Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation		Deadline 02.01.2012 18:00 CET
Company name:	Pensions Sicherungs-Verein aG (PSVaG), Köln.	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. *Please indicate if your comments on this CP should be treated as confidential, by deleting the word **Public** in the column to the left and by inserting the word **Confidential**.*	Public
	The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006). **Please follow the instructions for filling in the template:** ⇨ Do **not** change the numbering in column "Question". ⇨ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty. ⇨ There are 96 questions for respondents. Please restrict responses in the row "General comment" only to material which is not covered by these 96 questions. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. **Please send the completed template to *CP-006@eiopa.europa.eu*, in MSWord Format, (our IT tool does not allow processing of any other formats).**	
Question	**Comment**	
General comment	**General comment:** The Pensions-Sicherungs-Verein VVaG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany and Luxemburg. For such	

	institutions are addressed in the draft response to the call for advice the PSVaG feels obliged to take the opportunity of public consultation. In the following we want to present the German system of occupational pension provision in short and the part the PSVaG plays within this system. With regard to the specific questions raised by EIOPA we limit our response to those questions directly linked to the task of the PSVaG. In Germany, one of the major national economies in the EU, the corporate pension (or occupational retirement provision) system, the second pillar of old-age security, plays an especially important role for working people. A fully functional insolvency insurance programme is an essential prerequisite and must fulfil two criteria: 1. It must ensure complete security for the old-age pensions of employees and retirees as long as they are in force and 2. motivate employers to strengthen this pillar of old-age security. **Pension protection in Germany:** Therefore, a proven dual protection system has been developed in Germany. 1. Subsidiary liability of the employer, who provides the primary level of pension security. In the event that the institutional pension scheme is partially or fully unable to provide the assured benefits, the employer is obliged to contribute to the extent necessary to honour benefit entitlements. 2. Should the employer become insolvent and no longer able to meet his obligations due to partial or total insolvency, the PSVaG assumes responsibility for insuring pension entitlements. **The PSVaG:** This pension protection institution was founded in 1974 as a mutual insurance association. Its legal basis is the *Gesetz zur Verbesserung der betrieblichen Altersversorgung* (Corporate Old-Age Security Improvement Act, BetrAVG). The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides protection for all benefits accrued at the date of insolveny up to a certain amount (at the moment about 90,000 euros a	

year) which should cover 100 % of promises made by employers or by IORPs.
This protection system has proven effective. Since 1974, over 1.2 million individuals have received pensions from the PSVaG or have lodged valid claims for pension entitlements with the PSVaG.

How the PSVaG is funded:
The PSVaG is funded by contributions from member organizations on the basis of an allocation system linked to the volume of annual claims. Since foundation the average allocated contribution of 0.31 percent of total insured pension volume is very moderate. The contributions are not limited which is why the level of security for the covered pension promises provided by the PSVaG should be 100 %.

Cross-border activity of PSVaG
This system has also been successfully installed in Luxembourg since 2001 and thus has cross-border impact. This offers additional advantages, such as a broader employer base and thus a broader distribution of mandatory contributions. It fulfils a social-security function in the form of cross-border pension protection.

Stability of the PSVaG
Due to the legal status of the PSVaG as a mutual insurance association as well as supporting statutory regulations, including in particular those contained in the Corporate Old-Age Security Improvement Act (BetrAVG), the risk of instability for the PSVaG as a self-help facility for the business community comprising more than 90,000 employers in Germany and Luxembourg is effectively ruled out.

Social service
The most important social service provided by the system is the guarantee that all employees affected by employer insolvency are assured of receiving the non-forfeitable pension benefits to which they are entitled as of the effective date of insolvency up to a maximum monthly amount of 7,845 EURO (in 2012) from the PSVaG. Retirees are assured of receiving their benefits without interruption.

Participation in the system is mandatory for corporate enterprises which offer corporate pensions through

	direct benefit assurances or through pension funds or pension relief funds. This insurance also covers employee entitlements to deferred compensation. In this way, the PSVaG provides full coverage for the subsidiary liability of employers, regardless of the extent to which a given employer is exposed to the risk of insolvency and regardless of an employer's business sector affiliation or size.	
1.		
2.		
3.	The PSVaG prefers Option 1 ("leave the IORP Directive unchanged"). Reliable and sustainable occupational retirement plans are protected by a system of corporate provisions for pensions and documented accordingly in annual financial statements. If an employer becomes insolvent, the Pensions-Sicherungs-Verein (PSVaG) covers all non-forfeitable pension entitlements of its employees and pays current or future pension benefits in full for as long as said entitlements remain in effect. Please refer to "General comment" for information regarding procedures, insolvency protection and maximum coverage amounts. The same is true for pension relief funds ("Unterstützungskassen"), institutions whose beneficiaries have no legal rights to benefits and whose sponsoring employers can redeem assets at any time and must not necessarily meet their obligations to pay retirement benefits.	
4.		
5.		
6.		

7.		
8.		
9.		
10.		
11.		
12.	What is the view of the stakeholders on the holistic balance sheet proposal? Do stakeholders think that the distinction between Article 17(1) IORPs, 17(3) IORPs and sponsor-backed IORPs should be retained or removed? From the point of view of the PSVaG the application of the principles of Solvency II to IORPs is not necessary for pension promises protected by unlimited sponsor support and pension protection schemes. If the holistic balance sheet allows for the full value of the above-mentioned security mechanisms without restricting it to the amount of the solvency capital requirements it would always be possible to prove that the promises are sufficiently protected. The calculations necessary to set up the holistic balance sheet would cause high administrative costs. Employers could be tempted to reduce occupational pension promises. This possible effect would contradict the aim to increase the spread of old-age-provision in Germany. Therefore the distinction between the different types of IORPs in Article 17 of the current IORP Directive should be retained. It would also be necessary to leave the provisions on the calculation of technical provisions in Article 15 unchanged for IORPs with security mechanisms such as unlimited sponsor support and pension protection schemes.	
13.		
14.		
15.		
16.		

	Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation	Deadline 02.01.2012 18:00 CET
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		
26.		
27.		
28.		
29.		
30.		
31.		
32.		
33.		
34.		
35.		
36.		
37.		
38.		
39.		
40.		
41.	Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an	

	insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). For further details see "General comment". Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of German legislators to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schems are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.	

	Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation	Deadline 02.01.2012 18:00 CET
42.		
43.		
44.		
45.		
46.		
47.		
48.		
49.		
50.		
51.		
52.		
53.		
54.		
55.		
56.		
57.		
58.		
59.		
60.		
61.		
62.		
63.		
64.		
65.		
66.		

67.		
68.		
69.		
70.		
71.		
72.		
73.		
74.		
75.		
76.		
77.		
78.		
79.		
80.		
81.		
82.		
83.		
84.		
85.		
86.		
87.		
88.		
89.		
90.		
91.		

Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation		Deadline 02.01.2012 18:00 CET
92.		
93.		
94.		
95.		
96.		