4,521.	Universities Superannuation Scheme (USS),	59.	<p>USS favours Option 3: allow Member State to determine the most suitable approaches to supervision for their IORPs.</p> <p>Many Member States, including the UK, already have robust regulatory oversight in place, supported by the existing Articles 13 and 14 of the IORP Directive.</p> <p>As explained throughout this response, Solvency II is the wrong starting point for initiatives to strengthen the security of pensions.</p>	See EFRP (4,492)
4,522.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	59.	<p>The VHP2 prefers option 3: Member States should be free to determine the most suitable ways of supervision for their IORPs.</p> <p>The VHP2 observes that in many Member States, solid supervisory review processes are in place for IORPs and EIOPA correctly says that articles 13 and 14 of the IORP Directive already contain provisions relating to supervisory powers and information to supervisors.</p> <p>Should supervisory review powers be introduced however, they should be subject to the proportionality principle and should not lead to unreasonable additional costs or burdens for the IORPs. This principle already applies to insurers by virtue of article 36(7) Solvency II.</p>	See EFRP (4,492)

4,523.	Whitbread Group PLC	59.	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.
4,524.	Zusatzversorgungskasse des Baugewerbes AG	59.	79. We support a supervisory review process for IORPs if the model in place that has to be reviewed differs significantly from the one applicable to insurance companies under Solvency II. IORPs need a proper supervisory review process that takes their specificities, diversity and their own characteristics as well as the proportionality principle into account.	Noted.
4,525.	Towers Watson	59.	As noted in paragraph 16.3.2 of the consultation document, a supervisory review process is implicit in the existing IORP Directive. We believe that this allows flexibility for states to design a process to suit their types of IORP and align with national legislation, particularly employment and social security law which significantly affect the operation of pension schemes. In particular, it is important that the supervisory process is flexible to accommodate the existing rules-based and risk-based approaches adopted across different Member States.	Noted.
4,526.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	60.	See question 59	Noted.
4,527.	AbA Arbeitsgemeinschaft für betriebliche Altersver	60.	As stated above, we oppose the imposition of risk-based capital requirements on IORPs. This stance also applies to capital add-ons, the cost of which will simply be borne by members.	Noted.
4,528.	ABVAKABO FNV	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would	See Federation of Dutch pension funds (4,557)

			nevertheless be introduced, these should only be used as an “ultimum remedium” in specific situations which have adequately been defined in advance.	
4,529.	AEIP	60.	<p>112. AEIP opposes the idea of imposing capital add-on requirements on IORPs similar to those applicable to insurers.</p> <p>113. A capital charge does not improve the situation of IORPs nor is it an incentive to avoid supervisory actions. Capital charges add costs. In insurance companies add-on are (ultimately) paid by the shareholders instead of the members/clients. An add-on in case of an IORP would ultimately be paid by the plan members and the beneficiaries. This would hamper the protection of members and beneficiaries.</p> <p>If add-ons would nevertheless be introduced, these should be of negligible importance and should only be used as an last remedy in case of in advance defined specific situations.</p>	<p>Noted.</p> <p>EIOPA would like to clarify that a capital add-on is a measure which can and will only be used as a final measure to resolve a specific situation, in the interest of members and beneficiaries, if all other supervisory measures fail.</p>
4,530.	AFPEN (France)	60.	Due to the reasons explained in answering to question 59, AFPEN is against any capital add-ons and therefore rejects option 1. Furthermore, the prerequisite of capital add-ons is that the Solvency II structure also applies to IORPs about which AFPEN has serious concerns (see above answer to question x).	Noted.
4,531.	AMONIS OFP	60.	<p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to-market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>However AMONIS OFP wishes to underline as well that in his point of view “capital requirements” cannot be a way to deal with eventual governance problems within an IORP. The governance issues(generic term, including investments etc.) cannot be limited to a simple estimate of a capital requirement, in view of several particularities pertaining to IORPs, amongst those sponsor covenants (if any), long term horizon and the absence of embedded options.</p>	See BVPI-ABIP (4,537)

4,532.	ANIA – Association of Italian Insurers	60.	According to Art. 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: “risk-profile add-ons” (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and “governance add-ons” (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies that solvency II like (risk based) quantitative requirements are imposed to IORPs.	See CEA (4,545)
4,533.	Association Française de la Gestion financière (AF)	60.	It is difficult to see what extraordinary circumstance would arise in DC schemes that would require capital add ons.	Noted.
4,534.	Association of British Insurers	60.	Under legislation in the UK it does not seem relevant or possible for DC schemes to hold additional capital over and above the value of the earmarked member benefits. It is difficult to see what extraordinary circumstances would arise in DC schemes that would require capital add ons.	Noted.
4,535.	Association of Consulting Actuaries (UK)	60.	We agree that the supervisor ought to have capital add-on powers. However, we do not agree that the regime for insurers should be imported onto the IORPs’ supervisors. The insurers’ supervisor deals with a (relatively) small number of (relatively) large commercial organisations. It is not unreasonable for the insurance supervisor to retain teams of actuaries and other experts to provide a high degree of challenge to each and every insurer, particularly in the extreme case of capital add ons. If this regime were directly imported or translated onto the tens of thousands of IORPs it would be practically unworkable and counter-productive. It is essential that any capital add-on regime for IORPs is proportionate both to	Noted.

			the scale of the problem, and to the desired scale of the supervisor itself. The mechanism should be determined at Member State level.	
4,536.	Association of French Insurers (FFSA)	60.	<p>77. According to Article 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: "risk-profile add-ons" (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and "governance add-ons" (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies those solvencies II like (risk based) quantitative requirements are imposed to IORPs.</p> <p>78. For DC schemes where members bear all the risks, the FFSA suggests having a treatment comparable to the one for unit-linked life insurance products. In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	See CEA (4,545)
4,537.	Assoprevidenza – Italian Association for supplement	60.	Supervisors have to have the power to impose capital add-on, otherwise solvency rules don't have any sense.	Noted.
4,538.	Assuralia	60.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the pension rights of employees/beneficiaries. They are well developed and have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	Noted.
4,539.	Belgian Association of Pension Institutions	60.	BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to-market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.	Noted. EIOPA wishes to stress that capital add-ons are

	(BVPI-		However BVPI-ABIP wishes to underline as well that in his point of view "capital requirements" cannot be a way to deal with eventual governance problems within an IORP.	a last resort mechanism, only to be used if all supervisory measures fail.
4,540.	BNP Paribas Cardif	60.	<p>According to Article 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: "risk-profile add-ons" (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and "governance add-ons" (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies those solvencies II like (risk based) quantitative requirements are imposed to IORPs.</p> <p>For DC schemes where members bear all the risks, BNP Paribas Cardif suggests having a treatment comparable to the one for unit-linked life insurance products. In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	See CEA (4,545)
4,541.	Bosch Pensionsfonds AG	60.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted
4,542.	Bosch-Group	60.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted
4,543.	BT Pension Scheme Management Ltd	60.	We do not believe that capital add-ons are appropriate. Given the long-term nature of IORP liabilities any deficiencies are better dealt with directly (eg governance enhancements) than through the blunt, short-term instrument of a requirement for more capital.	Noted.
4,544.	Bundesarbeitge	60.	BAVC strictly opposes to provide supervisors with the power to impose capital	Noted.

	bverband Chemie e.V. (BAVC)		add-ons for insurers to IORPs.	
4,545.	CEA	60.	According to Art. 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: "risk-profile add-ons" (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and "governance add-ons" (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies that solvency II like (risk based) quantitative requirements are imposed to IORPs.	Noted.
4,546.	Charles CRONIN	60.	I do not believe that capital add-ons should be applied to IORPs. Capital add-ons are a punitive instrument to remove the profit incentive to pursue an excessively risky strategy. Whereas insurance companies seek to reward their management's remuneration and their shareholders returns by maximising the price of their shares, possibly through using an excessively risky strategy to enhance short term profitability, this is not the case with IORPs. They are effectively mutual organisations, where the M & B share in the returns and losses of the scheme. The imposition of a capital add on has the effect of tying up funds in ultra-safe assets, which may aggravate the economic position of the fund, where remedy is found by correcting issues of investment strategy and or governance.	Noted. EIOPA wishes to stress that capital add-ons are a last resort mechanism, only to be used if all supervisory measures fail.
4,547.	Chris Barnard	60.	I would also be in favour of applying the requirements for capital add-ons for insurers to IORPs. This is consistent with Solvency II, and would lead to more consistency in supervisory standards between IORPs and insurance companies. These requirements should however take into account the nature and characteristics of IORPs, and the holistic balance sheet proposal.	Noted.
4,548.	CMHF (Centrale	60.	The requirements for capital add-ons for insurers are in our opinion not	See Federation of Dutch

	van Middelbare en Hogere Functionar		appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an “ultimum remedium” in specific situations which have adequately been defined in advance.	pension funds (4,557)
4,549.	De Unie (Vakorganisatie voor werk, inkomen en loop	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an “ultimum remedium” in specific situations which have adequately been defined in advance.	See Federation of Dutch pension funds (4,557)
4,550.	Direction Générale du Trésor, Ministère des financ	60.	The requirements for capital add ons for insurance undertakings should also apply to IORPs.	Noted.
4,551.	Ecie vie	60.	The same principle should apply for insurance contracts and IORPs.	Noted.
4,552.	EFI (European Federation of Investors)	60.	Yes we agree.	Noted.
4,553.	European Association of Public Sector Pension Inst	60.	Due to the reasons explained in answering to question 59, EAPSPI is against any capital add-ons and therefore rejects option 1. Furthermore, the prerequisite of capital add-ons is that the Solvency II structure also applies to IORPs about which EAPSPI has serious concerns (see above answers to questions # 13, 14, 37 and 38).	Noted.

			Solvency II as risk adjusted supervisory regime tries to adopt equal capital requirements for the whole balance sheet. Hence, insurance companies should implement their tariffs unaffected from regulatory advantages. IORPs can neither manage their business lines nor select potential policy holders (obligation of contract). Also, IORPs and life insurers vary in corporate management, significantly.	
4,554.	European Federation for Retirement Provision (EFRP)	60.	The EFRP believes that it would be inappropriate to impose capital add-on requirements on IORPs similar to those applicable to insurers.	Noted.
4,555.	European Fund and Asset Management Association (EF)	60.	It is difficult to see what extraordinary circumstance would arise in DC schemes that would require capital add ons.	Noted.
4,556.	FAIDER (Fédération des Associations Indépendantes)	60.	Yes we agree.	Noted.
4,557.	Federation of the Dutch Pension Funds	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an "ultimum remedium" in specific situations which have adequately been defined in advance.	Noted. EIOPA wishes to stress that capital add-ons are a last resort mechanism, only to be used if all supervisory measures fail.
4,558.	Financial Reporting Council	60.	We do not consider that the requirements for capital add-ons are appropriate for IORPS.	Noted.

4,559.	FNV Bondgenoten	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an "ultimum remedium" in specific situations which have adequately been defined in advance.	See Federation of Dutch pension funds (4,557)
4,560.	Generali vie	60.	The same principle should apply for insurance contracts and IORPs.	Noted.
4,561.	Groupe Consultatif Actuariel Européen.	60.	We do not consider that supervisors should have the power to order capital add-ons for IORPs as other tools (recovery plans, benefits reduction mechanisms etc) can be used to address "extraordinary circumstances" which are not generally available in the case of insurers. In practice additional capital is not usually readily available to IORPs. In some Member States, a requirement for additional capital may lead to reduction of benefits, including pensions in payment, if there are no other means available.	Noted. EIOPA notes that additional capital only needs to be put in as a result of a capital add-on if the existing level of assets or the sponsor covenant are insufficient to cover the increased capital requirements.
4,562.	Groupement Français des Bancassureurs	60.	According to Article 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: "risk-profile add-ons" (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and "governance add-ons" (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies those solvencies II like (risk based) quantitative requirements are imposed to IORPs.	See CEA (4,545)

			<p>For DC schemes where members bear all the risks, FBIA suggests having a treatment comparable to the one for unit-linked life insurance products.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	
4,563.	PMT-PME-Mn Services	60.	<p>The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an “ultimum remedium” in specific situations which have adequately been defined in advance.</p>	See Federation of Dutch pension funds (4,557)
4,564.	HM Treasury/Department for Work and Pensions	60.	<p>The UK Government sees no reason to apply these requirements to IORPs</p>	Noted.
4,565.	Institute and Faculty of Actuaries (UK)	60.	<p>We believe that the supervisory authority should have the power to impose additional funding requirements for defined benefit IORPs but we favour a more flexible approach than provided under Solvency II, reflecting the limited capital-raising powers of IORPs.</p> <p>We have a concern that transcribing the Solvency II capital add-ons provisions to IORPs could make defined benefit IORPs much less attractive to sponsoring employers. We consider that the current UK provisions for “Contribution Notices” or “Financial Support Directions” achieve a good balance and that it would therefore be unfortunate if transcribing the Solvency II ‘capital add on’ requirement resulted in immediate capital injection becoming the only supervisory tool available. We therefore consider it essential that the potential impact of any changes to the current provisions be thoroughly assessed.</p> <p>We note also that the Technical Provisions may already include margins to allow</p>	<p>Noted.</p> <p>EIOPA wishes to stress that capital add-ons are a last resort mechanism, only to be used if all supervisory measures fail.</p>

			for the risks inherent in the actual investments and so it may be inappropriate to allow capital add-ons by reference to the actual investments alone.	
4,566.	Le cercle des épargnants	60.	The same principle should apply for insurance contracts and IORPs.	Noted.
4,567.	Mercer	60.	We cannot see the purpose achieved by capital add-ons since IORPs are unable to access additional capital in financial markets. Even if this were restricted to apply solely to schemes where members bear all of the risk, the effect of the add on would just be to reduce members' conditional benefits further.	Noted.
4,568.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an "ultimum remedium" in specific situations which have adequately been defined in advance.	See Federation of Dutch pension funds (4,557)
4,569.	National Association of Pension Funds (NAPF)	60.	It would be inappropriate to impose capital add-on requirements on IORPs similar to those applicable to insurers.	Noted.
4,570.	NEST Corporation	60.	We do not believe that these will be appropriate in the supervision of IORPs providing benefits purely on a DC basis. We further believe that in the UK, the regulator has sufficient equivalent powers.	Noted. EIOPA wishes to stress that capital add-ons are a last resort mechanism, only to be used if all supervisory measures fail.
4,571.	Pan-European Insurance	60.	PEIF agrees in principle with the concept: if the competent authority concludes that an IORP has more risk is involved than shown, then it must be able to	Noted.

	Forum (PEIF)		impose capital add-ons. (Not necessarily appropriate for pure DC schemes.)	
4,572.	Pensioenfonds Zorg en Welzijn (PFZW)	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an "ultimum remedium" in specific situations which have adequately been defined in advance.	See Federation of Dutch pension funds (4,557)
4,573.	Predica	60.	<p>According to Article 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: "risk-profile add-ons" (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and "governance add-ons" (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies those solvencies II like (risk based) quantitative requirements are imposed to IORPs.</p> <p>For DC schemes where members bear all the risks, Predica suggests having a treatment comparable to the one for unit-linked life insurance products.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	See CEA (4,545)
4,574.	PTK (Sweden)	60.	PTK believes that it would be inappropriate to impose capital add-on requirements on IORPs similar to those applicable to insurers.	Noted.
4,575.	Railways Pension Trustee Company Limited ("RPTCL)	60.	We have not considered this question.	Noted

4,576.	TCO	60.	TCO believes that it would be inappropriate to impose capital add-on requirements on IORPs similar to those applicable to insurers.	Noted.
4,577.	The Association of Pension Foundations (Finland)	60.	Requirements for the capital add ons for insurance undertakings are not directly applicable to IORPs.	Noted.
4,578.	The Association of the Luxembourg Fund Industry (A	60.	Option 3 is preferred: retain the legal possibility to impose capital add-ons in the Member States. Capital add-ons may not be appropriate for certain IORPs. Specific considerations should be given to pure DC scheme as imposing a capital add-on would directly affect the pensions of the members.	Noted.
4,579.	THE SOCIETY OF PENSION CONSULTANTS	60.	In the case of defined benefit schemes, we believe that the supervisory authority should have the power to impose additional funding requirements. This is a system which we believe works successfully in the UK, where the Pensions Regulator examines the scheme funding level in line with a statutory funding objective. This objective is scheme specific – enabling individual schemes to adopt a funding strategy which suits their circumstances – but is underpinned by an overriding principle of prudence in legislation. The Regulator has power to impose contributions on the employer, for example, if it considers that the technical provisions, on which the employer and trustees propose that the scheme be funded, are imprudent. Ultimately, the Regulator can modify or stop future accrual of benefits. In the case of wholly defined contribution schemes, there are no funding requirements and so the issue of “capital add-ons” does not arise. All that is necessary is regulation to enable enforcement of the employer’s existing obligations to make the agreed contributions to members’ accounts.	Noted.
4,580.	Towers Watson Deutschland	60.	We disagree strongly with such a requirement. This is consistent with our position that a SCR is not appropriate for sponsor-backed IORPs.	Noted.

	GmbH			
4,581.	UK Association of Pension Lawyers	60.	<p>In the defined benefit sphere, IORPs already have the possibility of capital add-ons as the assets supporting a defined benefit pension scheme could be said to include not only the assets of the pension scheme but also the assets of the sponsoring undertaking up to a level consistent with the full value of the scheme liabilities.</p> <p>To impose a further ability for trustees to call for the sponsor to add further capital to the pension scheme would undermine the scheme specific funding approach already in place which is clear about the two-way process of agreement between trustees and sponsoring undertakings on the rate at which capital is added to the IORP.</p> <p>To go further, and impose a further ability for trustees to call for the sponsor to develop further capital itself is meaningless in the context of employers sponsoring pension schemes and would only serve to hasten the demise of those sponsors whose ability to generate funding for their pension scheme is already low. This would lead to business insolvencies, a greater call on the PPF and lead to the further demise of occupational defined benefit pension schemes in the UK. This would also amount to a major interference with existing rights, which would need proper justification (see part (2) of our general comments at the beginning of this document). (See also the points made on putting in place a disincentive to groups to act responsibly and provide financial support to IORPs in our comments in response to question 5 above and question 89 below.)</p>	<p>Noted.</p> <p>EIOPA notes that additional capital only needs to be put in as a result of a capital add-on if the existing level of assets or the sponsor covenant are insufficient to cover the increased capital requirements.</p>
4,582.	Universities Superannuation Scheme (USS),	60.	It would be inappropriate to impose capital add-on requirements on IORPs similar to those applicable to insurers.	Noted.
4,583.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	60.	The requirements for capital add-ons for insurers are in our opinion not appropriate in the context of the IORP Directive and should not apply to IORPs. Contrary to the insurers, where an add-on is (ultimately) paid by the shareholders instead of the members/clients, an add-on in case of an IORP would ultimately be paid by the plan members and beneficiaries. This would	See Federation of Dutch pension funds (4,557)

			hamper the protection of members and beneficiaries. If add-ons would nevertheless be introduced, these should only be used as an “ultimum remedium” in specific situations which have adequately been defined in advance.	
4,584.	Whitbread Group PLC	60.	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.
4,585.	Zusatzversorgungskasse des Baugewerbes AG	60.	<p>80. Capital charges do not improve the situation of IORPs nor are they incentive to avoid supervisory actions. Capital charges only add costs. In insurance companies add-ons are (ultimately) paid by the shareholders. An add-on in case of an IORP would ultimately be paid by the plan members and the beneficiaries because there are no shareholders like in insurance companies. This would hamper the protection of members and beneficiaries.</p> <p>81. Therefore we reject the idea of imposing capital add-on requirements on IORPs similar to those applicable to insurers.</p>	<p>Noted.</p> <p>EIOPA notes that additional capital only needs to be put in as a result of a capital add-on if the existing level of assets or the sponsor covenant are insufficient to cover the increased capital requirements.</p>
4,586.	Towers Watson	60.	<p>For the same reasons that we do not believe that a SCR is appropriate for sponsor-backed IORPs (see response to question 38), we resist this provision as a blanket requirement across the EU. In addition, we consider that it introduces a potential risk that different Member States could apply this requirement in different ways, thereby reducing the degree of harmonisation and impeding the development of cross border arrangements.</p> <p>We believe that the supervisory authority should have the power to impose additional support requirements</p> <p>In the UK, as well as the supervisory authority having powers to intervene in the setting of technical provisions or imposing additional contributions, there are powers to impose what are called Contribution Notices or Financial Support Directions – both used only in extreme cases. The former are, in effect, instructions on a party (possibly the sponsor or even more widely drawn from those who are connected with the sponsor) to pay an additional amount. (This is similar to the ‘capital add on’ nomenclature of Solvency II.) The Financial</p>	<p>Noted.</p> <p>EIOPA wishes to stress that capital add-ons are a last resort mechanism, only to be used if all supervisory measures fail.</p>

		<p>Support Direction mechanism is where the UK regime is more refined as it allows the Regulator to bind a particular party (or parties) into providing adequate support for the IORP. Coupled with the UK's 'employer debt' legislation that means that employers cannot 'walk away' from pension commitments, this is as strong a member security mechanism as is reasonably possible to design. We have some concern that copying over a 'capital add on' requirement from the Solvency II Directive could lead to this 'immediate' capital injection becoming the only supervisory tool available – which would make DB schemes less attractive to sponsoring employers, compared with the more measured approach that the UK regulator currently employs.</p>	
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