	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:	GAZELLE CORPORATE FINANCE LTD	
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. o 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. o 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	We are aware of considerable concern in the UK regarding the potential difficulties that would be created by imposing more burdensome solvency requirements. It would be absolutely essential that any new requirements were such as would not result in a further decline in pension provision in the UK, nor unreasonable financial	

	difficulties for sponsoring employers. Certainly the introduction of capital requirements for sponsor backed scemes on the lines of those to be required for insurance funds by Solvency II would be entirely inappropriate. However we view the proposals in EIOPA-CP-11-006 as an attempt to create a conceptual framework in which the security of pension arrangements which rely on the sponsor covenant can be more objectively approached and measured. We have some further observations which go beyond the questions raised in the CP, as follows: ▪ If the conceptual framework of a Holistic Balance Sheet is introduced it would be illogical and inconsistent not to include Book Reserve pension schemes (as are common in Germany and elsewhere). We appreciate that this would require a change to the scope of the IORP Directive. However Book Reserve schemes are funded schemes, albeit relying on the sponsor covenant rather than external assets to any extent. ▪ If the "capital requirements" identified in the new framework as appropriate for the pension liabilities, after taking into account the available scheme assets, are not covered by the sponsor covenant, it needs to considered what steps should be required. For example would it be proposed that the regulator concerned be given powers to enable the benefits to be scaled back to achieve "solvency" – in the same way as there is scaling back of scheme benefits under Pension Protection Schemes? Otherwise what is the value and purpose of the measurement and certification of the sponsor covenant?	
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12.	We support the proposals in EIOPA-CP-11-006 as an attempt to create a conceptual framework in which the security of pension arrangements which rely on the sponsor covenant can be more objectively approached and measured. We agree that it is reasonable to take into account in a holistic balance sheet the following elements as security for the benefits accrued to date: ▪ The assets of the scheme ▪ Contingent assets, such as security over the sponsoring company's assets ▪ Future payments to the scheme to which the employer has committed under a recovery plan ▪ The sponsor covenant to the extent that the scheme has a potential claim on this. As noted in our response to Question 33 however, we have some concerns about the value and purpose of the extensive work involved in quantifying the value of the sponsor covenant with any great precision. As noted in our response to Question 41, we have a concern about the concept of treating the provision of a Pension Protection Scheme as an asset. This seems highly questionable; the sponsor is either ongoing or insolvent, and a PPS is only of value in the latter case; it may involve different benefits as is certainly the case in the UK. We consider the attempted analogy with reinsurance to be highly misleading, as reinsurance is a mechanism for risk transfer not an asset.	
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33.	We agree with the proposition that the sponsor covenant provides security for the benefit promises to members of the sponsoring employer's pension schemes and that some attempt should be made to measure the value of it. However, the assessment of a sponsor covenant involves qualitative as well as quantitative measures and the amount of work involved could be disproportionate to the benefit. For example the value of the covenant may depend considerably on the corporate structure of the sponsor's organization, and inter-company arrangements such as dividend payments and loans may require considerable analysis and clarification. The ability of the employer to make the payments under a recovery plan will depend on the strength of the sponsor covenant. In many cases the strength will be clearly more than sufficient to cover the funding deficit, however measured, and there will be no merit in carrying out more work than necessary to confirm this. In other cases the covenant provided by the employers participating in the scheme may be insufficient but the covenant provided by the parent company or group is fully sufficient and the trustees of the scheme may be relying on this as a matter of goodwill and trust. In yet other cases the covenant may be insufficient even with recourse to the parent company or group – in such cases it is questionable what merit there is in attempting a precise measurement of the extent to which the covenant falls short of the level needed for security unless such measurement will lead to regulatory action. Unlike the case of an insurer which can raise more capital to improve the solvency position of its fund, employers are simply not in a position to raise additional capital to fund unaffordable pension deficits.	

	Against this background, we would make the following high level observations: ▪ Rather than certify the value of they sponsor covenant, it would be sufficient in many cases to certify that it was sufficient. ▪ It is vital to distinguish between the covenant provided by the participating employers, on which the scheme is entitled to rely, and the covenant provided by the parent group on which reliance may not be formally enforceable. ▪ Valuing contingent assets would need some considerable guidance; for example putting a value on an intercompany guarantee might be problematic. ▪ It would be appropriate for the actuarial valuations to be on an ongoing basis not an insolvency basis.	
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41.	We have a concern about the concept of treating the provision of a Pension Protection Scheme as an asset. This seems highly questionable; the sponsor is either ongoing or insolvent, and a PPS is only of value in the latter case; it may involve different benefits as is certainly the case in the UK. We consider the attempted analogy with reinsurance to be highly misleading, as reinsurance is a mechanism for risk transfer not an asset.	
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