

**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**

**15 February 2012**

**Q52-90**

EIOPA would like to thank OPSG; AbA; ABI\_IT; ABI\_UK; Abvakabo\_FNV\_NL; ACA\_UK; ACT; ADEPO\_ES; AEIP; AFG; AFPEN; AFTI; Alecta; ALFI and ALFP; AMICE; AMONIS; ANIA; Aon\_Hewitt; APL\_UK; Association of Pensioner Trustees in Ireland; Assoprevidenzia IT; Assuralia; ATOS\_FR; Atradius; Balfour Beatty plc; BASF; BAVC; Bayer; BDA; BIPAR; BlackRock; BNP Paribas Cardif; BNP Paribas SS; Bosch Group; Bosch Pensionfonds AG; BP; BT Group plc; BT Pension Scheme Management Ltd; BusinessEurope; BVCA; BVI; BVPI-ABIP; BW; CBI; CEA; Charles Cronin from OPSG; Chris Barnard; CMHF; CNV NL; CWC; DATA; De Unie; Derek Scott of D&L Scott; Deutsche Post AG; Deutsche Post Pensionfonds AG; DG Treasury FR; DHL NL; DHL Services Limited UK; DHL Trustees; DIIR Germany; Dutch Labour Foundation; Dutch Ministry of Social Affairs; EAPSPI; ECB; ecie vie; ECIIA; EEF; EFAMA; EFI; EFRP; ESY FI; European Metalworkers Foundation; EVCA; FAIDER; FairPensions; FBIA; German Federal Ministry of Finance; Federation Dutch Pension Funds; FFSA FR; Finland; Finnish Centre for Pensions; FNMf; FNV; FNV Bondgenoten; FRC; Gazelle; GCAE; Generali Vie; Gesamtmetall; HM Treasury; Hundred Group; Hungarian Financial Supervisory Authority; HVB; IBM Germany Pensionskasse and Pensionsfonds; ICAEW; IMA; ING; Institute and Faculty of Actuaries; IVS DE; Keills; KPMG; Le cercle des epargnants; LTO Netherlands; LTPP; LV 1871 Pensionfonds AG; Macfarlanes; MAN Pensionsfonds AG; MAN SE; MCP; Mercer; MHP; NAPF; NEST; Nordmetall; OECD; PEIF; Pensioen Stichting Transport NL; Pensionskasse der Mitarbeiter der Hoechst Gruppe VVaG; PFZW NL; PMT\_PME\_MnServices NL; Predica; Prof.Pelsser Maastrich University; PSV aG; PTK; Punter Southall; PwC LLP UK; Reed Elsevier Group; Rio Tinto; RNLI; RPTCL; RWE AG; Sacker and Partners LLP; SAI; Siemens AG; Social Partners Bosch Group Germany; SPAG; SPC UK; Standard Life plc; State Street; TCO; TESCO; Transport for London; TUC; TW; UNI Europa; USS UK; vbw DE; VFPK; VHP2; VvV NL; Whitbread; ZIA; ZVK Bau.

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

No.	Name	Reference	Comment	Resolution
2,043.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	61.	<p>The OPSG agrees with the principles proposed by EIOPA but is looking for a definition of “activities”. We especially highlight that a revised IORP Directive should not put outsourced activities (such as administration, data processing, IT provider) under direct supervision.</p> <p>A consequence of this principle is that the supervisor’s first contact point is the IORP which is responsible to assure an access to information necessary to fulfil supervisory functions with respect to outsourced activities. We also consider the IORP itself responsible for negotiating and controlling the outsourcing deals, including the impact of chain outsourcing in the agreement.</p> <p>The OPSG is of the opinion that Article 38 (2) should not be applied to IORPs. Service providers should only deal with the supervisor of their country of establishment, rather than dealing with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can operate as an acting agent for the supervisor of the country of establishment of the foreign IORP.</p> <p>We agree with the EIOPA that the IORP’s home state should be defined as the one where the IORP was authorised or registered.</p> <p>However, we do not see the benefit of the regulation that the main administration needs to be located in the home member state.</p>	<p>Noted. The response to CfA 20 “Outsourcing” provides that only outsourcing of critical or important functions or activities must comply with certain regulatory requirements mentioned therein.</p> <p>Noted. Applying article 38(2) to the IORPs would ensure level playing field and ensure the harmonisation of supervisory powers where all activities of IORPs would be supervised in the same way irrespective of whether they are carried by IORP itself or outsourced</p>

				<p>to the international service provider.</p> <p>Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.</p>
2,044.	AbA Arbeitsgemeinschaft für betriebliche Altersver	61.	<p>The Article 13(b) of Directive 2003/41/EC should be clarified, but we are not convinced that the material elements of Article 38(1) of the Solvency II Directive are the right way forward. The AbA can't support Option 2.</p> <p>The AbA would propose again (see response on the first EIOPA draft) to include in the revised IORP Directive the principle that the IORP remains responsible for the outsourced activities. The consequence of this principle is that the supervisor's first contact point is the IORP and not the different service providers which perform activities for the IORP. In this concept, the IORP will ensure that the supervisory authorities will, on request, have access to information necessary to fulfill supervisory functions with respect to outsourced activities.</p> <p>We do not believe there is any added value of having a Level 1 principle to empower the supervisory authority of the IORP to carry out themselves on-site inspections at the premises of the service provider in case that service provider is located in another</p>	<p>Noted</p> <p>Noted. The statement that IORP is responsible for outsourced functions is included in CfA 20 "Outsourcing" and there is no need to duplicate the wording also in CfA 12</p> <p>Disagree. The CfA</p>

			<p>member state. Therefore we oppose to the idea to use Article 38(2) of Directive 2009/138/EC in the revised IORP Directive (change of Article 13 (d) IORP Directive), too. In addition, the AbA fails to see the need to introduce special rules or further details on the case the service provider is located in a non-EEA country (see section 17.3.11). We would focus more on due diligence to be performed by the IORP while selecting a service provider.</p> <p>We believe that it is sufficient that "Member States must ensure that supervisory authorities have the necessary powers at any time to request information on outsourced functions and activities". The AbA agrees with EFRP that a written outsourcing agreement is an effective tool facilitating the exercise of supervision in case of domestic and cross-border outsourcing (see 17.3.6). But regulations which would unnecessarily increase bureaucracy, complexity and cost should be avoided.</p>	<p>intends to ensure that the outsourcing of the respective functions or activities to the service provider in another state will not create any supervisory gaps</p>
2,045.	ABVAKABO FNV	61.	<p>We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.</p>	<p>Disagree. The CfA intends to ensure that the outsourcing of the respective functions or activities to the service provider in another state will not create any supervisory gaps</p>
2,046.	AEIP	61.	<p>114. We agree that the material elements of Article 38 (1) of the</p>	<p>Noted</p>

			<p>Solvency Directive in respect of supervision of outsourcing should apply also to IORP's.</p> <p>115. We would like to draw the attention on the possible conflicting situation between the requirement of acces to all information by the supervisor even with all the outsourced activities and the eventual (legally required) profession secret, e.g. in the case of a lawyer who is appointed as compliance officer.</p> <p>We would like to draw also the attention on the consequences of applying article 38 (2). Service providers would have to deal with other supervision than that of the state where they are established, even with more than one foreign supervisors when the service provider operates internationally. This could be solved by making the supervisor of the state where the service provider is established an acting agent for the supervisor of the state where the foreign IORP is established.</p>	<p>Disagree. The professional secret could not be used as reason to refuse supervisor's request for information. Supervisors use the information solely for supervising purposes.</p> <p>Noted. Applying article 38(2) to the IORPs would ensure level playing field and ensure the harmonisation of supervisory powers where all activities of IORPs would be supervised in the same way irrespective of whether they are carried by IORP itself or outsourced to the international service provider.</p>
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2,048.	AMONIS OFP	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>AMONIS OFP agrees with EIOPA that material elements of article 38(1) of the Solvency II Directive could usefully be introduced in IORP Directive.</p> <p>We would like to draw the attention on the possible conflicting situation between the requirement of access to all information by the supervisor even with all the outsourced activities and the eventual (legally required) profession secret</p>	<p>Noted</p> <p>Disagree. The professional secret could not be used as reason to refuse supervisor's request for information. Supervisors use the information solely for supervising purposes.</p>
2,049.	ANIA – Association of Italian Insurers	61.	<p>The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance).</p> <p>Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.</p>	<p>Noted. The current wording of the advice does not restrict IORPs from outsourcing certain activities to the sponsor if it has necessary skills and knowledge. There is no need to be more specific in this case.</p> <p>Agree</p>

2,050.	Association Française de la Gestion financière (AF	61.	It is important to clearly define exceptions regarding proportionality in this area. Where the entity performing the outsourcing function is itself a regulated financial entity, any requests for information etc should come from its primary supervisor, not the supervisor of the IORP (especially where IORP/Pension scheme is not a legal entity) otherwise there is a danger of duplicate requirements, and the associated costs of this.	Noted. The principle of proportionality is defined in in Cfa 18.4.2.
2,051.	Association of British Insurers	61.	<p>The advice would make Article. 38(1) of the Solvency II Directive applicable to IORPs. This would introduce more explicit powers for the supervisors of pension funds to require co-operation from providers of outsourced services than under the current IORP Directive. While the ABI agrees that there should be supervision of outsourced functions, we believe that the advice should be revised as to how the supervision is conducted.</p> <p>In the UK, the current drafting of the advice means that there is potential duplication of supervision of insurance companies acting as investment managers or administrators of pension funds.</p> <p>The ABI therefore believes the advice should be revised to make it clear that, where the entity performing the outsourcing function is itself a regulated financial entity, any requests for information etc. should come from its primary supervisor, not the supervisor of the IORP.</p> <p>It seems the Directive only deals with outsourcing in respect of EU members of the scheme and only allows outsourcing to service providers that are regulated in the EU. The scheme needs flexibility to deal with both EU and non-EU members and the regulatory needs of a wider community of 'host' regulators</p>	<p>Noted. The purpose of the document is to provide high level principles and the practical implementation measures could be considered at the later stage.</p> <p>Disagree. The current wording of 17.4.4. considers how to ensure supervisory powers in case of outsourcing to the</p>

				non-EU providers
2,052.	Association of Consulting Actuaries (UK)	61.	We would be strongly opposed to the rules for IORPs on outsourcing for pension funds being the same as those for insurers on the grounds of proportionality and increased cost/inefficiency. The proposed requirements would add very significant additional cost to the administration of pension funds. Furthermore, the lack of any clear definition of "outsourced services" makes the provision unworkable (does the provision of say, communication consultancy services to a pension fund constitute outsourced services, if yes, what of the printing of a booklet?) These would need to be more tightly defined and any rules restricted to core identified areas.	Disagree. The principle of proportionality and description "Outsourcing of critical or important functions or activities" are described in other parts of CfA
2,053.	Association of French Insurers (FFSA)	61.	79. The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance).  Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.	Noted. The current wording of the advice does not restrict IORPs from outsourcing certain activities to the sponsor if it has the necessary skills and knowledge. There is no need to be more specific in this case.  Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the

				Solvency II Framework Directive should be considered.
2,054.	Association of Pensioner Trustees in Ireland	61.	Where activities are outsourced to an appropriately authorised entity, it should not be necessary to apply additional requirements.	Disagree. The aim of the IORP supervisor is to ensure that the functions and activities carried out are sufficient and adequate to the current IORP status and outsourcing of the respective functions or activities could not create any obstacles for supervisors to carry out their procedures
2,055.	Assoprevidenza – Italian Association for supplement	61.	Yes	noted
2,056.	Assuralia	61.	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

2,057.	Bayer AG	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>We do not support option 2.</p> <p>The revised directive should include the principle, that the IORP remains responsible for the outsourced activities. Therefore we reject considerations to empower the supervisory authority for direct inspections to the service provider in case the service provider is located in another member state.</p>	<p>Disagree. The outsourcing of the respective functions or activities to the service provider in another member state could not be considered as a reason for not applying the same supervisory procedures as they could be provided if the service is provided in the same country</p>
2,058.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>We do not support option 2. The revised directive should include the principle, that the IORP remains responsible for the outsourced activities. Therefore we reject considerations to empower the supervisory authority for direct inspections to the service provider in case the service provider is located in another member state.</p>	<p>Disagree. The outsourcing of the respective functions or activities to the service provider in another member state could not be considered as a reason for not applying the same supervisory procedures as they could be provided if the service is provided in the same country</p>

2,059.	Belgian Association of Pension Institutions (BVPI-	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>BVPI-ABIP agrees with EIOPA that material elements of article 38(1) of the Solvency II Directive could usefully be introduced in IORP Directive.</p> <p>We would like to draw the attention on the possible conflicting situation between the requirement of access to all information by the supervisor even with all the outsourced activities and the eventual (legally required) profession secret</p>	<p>Noted</p> <p>Disagree. The professional secret could not be used as reason to refuse supervisor's request for information. Supervisors use the information solely for supervising purposes.</p>
2,060.	BNP Paribas Cardif	61.	<p>The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance).</p> <p>Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.</p>	<p>Noted</p> <p>Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the</p>

				article 34(7) of the Solvency II Framework Directive should be considered.
2,061.	Bosch Pensionsfonds AG	61.	See under "General comment": "Sui generis" supervisory system for IORPs.	
2,062.	Bosch-Group	61.	See under "General comment": "Sui generis" supervisory system for IORPs.	
2,063.	BT Pension Scheme Management Ltd	61.	Yes, we agree that the material elements should apply equally to IORPs as to insurers, though we would hope that the power outlined in Article 38(2) would only need to apply where the IORP has itself not been of assistance in enabling appropriate oversight of the outsourced service provider.	Noted. The proposal does not intend to create any administrative burden but to ensure that in case of outsourcing the supervisory authority has the same powers to the IORP functions and activities
2,064.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	61.	We do not support option 2. The revised directive should include the principle, that the IORP remains responsible for the outsourced activities. Therefore we reject considerations to empower the supervisory authority for direct inspections to the service provider in case the service provider is located in another member state.	Disagree. The outsourcing of the respective functions or activities to the service provider in another member state could not be considered as a reason for not applying the same

				supervisory procedures as they could be provided if the service is provided within the same country
2,065.	CEA	61.	<p>The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance).</p> <p>Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.</p>	<p>Noted. The current wording of the advice does not restrict IORPs from outsourcing certain activities to the sponsor if it has the necessary skills and knowledge. There is no need to be more specific in this case.</p> <p>Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the Solvency II Framework Directive should be considered.</p>
2,066.	Charles CRONIN	61.	Yes, I agree with EIOPA that the material elements of the requirements on insurers in respect of supervision of outsourcing	noted

			(Articles 38(1) and 38(2)) should also apply to IORPs.	
2,067.	Chris Barnard	61.	<p>I agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs. This would promote supervisory consistency between IORP and service provider, and between own and outsourced functions, and therefore remove any gaps in supervision here.</p> <p>I agree that when the service provider is located in a non-EEA country, it is the responsibility of the IORP to ensure the relevant access of the Supervisory authority. This would require a reasonable transition in order to allow IORPs enough time to make any necessary contractual changes.</p>	<p>Noted</p> <p>Noted. There should be transitional period for making necessary changes but this is technical issue and not subject of this CfA</p>
2,068.	CMHF (Centrale van Middelbare en Hogere Functionar	61.	<p>We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.</p>	<p>Disagree. The CfA intends to ensure that the outsourcing of the respective functions or activities to the service provider in another state will not create any supervisory gaps</p>
2,069.	De Unie (Vakorganisatie	61.	<p>We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP</p>	<p>Disagree. The CfA intends to ensure</p>

	voor werk, inkomen en loop		Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.	that the outsourcing of the respective functions or activities to the service provider in another state will not create any supervisory gaps
2,070.	Direction Générale du Trésor, Ministère des financ	61.	The material elements of the requirements on insurance undertakings in respect of supervision of outsourcing should also apply to IORPs.	noted
2,071.	Ecie vie	61.	We consider Articles 34(7) and 38 of Solvency II should apply to IORPs.	Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the Solvency II Framework Directive should be considered.
2,072.	ECIIA	61.	Outsourced functions and activities are part of the IORP's operational risks so there have to be managed adequately. IA can give an assurance on the effectiveness of the process in place for	Noted. Proposals of the Internal Audit is given in CfA 18

			mitigating the risk associated to key outsourced services. EIOPA should emphasize on this notion of key /essential activities. The capacity of the IORPs to guarantee the processes for monitoring these activities will be enhanced if based on an existing internal control framework in the IORP. With such a framework, supervisory authorities' action will be more efficient	
2,073.	European Association of Public Sector Pension Inst	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>A reconstruction of historical business data is very complicated and time-consuming. Material elements should only focus on business functions with strategic impact. IORPs traditionally delivering supplementary pensions only for employees of a certain employers have less strategic functions than insurance companies operating on the open market. Hence, an automatic transfer all of these requirements on insurers to IORPs would only bring additional cost account to beneficiaries. EAPSPI advocates option 1- leave the IORP directive unchanged.</p>	Disagree. There is huge variety of the pension institutions within EU and therefore subject of principle of proportionality
2,074.	European Federation for Retirement Provision (EFRP)	61.	<p>The EFRP agrees with EIOPA that material elements of article 38(1) of the Solvency II Directive could usefully be introduced in IORP Directive.</p> <p>The EFRP finds that there is no added value if having a level 1 principle to empower the supervisory authority to carry out on-site inspections of the IORP's service providers, as suggested in 17.4.2.</p>	<p>Noted</p> <p>Disagree. The CfA intends to ensure that the outsourcing of the respective functions or activities to the</p>

			<p>Article 38(2) should not be applied to IORPs. The EFRP would propose to include the principles that the IORP remains responsible for the activities that it has outsourced. The first contact point should be the IORPs and not the various service providers which perform activities for it. The IORP will be responsible for providing supervisory authorities with all the information required for them to effectively and efficiently carry out their supervisory role.</p> <p>As an alternative, foreign service providers should be able to benefit from having to deal with the supervisor in their home country, rather than having to deal with multiple foreign supervisors when they provide services to IORPs.</p> <p>It is important for IORPs to be able to appoint service providers outside the EU/EEA without having to notify their home supervisor a priori, a limitation that EIOPA correctly identifies in 17.3.4.. The reviewed IORP Directive should bring an end to geographical limitations on outsourcing.</p>	<p>service provider in another state will not create any supervisory gaps</p> <p>The current wording also addresses the cooperation between supervisory authorities in case when outsourcing to supervised entity</p> <p>Noted. A priori notification is one of possibilities how the Member States could ensure consistency of supervision in case of outsourcing to the non EU service provider</p>
2,075.	European Fund and Asset Management Association (EF	61.	It is important to clearly define exceptions regarding proportionality in this area. Where the entity performing the outsourcing function is itself a regulated financial entity, any requests for information etc should come from its primary supervisor, not the supervisor of the IORP, otherwise there is a	Noted. The principle of proportionality is introduced in in Cfa 18.4.2.

			danger of duplicate requirements, and the associated costs of this.	
2,076.	FairPensions	61.	Yes, we agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should also apply to IORPs.	noted
2,077.	Federation of the Dutch Pension Funds	61.	We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.	Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality
2,078.	Financial Reporting Council	61.	The proposal appears reasonable if implemented on a proportionate basis.	Noted. The principle of proportionality is introduced in in CfA

			We have a general concern that while many of the individual points concerning supervision and governance are reasonable when considered one by one, when added together they impose a significant regulatory burden. We are concerned that the cost of compliance will outweigh the benefit of increased security for members.	18.4.2.
2,079.	FNV Bondgenoten	61.	We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.	Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality
2,080.	Generali vie	61.	We consider Articles 34(7) and 38 of Solvency II should apply to IORPs.	noted Agreed. The following sentence

				is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the Solvency II Framework Directive should be considered.
2,081.	GESAMTMETALL - Federation of German employer	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>We do not support option 2. The revised directive should include the principle, that the IORP remains responsible for the outsourced activities. Therefore we reject considerations to empower the supervisory authority for direct inspections to the service provider in case the service provider is located in another member state.</p>	<p>Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of</p>

				proportionality
2,082.	Groupement Français des Bancassureurs	61.	<p>The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance).</p> <p>Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.</p>	<p>Noted</p> <p>Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the Solvency II Framework Directive should be considered.</p>
2,083.	PMT-PME-Mn Services	61.	<p>We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules</p>	<p>Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that</p>

			of the country where the IORP is located on the other hand.	supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality
2,084.	IMA (Investment Management Association)	61.	We are concerned, as EIOPA is, to ensure that any changes in this area do not result in unduly onerous requirements. We agree, therefore, that an impact assessment is needed (17.3.28) and it is important clearly to embed proportionality in this area. Where the entity performing the outsourcing function is itself a regulated financial entity, any requests for information etc. should come from its primary supervisor, not the supervisor of the IORP, otherwise there is a danger of duplicate requirements and the associated costs compliance	Noted. The principle of proportionality is introduced in in CfA 18.4.2.
2,085.	Institute and Faculty of Actuaries (UK)	61.	We agree in principle that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs 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.	Noted. The principle of proportionality is introduced in in CfA 18.4.2.
2,086.	KPMG LLP (UK)	61.	We see a number of problems in implementing such requirements for IORPs, given: <input type="checkbox"/> the non-regulated nature of pensions administration in	Noted. The principle of proportionality is introduced in in CfA 18.4.2.

			<p>some states (including the UK)</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the possible duplication of regulation in those states where one regulator is responsible for asset managers, and another for IORPs</li> <li><input type="checkbox"/> the use in some states of asset managers and other providers who are not located in member states, and/or the use of sub-contractors by asset managers (e.g. for custody services)</li> <li><input type="checkbox"/> In the UK, this is currently managed by a number of mechanisms, including contractual conditions and the use of controls reports under SSAE 3400. We recommend that this framework remain. Prior notification by IORPs of the contracts would be very burdensome for both them and the Regulator, particularly bearing in mind the large number of IORPs in the UK.</li> </ul>	<p>Implementation measures could be considered at the later stage</p>
2,087.	Le cercle des épargnants	61.	<p>We consider Articles 34(7) and 38 of Solvency II should apply to IORPs.</p>	<p>noted Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the Solvency II Framework Directive should be considered.</p>
2,088.	Macfarlanes LLP	61.	<p>91. (CfA 12 Supervision of outsourced functions &amp; activities) Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>92. No. As indicated above, the responsibility for schemes in</p>	<p>Noted. The principle of proportionality is introduced in in CfA 18.4.2.</p>

			<p>the UK is in the hands of trustees with fiduciary responsibilities. They are clearly accountable in relation to the choice of counterparties, and the employer will bear the cost of anything which goes wrong. Consequently, there is both accountability and restitution of funds within the current system. It would be completely inappropriate for regulatory interference within a company pension arrangement at this level.</p>	
2,089.	Mercer	61.	<p>We agree that it is reasonable for IORPs to expect any providers of outsourced services to provide them with adequate information and that the providers themselves should have to cooperate with supervisory authorities in carrying out their duties in relation to the IORP. However, any rights the supervisory authority has to request information and demand access to premises should be proportionate and reasonable, in connection with its regulatory responsibilities.</p> <p>EIOPA should also consider how it will treat cases where the entity providing third party services to the IORP is separately regulated, perhaps by supervisory authorities implementing standards produced by EIOPA itself under the Insurance Directive. In that case, revisions to the Directive should not duplicate the supervisory role: it should be possible to look through from one set of regulation to the other, to minimise the risk of regulatory overload.</p>	<p>Noted. The principle of proportionality is introduced in in CfA 18.4.2.</p> <p>This could be subject to Level 2</p>
2,090.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	61.	<p>We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor</p>	<p>Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or</p>

			<p>of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.</p>	<p>activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality</p>
2,091.	National Association of Pension Funds (NAPF)	61.	<p><b>SUPERVISION OF OUTSOURCED FUNCTIONS AND ACTIVITIES</b></p> <p>13. Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>Elements of article 38(1) of Solvency II could usefully be imported into the IORP Directive.</p> <p>There is, however, no added value in a level 1 principle to empower the supervisory authority to carry out on-site inspections of the IORP's service providers, as suggested in 17.4.2.</p>	<p>Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same</p>

			Article 38(2) should not be applied to IORPs. Instead, the key principle should be that the IORP remains responsible for the activities it has outsourced; the IORP should be the first contact point.	supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality
2,093.	NORDMETALL, Verband der Metall- und Elektroindustr	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>We do not support option 2. The revised directive should include the principle, that the IORP remains responsible for the outsourced activities. Therefore we reject considerations to empower the supervisory authority for direct inspections to the service provider in case the service provider is located in another member state.</p>	<p>Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality</p>
2,094.	Pan-European	61.	The material elements of the requirements on insurers in respect	Noted. The principle

	Insurance Forum (PEIF)		of supervision of outsourcing should apply also to IORPs. One needs also to take into account proportionality.	of proportionality is introduced in in CfA 18.4.2.
2,095.	Pensioenfonds Zorg en Welzijn (PFZW)	61.	We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.	Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality
2,096.	Predica	61.	The provisions of Article 38 of the Solvency II Directive should apply to IORPs and are appropriate to replace article 13 of the current IORP Directive. However, it has to be clarified, how the provisions of Art. 38 of the Solvency II Directive shall apply in	Noted

			<p>case some functions or activities are outsourced to the sponsoring undertaking, especially if the IORP outsources certain governance functions (particularly internal audit and compliance).</p> <p>Moreover, the competent authorities should have the same general supervisory powers as it is the case for insurance and reinsurance undertakings. Thus, also the provisions of Article 34(7) should apply to IORPs.</p>	<p>Agreed. The following sentence is added to the CfA 17.4.3. To ensure consistency of supervisory powers also elements of the article 34(7) of the Solvency II Framework Directive should be considered.</p>
2,097.	PTK (Sweden)	61.	PTK agrees with EIOPA that material elements of article 38(1) of the Solvency II Directive could usefully be introduced in IORP Directive.	noted
2,098.	Railways Pension Trustee Company Limited ("RPTCL)	61.	Please see our response to Q53.	noted
2,100.	TCO	61.	TCO agrees with EIOPA that material elements of article 38(1) of the Solvency II Directive could usefully be introduced in IORP Directive.	noted



			<p>clarifications that should be made about the location of the main administration of the IORP as it influences duties of the Supervisory authorities – home state and host state in cross-border activities. We agree</p> <p><input type="checkbox"/> that it seems to be most appropriate that the home state is defined as the state where the IORP was authorized</p> <p><input type="checkbox"/> that the revised IORP Directive could include a requirement that main administration is always located in the home member state</p>	Noted
2,103.	THE SOCIETY OF PENSION CONSULTANTS	61.	<p>Article 13 of the IORP Directive requires supervision of outsourced functions and allows flexibility for states to design the means to achieve this. Rather than a more prescriptive approach, we prefer the current flexible approach, as it is likely to result in a regime which is more closely targeted at the issues which are relevant in each state. Elements of Article 38 of the Solvency II Directive could be included, but this should be on a non-exclusive basis.</p>	Disagree. New regulation would provide harmonised approach and avoid possible supervisory gaps
2,104.	Towers Watson Deutschland GmbH	61.	<p>Article 13 of the existing IORP Directive requires supervision of outsourced functions and allows flexibility for states to design appropriate means to achieve this. Rather than a more prescriptive approach, we prefer the current flexibility as it results in a regime which is more closely targeted at the issues that are relevant to each state.</p>	Disagree. New regulation would provide harmonised approach and avoid possible supervisory gaps
2,105.	UK Association of Pension Lawyers	61.	<p>CfA 12 (Supervision of outsourced functions and activities): Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>The draft advice of EIOPA, summarised in paragraph 27.5, seems</p>	noted

			proportionate and balanced to us and we have no further comments here.	
2,106.	Universities Superannuation Scheme (USS),	61.	<p>SUPERVISION OF OUTSOURCED FUNCTIONS AND ACTIVITIES</p> <p>6. Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p>	
2,107.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	61.	<p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>We do not support option 2. The revised directive should include the principle, that the IORP remains responsible for the outsourced activities. Therefore we reject considerations to empower the supervisory authority for direct inspections to the service provider in case the service provider is located in another member state.</p>	<p>Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of</p>

				proportionality
2,108.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	61.	We can confirm that the material elements of Article 38 (1) of the Solvency Directive could in fact be used as a basis for the IORP Directive. However, we are of the opinion that this is not the case for Article 38 (2). It would be preferable, that service providers only have to deal with the supervisor of their country of establishment, rather than having to deal with multiple foreign supervisors in case of an international client base. The supervisor of the country of establishment of the pension service provider can in such case, under the condition that the IORP should be informed about the supervision, operate as an acting agent for the supervisor of the country of establishment of the foreign IORP. Furthermore the final responsibility should remain with the IORP. Thus a balance is struck between the interests of the service provider on the one hand, and the interest of enforcing the rules of the country where the IORP is located on the other hand.	Disagree. The CfA intends to fill possible gaps of supervisory powers that could arise in when certain IORP functions or activities are outsourced abroad. The advice introduces harmonised approach among MS to ensure that supervisors have the same supervisory powers regardless the functions are carried out by IORP or outsourced subject to principle of proportionality
2,109.	Whitbread Group PLC	61.	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
2,110.	Zusatzversorgungsk asse des Baugewerbes AG	61.	82. We agree that the material elements of Article 38 (1) of the Solvency Directive in respect of supervision of outsourcing should apply also to IORPs, but under strict consideration of the proportionality principle.	Noted. The principle of proportionality is introduced in in CfA 18.4.2.

2,111.	Towers Watson	61.	<p>62. CfA 12 Supervision of outsourced functions &amp; activities</p> <p>Do stakeholders agree that the material elements of the requirements on insurers in respect of supervision of outsourcing should apply also to IORPs?</p> <p>Article 13 of the existing IORP Directive requires supervision of outsourced functions and allows flexibility for states to design appropriate means to achieve this. Rather than a more prescriptive approach, we prefer the current flexibility as it results in a regime which is more closely targeted at the issues that are relevant to each state.</p>	Disagree. New regulation would provide harmonised approach and avoid possible supervisory gaps
2,112.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	62.	See question 61	noted
2,113.	AbA Arbeitsgemeinschaft für betriebliche Altersver	62.	<p>The AbA agrees with EFRP that the “home state” should be defined as “the state where the IORP has been authorised or registered” (section 17.4.6). We do not see the benefit of the proposed regulation that the main administration needs to be located in the home member state. Therefore, we disagree with EIOPA’s proposal on the location of the main administration (section 17.3.24 and section 17.4.6).</p> <p>Additional rules on chain outsourcing will not increase the level of security of the scheme members. Again, we consider it is the task and responsibility of the IORP to negotiate and control the outsourcing deals, including the impact of chain outsourcing in the agreement. Therefore, we do not believe that additional rules on chain outsourcing are necessary.</p>	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.

2,114.	ABVAKABO FNV	62.	We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.
2,115.	AEIP	62.	We support EIOPAs proposals concerning changes to the definition of home state and rules on chain outsourcing.	noted
2,117.	AMONIS OFP	62.	What is the stakeholders` view on proposed changes to the definition of home state and rules on chain outsourcing?  AMONIS OFP supports the suggestion of EIOPA that the IORPs home state should be defined as the one where the IORP was authorized or registered (please check also our answer on question 5).	noted
2,118.	ANIA – Association of Italian Insurers	62.	The ANIA is of the opinion that the IORP should always be responsible for their outsourced activities.  The ANIA also shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision and administrative burden, especially where there are two regulators responsible for pension regulation and financial regulation. The advice should therefore be	Agreed. The following clarification will be added to paragraph 17.3.18. In case when subcontractee is a supervised entity there should be same level of

			amended to make clear that where the entity performing the outsourcing function is itself regulated, the supervisor of the IORP should not set overlapped provisions and, in case of request of information, should collaborate with the supervisor of the outsourcer in order to obtain the same data already sent from the outsourcer entity to its supervisor. The primary supervisory authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to facilitate access to data etc. In any case, the ANIA highlights that even if different supervisors follow have different objectives, duplication of work for the insurers should be avoided.	cooperation between supervisory authorities as stated for supervision of service providers to avoid potential overlapping of supervision.
2,119.	Association of British Insurers	62.	<p>As we said in our response to EIOPA's first consultation, in the UK this could introduce potential duplication of supervision for insurance companies acting as investment managers or administrators of pension funds. This is because in the UK the FSA is responsible for supervising outsourced functions such as fund management.</p> <p>The ABI does not wish to see duplication of regulation for our members. Therefore while we agree that there should be supervision of outsourced functions, we believe the advice should be changed regarding the process of that supervision.</p> <p>The advice should therefore be amended to make clear that where the entity performing the outsourcing function is itself a regulated financial entity, any requests for information etc. should come from its primary supervisor, not the supervisor of the IORP. The primary supervisory authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to obtain access to data etc</p>	Agreed. The following clarification will be added to paragraph 17.3.18. In case when subcontractee is a supervised entity there should be same level of cooperation between supervisory authorities as stated for supervision of service providers to avoid potential overlapping of supervision.
2,120.	Association of Consulting Actuaries (UK)	62.	We would be strongly opposed to such rules on the grounds that it would effectively preclude IORPs from choosing to purchase their outsourced services in the most cost-effective way within the	Noted. The principle of proportionality is introduced in in CfA

			common constraints and protections of civil and criminal law. This would make IORPs unable to compete with insurers with their larger buying power to meet the costs of compliance. Once again by effectively precluding the provision of say, actuarial or computing services from a non-EEA state such a provision would simply add to costs without in any way improving the security of members or aiding effective governance.	18.4.2.
2,121.	Association of French Insurers (FFSA)	62.	The FFSA shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision.	Noted
2,122.	Assoprevidenza – Italian Association for supplement	62.	We agree with EIOPA advice	Noted
2,123.	Assuralia	62.	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
2,124.	Belgian Association of Pension Institutions (BVPI-	62.	What is the stakeholders' view on proposed changes to the definition of home state and rules on chain outsourcing?  BVPI-ABIP supports the suggestion of EIOPA that the IORPs home state should be defined as the one where the IORP was authorized or registered (please check also our answer on question 5).	Noted
2,125.	BNP Paribas Cardif	62.	BNP Paribas Cardif shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is	Noted

			needed to avoid overlap of supervision	
2,126.	BT Pension Scheme Management Ltd	62.	We believe that these proposed powers are appropriate.	Noted
2,127.	CEA	62.	<p>The CEA is of the opinion that the IORP should always be responsible for their outsourced activities.</p> <p>The CEA also shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision and administrative burden, especially where there are two regulators responsible for pension regulation and financial regulation. The advice should therefore be amended to make clear that where the entity performing the outsourcing function is itself regulated, the supervisor of the IORP should not set overlapped provisions and, in case of request of information, should collaborate with the supervisor of the outsourcer in order to obtain the same data already sent from the outsourcer entity to its supervisor. The primary supervisory authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to facilitate access to data etc. In any case, the CEA highlights that even if different supervisors follow have different objectives, duplication of work for the insurers should be avoided.</p>	<p>Agreed. The following clarification will be added to paragraph 17.3.18. In case when subcontractee is a supervised entity there should be same level of cooperation between supervisory authorities as stated for supervision of service providers to avoid potential overlapping of supervision.</p>
2,128.	Charles CRONIN	62.	I support EIOPA's proposed changes to the definition of home state to where the IORP is authorised and registered, plus the requirement that this must be the main place of administration. I also support the opinion for additional rules on chain outsourcing, to make sure that supervisors have same powers vis-à-vis the	Noted

			subcontractee as they do with the outsourced service provider.	
2,129.	Chris Barnard	62.	<p>The home state should be the state where the IORP has been authorised or registered. This is transparent and objective.</p> <p>I agree with the proposed rules on chain outsourcing. This should ensure internal supervisory consistency (please also see my response to question 61).</p>	Noted
2,130.	CMHF (Centrale van Middelbare en Hogere Functionar	62.	<p>We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP</p>	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.
2,131.	De Unie (Vakorganisatie voor werk, inkomen en loop	62.	<p>We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP</p>	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.

2,132.	Ecie vie	62.	We share EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority, a clarification is needed to avoid overlap of supervision.	Noted
2,133.	European Association of Public Sector Pension Inst	62.	<p>What is the stakeholders` view on proposed changes to the definition of home state and rules on chain outsourcing?</p> <p>In case of amended chain outsourcing IORPs and supervisory authorities need the same controlling powers vis-à-vis a subcontractee as vis-à-vis the service provider. A consistent definition of the "home state" used for other sectors would be eligible. EAPSPI advises option 2.</p>	Noted
2,134.	European Federation for Retirement Provision (EFRP	62.	<p>The EFRP agrees with the EIOPA suggestion that the IORP's home state should be defined as the one where the IORP was authorised or registered.</p> <p>However, we do not see any benefits in an approach that would stipulate that the main administration (= the place where the main strategic decisions of the IORP's executive body are taken) needs to be located in the home member state.</p> <p>In the case of chain subcontracting, it should still be the IORP that is responsible for the activities of the subcontractors. For practical supervisory purposes, foreign subcontractors (i.e. foreign service providers) should be able to benefit from having to deal with the supervisor in their home country, rather than having to deal with multiple foreign supervisors when they provide services to IORPs.</p>	<p>Noted</p> <p>Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member</p>

				<p>state.</p> <p>Agreed. The following clarification will be added to paragraph 17.3.18. In case when subcontractee is a supervised entity there should be same level of cooperation between supervisory authorities as stated for supervision of service providers to avoid potential overlapping of supervision.</p>
2,135.	Federation of the Dutch Pension Funds	62.	<p>We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final</p>	<p>Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member</p>

			responsibility should remain with the IORP	state.
2,136.	Financial Reporting Council	62.	We have not formed a view on this question.	Noted
2,137.	FNV Bondgenoten	62.	We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.
2,138.	Generali vie	62.	We share EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority, a clarification is needed to avoid overlap of supervision.	Noted
2,139.	Groupeement Français des Bancassureurs	62.	FBIA shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision	Noted
2,140.	PMT-PME-Mn Services	62.	We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory

			outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP	authority the main administration of IORP should be always located in the home member state.
2,141.	Institute and Faculty of Actuaries (UK)	62.	We consider that the proposed changes to the definition of home state and rules on chain outsourcing would be an improvement to the current provisions of the IORP Directive.	noted
2,142.	KPMG LLP (UK)	62.	The definition of home state for this purpose could be problematic. The state in which "the main strategic decisions of the IORP's decision making body are made" is not necessarily the same state in which some or all of the administration is carried out.	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.
2,143.	Le cercle des épargnants	62.	We share EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority, a clarification is needed to avoid overlap of supervision.	noted
2,144.	Mercer	62.	We would be concerned that changes in the definition of 'home state' could create difficulties with existing structures and we are not aware of any problems created by the existing interpretations of the definition. However, if it is considered that clarification would materially improve the quality of regulation, then we agree that the home state should be where the IORP is registered or	Noted. The proposed changes intend to provide consistency and ensure harmonisation of

			<p>authorised, and that 'main administration' should refer to the place where the main strategic decisions are taken. In particular, the definition should not interfere with decisions IORPs could legitimately take to outsource the administration function (in the sense of managing payrolls and dealing with day to day member events) to locations outside of the member state the IORP is registered in.</p> <p>In relation to chain outsourcing, we agree that the IORP and the supervisory authorities should be able to look through to the actual entity carrying out tasks in relation to the IORP and that supervision should not stop at the level of 'first outsourcer'. However, if functions are outsourced offshore, then this could create logistical difficulties. We would not consider it appropriate for the regulatory regime to prevent outsourcing to countries other than the IORP's home country, but agree that chain outsourcing, particularly to offshore locations, is likely to place additional governance responsibilities on IORPs that the regulatory regime could be used to identify, although not necessarily at the level of the Directive.</p>	<p>the rules.</p> <p>Agree. This issue could be considered at the later stage e.g. implementation measures</p>
2,145.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	62.	<p>We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of</p>	<p>Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in</p>

			different supervisory rules should be avoided and the final responsibility should remain with the IORP	the home member state.
2,146.	National Association of Pension Funds (NAPF)	62.	What is the stakeholders` view on proposed changes to the definition of home state and rules on chain outsourcing?	
2,147.	Pan-European Insurance Forum (PEIF)	62.	We share EIOPA's views on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision, especially where there are two regulators responsible for pension regulation and financial regulation.	Agreed. The following clarification will be added to paragraph 17.3.18. In case when subcontractee is a supervised entity there should be same level of cooperation between supervisory authorities as stated for supervision of service providers to avoid potential overlapping of supervision.
2,148.	Pensioenfonds Zorg en Welzijn (PFZW)	62.	PFZW agrees with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory

			outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP	authority the main administration of IORP should be always located in the home member state.
2,149.	Predica	62.	Predica shares EIOPA's view on chain outsourcing and location of the main administration. However, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision	noted
2,150.	Railways Pension Trustee Company Limited ("RPTCL	62.	We have not considered this question.	noted
2,151.	The Association of Pension Foundations (Finland)	62.	In the case of subcontracting, it should be the IORP which is responsible for the activities of outsourced activities.	Disagree. The proposed changes intend to ensure consistency of supervisory powers irrespective whether the activities is performed by the IORP itself or subject to outsourcing or chain outsourcing
2,152.	The Association of the Luxembourg Fund Industry (A	62.	See Q 61	noted
2,153.	THE SOCIETY OF	62.	We agree with the proposed clarification of the IORP Directive in	Noted. Currently

	PENSION CONSULTANTS		the cases of cross-border service providers, chain outsourcing and the definition of home state. It would be helpful to have clarification of what 'registration' means. We assume that 'registration' through the national register of pension arrangements, if a member State has one. Again, we favour casting any supervisory process in wide terms to allow the most effective, focused local response.	Art.9.1(a) provides "the institution is registered in a national register by the competent supervisory authority or authorised"
2,154.	Towers Watson Deutschland GmbH	62.	We agree with the proposed clarification in the case of cross-border service providers, chain outsourcing and the definition of Home state.  We favour casting any supervisory process in wide terms to allow the most effective, focused local response.	noted
2,155.	UK Association of Pension Lawyers	62.	CfA 12 (Supervision of outsourced functions and activities): What is the stakeholders' view on proposed changes to the definition of home state and rules on chain outsourcing?  The draft advice of EIOPA, summarised in paragraph 17.5, seems proportionate and balanced to us and we have no further comments here.	Noted
2,156.	Universities Superannuation Scheme (USS),	62.	What is the stakeholders' view on proposed changes to the definition of home state and rules on chain outsourcing?	
2,157.	Verbond van Verzekeraars	62.	With respect to outsourcing, we are of the opinion that the IORP must always be responsible regardless whether the other party is subject to supervision. If an appropriate home/host/lead supervision is embedded within the IORP directive, double supervision will be avoided.	Agreed. The following clarification will be added to paragraph 17.3.18. In case when subcontractee

				is a supervised entity there should be same level of cooperation between supervisory authorities as stated for supervision of service providers to avoid potential overlapping of supervision.
2,158.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	62.	We agree with the suggestion of EIOPA that the IORP's home state should be defined as the one where the IORP was registered or authorised. Therefore we do not fully understand the phrase "proposed changes to the definition of home state and rules on chain outsourcing". More clarity should be provided in this respect. But we agree with the proposed changes on the rules on chain outsourcing, including clarification of the wording "location of the main administration". However, we see no benefits in an approach that would stipulate that the main administration needs to be located in the home member state. Furthermore, accumulation of different supervisory rules should be avoided and the final responsibility should remain with the IORP	Disagreed. EIOPA thinks that mainly for the reason of easier accessibility of IORP by its supervisory authority the main administration of IORP should be always located in the home member state.
2,159.	Whitbread Group PLC	62.	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
2,160.	Zusatzversorgungskasse des Baugewerbes AG	62.	83. We support EIOPA's proposals concerning changes to the definition of home state and rules on chain outsourcing.	Noted

No.	Name	Reference	Comment	Resolution
2.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	63.	<p>The OPSG agrees that the amended IORP Directive should in principle contain general governance principles building on Article 41 of the Solvency II Directive. It recognises in line with EIOPA’s view (18.3.1) that some of the standards within the Solvency II Directive can be transposed, such as the requirement for an adequate transparent organisational structure, the need for proportionality, and the requirements for written policies for risk management, internal control and outsourcing. However, unlike EIOPA it does not agree that all the standards need to be equivalent in order to provide sound and prudent management, such as a need to review written policies on an annual basis, as this will not always be within the context of proportionality for IORPs.</p> <p>It agrees with EIOPA (18.3.2) that an effective governance system should</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> ensure that the management is sound and prudent,</li> <li><input type="checkbox"/> secure a high standard of member and beneficiaries’ protection,</li> <li><input type="checkbox"/> assist the management board (or equivalent management entity) in setting the appropriate risk profile for the IORP.</li> </ul> <p>To a large extent, IORPs already enact these principles and we do not see therefore that extensive change is required. In particular the OPSG endorses the statement (18.3.5) that</p>	<p>Noted</p> <p>Only a regular review is proposed (see 18.4.1)</p> <p>Noted</p> <p>Noted</p>

		<p>“there are vast differences in the nature scale and complexity of IORPs” and that a new supervisory system should “not undermine the supply or the cost efficiency of occupational retirement provision in the EU”. The OPSG understands that the principle of good governance is not a proportional issue – all members of IORPS however small, should be entitled to a high level of governance. However the implementation of this principle must vary according to the criteria of nature and scale. Complexity may be an issue in that an IORP with complex benefit design may consider a suitable level of internal control to be different from that of an IORP with very simple benefit offering – but the IORP itself is the best entity to judge the suitability of the particular governance structure. Provided the structure satisfies the principles of good governance, the specific structure should be IORP – specific. The OPSG therefore believes the principle of proportionality should be established at level 1.</p> <p>In terms of documentation of IORP policies, the OPSG agrees that written policies would be applicable and should be reviewed regularly. It would also agree with EIOPA that imposing an annual review could be overly burdensome (18.3.11) and that more important than requiring specific timescales for review, IORPs should be required to monitor and review their policies, as appropriate without specific timescales. It agrees that a three yearly review of a statement of investment policy principles should be retained (18.3.12)</p> <p>The OPSG does not support the idea of prior approval or submission of the written policies to an outside supervisory committee, but rather this should be approval by the IORPS</p>	<p>Noted</p> <p>That is not proposed. Proposed is an approval through an administrative, management or</p>
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		<p>own management body. It cannot see that the outside supervisory body would add value or enhance the security of members by approval, nor is it likely to have sufficient resources to add value as a result of the submission. It therefore agrees that the implementation of governance requirements should sit with the IORP and not with the supervisory authority.</p> <p>The OPSG agrees with EIOPA that the general governance system should not prevent member states from allowing for the participation of members in their governance structure (18.3.19) – indeed this can only enhance both transparency and the security of benefits for members. However it also recognises the large variety of management structures, including the participation of sponsor nominated persons – which enhances the efficiency and willingness of sponsor support for the IORP – and independent professional persons.</p> <p>In terms of remuneration policy the OPSG agrees with EIOPA (18.3.22) that special characteristics of IORPs need to be adequately recognised, for example that staff are often supplied by the sponsoring undertaking, at the sponsor’s expense, or that they use volunteer unpaid staff, such as pensioner trustees. OPSG would therefore agree with the concept of a level 1 statement of principle provided it recognises these characteristics, but that there is no need for level 2 implementing measures. In addition if the IORP were to have specific remuneration requirements, it might need for example a remuneration committee as a necessary internal control, which would lead to an increase in procedure and cost</p>	<p>supervisory body inside the IORP (see 18.3.13)</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>
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			<p>and breach the principle of proportionality for almost all but a few of the very largest IORPs.</p> <p>The OSPG agrees that an adequate governance framework will further advance the decision making processes of IORPs. Therefore, the OSPG supports the view that some governance elements of the Solvency II framework could reasonably and in a proportionate manner be used as a basis for developing a EU level governance system for IORPs without interfering with governance models structures that may exist at MS-level.</p>	
3.	AbA Arbeitsgemeinschaft für betriebliche Altersver	63.	<p>In our response to the Green Paper and the first EIOPA Consultation, we expressed the general view that qualitative guidelines such as those laid down in the BaFin circular MaRisk, with an appropriately modified application of a general proportionality clause, could be a potential governance standard for IORPs. Therefore we support Option 2.</p> <p>The proposed amendment “if appropriate, the governance system should not prevent members’ and beneficiaries’ participation in the governance structure of the IORP” (section 18.4.1) says implicitly that members’ and beneficiaries’ participation in IORPs is an exception. That’s not true for IORPs.</p> <p>It is important to apply the principle of proportionality to all elements of the governance system of IORPs (e.g. internal control, internal audit, outsourcing), in order to avoid excessive administrative burden for IORPs (see section 18.4.2).</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p>
4.	ABVAKABO FNV	63.	<p>We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP’s “subject to the proportionality principle and a proper impact assessment to</p>	Noted

			<p>assess the real impact of the new requirements.” as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.</p>	
5.	AEIP	63.	<p>116. We agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality. We would like EIOPA to conduct an impact assessment in order to gain knowledge of the real impact of the new requirements</p> <p>117. AEIP thinks that a number of governance requirements could be applied through the revision of the IORP directive:</p> <p>118. a) The system of governance which shall provide sound and prudent business management. Paritarian organisations are well prepared to fulfil this requirement because they are owned by their stakeholders and their board (and/or other bodies) consist of representatives of these stakeholders. As the complex system of governance that requires risk-management, compliance, internal audit and actuarial functions for smaller paritarian institutions are difficult to implement, cooperation and outsourcing of all these functions should be possible.</p> <p>119. b) Transparent organisational structure with clear allocation and appropriate segregation of responsibilities. Again, in the respect of the proportionality principle, already the solvency II framework allows smaller and less complex undertakings to carry out more than one of these functions by a single person or organisational unit.</p> <p>120. c) Written policies in relation to risk management, internal controls and internal audit.</p> <p>121. d) AEIP recommends contingency plans to be taken into account.</p>	<p>Noted</p> <p>Noted</p>

			We would like to invite EIOPA to consider a transition period when implementing the new rules.	
7.	AMONIS OFP	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>We agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality. A first proportionality check must be made at level 1 and included in the directive. We would like EIOPA to conduct an impact assessment in order to gain knowledge of the real impact of the new requirements to have a correct idea this.</p>	Noted
8.	ANIA – Association of Italian Insurers	63.	<p>The ANIA strongly supports EIOPA’s view that the governance requirements for IORPs should be similar to those of insurance and reinsurance undertakings according to the “same risks, same rules” principle whilst taking into account the specific characteristics of the pension products or schemes. Indeed, as correctly indicated by EIOPA, the governance system of an IORP should be aligned with the aims of the insurance industry which: (i) ensure that management is sound and prudent, (ii) secure a high standard of Members’ and Beneficiaries’ protection and (iii) assist the management board if appropriate.</p> <p>Additionally, pillars 2 and 3 of the Solvency II Framework Directive offer useful principles that are also applicable to IORPs, particularly in areas around governance, risk management supervisory reporting and public disclosure and as such, certain pillar 2 and 3 provisions should be directly applied to IORPs, such as Art. 41 of the Solvency II Framework</p>	Noted

			<p>Directive on the general governance requirement. As a general approach, pillar 2 and 3 principles should be used at least as a basis; and where appropriate for those areas that seem less appropriate for IORPs adjustments could be made.</p> <p>Regarding proportionality, the ANIA does not agree with the exclusions from the revised IORP Directive by means of membership size - as is currently the case in Art. 5 and as indicated in paragraph 18.3.9 of the draft response to the Call for Advice. Other criteria for exclusion from the scope of the IORP Directive should be considered in order to ensure that exclusions are based on risk. For example, this could be done by the use of a benchmark on technical provisions and premium income – similarly to article 4 of the Solvency II Framework Directive - rather than by the amount of members and beneficiaries, provided that these are calculated in a transparent and harmonised basis. In any case, this benchmark should be balanced in a fair and transparent way against the need to ensure security for members and beneficiaries based on an appropriate QIS.</p> <p>The ANIA agrees on the other principles of proportionality.</p>	Noted, (see 2.8.3)
9.	Association Française de la Gestion financière (AF)	63.	<p>We support the general need of transparency and general governance requirements. However, the number of schemes and difference in form make the task of creating a uniform approach potentially costly for the industry, and potentially harmful in terms of benefits for members and beneficiaries. For many schemes, the imposition of the proposed regime would not reflect the differences in business models and backgrounds, and create significant burdens and cost, especially where the IORP has no legal personality and responsibilities are borne by providers, such as asset managers or administrators. Also, we strongly disagree with the analysis</p>	<p>Noted</p> <p>EIOPA endorses the point of view that the differences between DB and DC schemes could</p>

			<p>in 18.3.23 that there are no major differences between defined benefits and defined contribution schemes, primarily stemming from the different nature of the benefits being provided. This justifies applying different governance requirements for DB and DC schemes.</p> <p>As already stressed in page 2, IORPs/DC schemes are very different from life assurance undertakings and similar rules for governance are not appropriate.</p> <p>AFG stresses the need for an impact study to assess the real impact of the new requirements.</p>	<p>bring different governance requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level 1 can be taken into account by applying the principle of proportionality</p>
10.	Association of British Insurers	63.	<p>The ABI believes the advice on general governance is appropriate. In particular, we agree with EIOPA that there are vast differences in the nature, scale and complexity of IORPs among member states and within the same member state, and that a proportionality clause applicable to all elements of the governance framework is therefore vital. We also agree that this proportionality clause may need to be construed and applied more broadly than under the Solvency II regime.</p> <p>However, as we said in our response to EIOPA's first consultation paper we strongly disagree with the analysis in 18.3.23 that states there are no major differences between defined benefits and defined contribution schemes. There is a world of difference between the two types of schemes. For example, defined contribution schemes in the UK need to include a default fund for purposes of automatic enrolment to protect disengaged members from volatility in the run-up to retirement. Such considerations are irrelevant in defined</p>	<p>Noted</p> <p>EIOPA endorses the point of view that the differences between DB and DC schemes could bring different governance requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level</p>

			benefit schemes	1 can be taken into account by applying the principle of proportionality
11.	Association of Consulting Actuaries (UK)	63.	<p>We agree with the general recommendation that IORPs should adopt the material elements of Solvency II for governance subject to proportionality. What is proportional must be clearly spelt out in level 2 text. The average IORP is significantly smaller than the average insurer. For example, a significant number will have no individual employed full-time in running the IORP. It will be better for an IORP to undertake a limited number of carefully chosen focussed governance activities than to have a long list covering issues that have little relevance for the specific IORP, documented in boilerplate language and with little substantive governance activity underpinning the list.</p> <p>Remuneration policy is a case in point. In the UK, for example, it is common for trustees of the IORP either to be unremunerated, or for remuneration to be paid directly by the sponsoring employer at no cost to the IORP. In these circumstances a remuneration policy has no relevance, and the time spent producing this piece of paper could be much more usefully spent elsewhere.</p>	Noted
12.	Association of French Insurers (FFSA)	63.	80. The FFSA supports EIOPA's view that the governance requirements for IORPs should be similar to those of insurance and reinsurance undertakings according to the "same risks, same rules" principle whilst taking into account the specific characteristics of the pension products or schemes. The governance system of an IORP should be aligned with the aims of the insurance industry which: (i) ensure that management is	Noted

			<p>sound and prudent, (ii) secure a high standard of Members' and Beneficiaries' protection and (iii) assist the management board if appropriate.</p> <p>81. Pillars 2 and 3 of the Solvency II Framework Directive offer useful principles that are also applicable to IORPs, particularly in areas around governance, risk management supervisory reporting and public disclosure and as such, certain pillar 2 and 3 provisions should be directly applied to IORPs, such as Article 41 of the Solvency II.</p> <p>82. As a general approach, pillar 2 and 3 principles should be used at least as a basis.</p> <p>The FFSA does not agree with the exclusions from the revised IORP Directive by means of membership size. This could be done using the amount of technical provisions – similarly to article 4 of the Solvency II Framework Directive – provided that these are calculated in a transparent and harmonised basis.</p>	(see 2.8.3)
13.	Association of Pensioner Trustees in Ireland	63.	<p>We believe that a distinction needs to be made between defined benefit schemes and defined contribution schemes, particularly one member arrangements. The material elements of the Solvency II requirements for governance are disproportionate for defined contribution schemes i.e. explicit requirements to establish risk management, internal control, internal audit and actuarial functions and to develop various written policies would not be proportionate for defined contribution schemes (especially one member arrangements). We recognise however the need for sound governance of schemes to protect members' interests. A regime requiring that appropriately authorised entities be responsible for administering pension scheme would be more appropriate for defined contribution schemes i.e. applying governance requirements at the entity level rather than the pension</p>	<p>Noted, one member schemes are and will be outside the scope of the IORP directive</p> <p>EIOPA endorses the point of view that the differences between DB and DC schemes could bring different governance</p>

			<p>scheme level.</p>	<p>requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level 1 can be taken into account by applying the principle of proportionality</p>
14.	Assoprevidenza – Italian Association for supplement	63.	<p>Yes. We think that a number of governance requirements could be applied through the revision of the IORP directive:</p> <p>a) The system of governance which shall provide sound and prudent business management. Paritarian organisations are well prepared to fulfil this requirement because they are owned by their stakeholders and their board (and/or other bodies) consist of representatives of these stakeholders. As the complex system of governance that requires risk-management, compliance, internal audit and actuarial functions for smaller paritarian institutions are difficult to implement, cooperation and outsourcing of all these functions should be possible.</p> <p>b) Transparent organisational structure with clear allocation and appropriate segregation of responsibilities. Again, in the respect of the proportionality principle, already the solvency II framework allows smaller and less complex undertakings to carry out more than one of these functions by a single person or organisational unit.</p> <p>2. c) Written policies in relation to risk management,</p>	Noted

			<p>internal controls and internal audit.</p> <p>3. d) Contingency plans have to be taken into account. We would like to invite EIOPA to consider a transition period when implementing the new rules.</p>	
15.	Assuralia	63.	<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
16.	Bayer AG	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>In our view the proposed principles of the revised directive are applicable, provided they are modified by a general proportionality clause. It is very important, to avoid needless bureaucracy and additional costs for IORPs.</p>	Noted
17.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>In our view the proposed principles of the revised directive are applicable, provided they are modified by a general proportionality clause. It seems more effective not to refer to the size of the IORPs but rather to the nature and complexity. It is very important, to avoid needless bureaucracy and additional costs for IORPs. Account must be taken of the fact,</p>	<p>Noted</p> <p>18.3.9b refers to size, nature and complexity</p>

			that many IORPs have rather simple pensions plans and no staff of their own, because they are administered by the staff of the undertakings. Such IORPs should not have with additional burdens imposed on them.	
18.	Belgian Association of Pension Institutions (BVPI-	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>We agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality. A first proportionality check must be made at level 1. We would like EIOPA to conduct an impact assessment in order to gain knowledge of the real impact of the new requirements</p>	Noted
19.	BIPAR	63.	<p>With regard to the general governance requirements, BIPAR supports the view of EIOPA that the governance system of IORP should be similar to the one of the insurance undertaking. BIPAR is in favour of a level playing field between financial institutions that provide occupational pensions. This is important for consumers, who need a level regulatory playing field to be sure that all their pensions are equally protected, irrespective of the sector they use to secure their pension. It is in general important that the management is sound and prudent and that the financial interests of the members and beneficiaries are well protected. All this should, of course, be subject to the principle of proportionality and taking into consideration the needs of adaptation to the specificities of the sector.</p>	Noted



24.	BRITISH PRIVATE EQUITY AND VENTURE CAPITAL ASSOCIA	63.		
25.	BT Pension Scheme Management Ltd	63.	We believe that the Solvency II governance elements could easily be read across into the IORP Directive. However, we would note that the high governance standards of the pensions industry generally are a significant advantage over the insurance sector, and offer important protections to beneficiaries. We note that the OECD standards to which EIOPA refers are much more substantial than the Solvency II standards referred to, and note that many pension schemes' governance goes markedly further than the OECD standards. This is one the key aspects of why a quantitative approach to pension protection is less necessary than it is for insurance - governance protections offer significant security.	Noted
26.	Bundesarbeitgeber verband Chemie e.V. (BAVC)	63.	In our view the proposed principles of the revised directive are applicable, provided they are modified by a general proportionality clause. It seems more effective not to refer to the size of the IORPs but rather to the nature and complexity. It is very important, to avoid needless bureaucracy and additional costs for IORPs. Account must be taken of the fact, that many IORPs have rather simple pensions plans and no staff of their own, because they are administered by the staff of the undertakings. Such IORPs should not have with additional burdens imposed on them.	Noted  18.3.9b refers to size, nature and complexity
27.	BUSINESSEUROPE	63.	There may be room for improvement in the area of good governance of pension schemes. As part of the review, we agree that it is important to look at how to ensure that	Noted

			employers appropriately carry out their duties in terms of governance, as well as ensuring that the structures for governance of the scheme work effectively. However, any changes to governance requirements in the IORP Directive should ensure that the costs for pension funds are not increased; else offering occupational pension schemes to their employees will become unaffordable for employers.	
28.	BVI Bundesverband Investment und Asset Management	63.	<p>We support the general need of transparency and general governance requirements. However, the number of schemes and difference in form make the task of creating a uniform approach potentially costly for the industry, and potentially harmful in terms of benefits for members and beneficiaries. For many schemes, the imposition of the proposed regime would not reflect the differences in business models and backgrounds and create significant burdens and cost, especially where the IORP has no legal personality and responsibilities are borne by providers, such as asset manager or administrator.</p> <p>Thus, if the IORP Directive is to be brought closer to the Solvency II regime, it is crucial that the principle of proportionality is applied, in particular regarding own risk and solvency assessment, internal control, internal audit, actuarial function and outsourcing.</p> <p>BVI stresses the need for an impact study to assess the real impact of the new requirements.</p>	Noted
29.	CEA	63.	The CEA strongly supports EIOPA's view that the governance requirements for IORPs should be similar to those of insurance and reinsurance undertakings according to the "same risks, same rules" principle whilst taking into account the specific characteristics of the pension products or schemes. Indeed, as correctly indicated by EIOPA, the governance system of an IORP should be aligned with the aims of the insurance industry	Noted

		<p>which: (i) ensure that management is sound and prudent, (ii) secure a high standard of Members' and Beneficiaries' protection and (iii) assist the management board if appropriate.</p> <p>Additionally, pillars 2 and 3 of the Solvency II Framework Directive offer useful principles that are also applicable to IORPs, particularly in areas around governance, risk management supervisory reporting and public disclosure and as such, certain pillar 2 and 3 provisions should be directly applied to IORPs, such as Art. 41 of the Solvency II Framework Directive on the general governance requirement. As a general approach, pillar 2 and 3 principles should be used at least as a basis; and where appropriate for those areas that seem less appropriate for IORPs adjustments could be made.</p> <p>Regarding proportionality, the CEA does not agree with the exclusions from the revised IORP Directive by means of membership size - as is currently the case in Art. 5 and as indicated in paragraph 18.3.9 of the draft response to the Call for Advice. Other criteria for exclusion from the scope of the IORP Directive should be considered in order to ensure that exclusions are based on risk. For example, this could be done by the use of a benchmark on technical provisions and premium income - similarly to article 4 of the Solvency II Framework Directive - rather than by the amount of members and beneficiaries, provided that these are calculated in a transparent and harmonised basis. In any case, this benchmark should be balanced in a fair and transparent way against the need to ensure security for members and beneficiaries based on a quantitative impact study</p>	<p>Noted, (see 2.8.3)</p>
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			The CEA agrees on the other principles of proportionality.	
30.	Charles CRONIN	63.	Yes, I agree with EIOPA's advice that in principle the material elements of the Solvency II requirements for governance should apply to IORPs, subject to proportionality.	Noted
31.	Chris Barnard	63.	<p>I agree with the principle that the material elements of the Solvency II requirements for governance should apply to IORPs. I agree that the principle of proportionality needs to apply here in order not to unduly burden small and less complex IORPs.</p> <p>I do not agree with Paragraph 18.3.23. I believe that there are quite major differences between defined benefit and defined contribution schemes in terms of risks, funding and sponsorship. There are also differences in governance requirements, for example the requirement, roles and duties for any scheme actuary.</p>	<p>Noted</p> <p>EIOPA endorses the point of view that the differences between DB and DC schemes could bring different governance requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level 1 can be taken into account by applying the principle of</p>

				proportionality
32.	CMHF (Centrale van Middelbare en Hogere Functionar	63.	We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.	Noted
33.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	63.	<p>Transparency and good governance are key to achieving better and safer pensions</p> <p>CBI members believe that there is room for improvement on the area of governance in pensions and we would support action in this area. While some Member States have high levels of good governance we support the development of good practice across the EU to ensure that all Member States provide scheme members with clarity on governance standards.</p> <p>Having said that, it is important that any review of governance requirements in the IORP Directive is pitched carefully to ensure it fits the requirements of the sector. For example, under the 'fit and proper' requirements of the Solvency II Directive the IORP is required to ensure that persons who effectively run the scheme are fit to do so, including with regards to professional qualifications, knowledge and experience. This would mean that for many IORPs it would</p>	Noted

			<p>be very difficult to appoint member-nominated trustees (MNTs) who often lack relevant qualifications and skills at the time of application. MNTs are a fundamental part of the check and balances model in pension governance, providing members' with an elected representative in the scheme's governance structure. Training and skills development is offered to them by the employer after their appointment, rather than before.</p> <p>Crucially, CBI members' support for a revision of governance requirements in the IORP Directive is entirely dependent on ensuring that any changes are proportional. The recent trend away from defined benefit (DB) schemes towards defined contribution (DC) schemes has been due to the significant increase in costs for sponsoring employers over recent decades. This increase has been driven by demographic changes, but also by an increase in the regulatory burden both at EU and national levels. Employers have been badly burnt by misregulation of pensions. A badly thought through review of governance requirements in the IORP Directive could easily lead to a decrease in the provision of pensions across Europe, hurting employees most. In the UK, for example, from October 2012 all employers will be required to automatically enrol their employees into a pension scheme. Pension providers should be able to offer affordable schemes to all employers, including SMEs. Over-prescriptive European rules on how schemes should be designed and run will simply increase costs significantly leading to a levelling down of employer contributions, from higher levels to the statutory minimum, or the inability of employers to afford them altogether.</p> <p>In DB schemes, member engagement benefits from the</p>	<p>Noted</p>
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			<p>schemes' decision-making structure which incorporates trustees with a fiduciary duty. Trustees have a fiduciary duty to act in members' interests, protecting their accrued benefit through prudent management of the funds' reserves and meaningful negotiation with the sponsoring employer. DC schemes are, on the other hand, an entirely different proposition. This is because all of the investment risk lies solely with the member.</p> <p>CBI members believe that good DC provision must be built on the principles of transparency, good governance and flexibility. Transparency, allows individual savers to engage and make informed decisions about their pension. Good governance promotes that necessary transparency as well as ensuring internal controls and appropriate decisions are being made in members' interests. And crucially, flexibility ensures that individual scheme design is tailored to the needs of scheme members encouraging engagement. DC at its best is a partnership. Employers provide financial and administrative support, while employees recognise their responsibility to plan for retirement and make their own contributions.</p> <p>CBI members urge EIOPA to bear all of this in mind when putting forward their advice to the Commission on governance. We would be very concerned about any proposal that goes too far down the regulatory approach. By pushing for over-prescription in DC governance, the Commission and EIOPA risk stifling innovation and the ability of employers to adapt their schemes to the needs of their workforce.</p>	
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34.	De Unie (Vakorganisatie voor werk, inkomen en loop	63.	We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.	Noted
35.	DIIR – Deutsches Institut fuer Interne Revision e.	63.	DIIR welcomes that EIOPA wants to apply the same material elements of the Solvency II requirements for governance to IORPs. An effective system of governance is key for every undertaking. The components of an effective system of governance are thoroughly described in the Solvency II framework for insurance and reinsurance undertakings. They should also count for IORPs as IORPs face similar risks as insurance undertakings. Less complex and small IORPs will benefit of the principle of proportionality, which allows them to implement a system of governance adapted to their respective business models.	Noted
36.	Direction Générale du Trésor, Ministère des financ	63.	Yes, we agree that the material elements of the Solvency 2 requirements for governance should apply to IORPS, subject to proportionality.	Noted
37.	Ecie vie	63.	Yes, with the principle: "same risk same rules".	Noted
38.	ECIIA	63.	ECIIA welcomes that EIOPA wants to apply the same material elements of the Solvency II requirements for governance to IORPs. An effective system of governance is key for every undertaking. The components of an effective system of governance are thoroughly described in the Solvency II	Noted

			framework for insurance and reinsurance undertakings. They should also count for IORPs as IORPs face similar risks as insurance undertakings. Less complex and small IORPs will benefit of the principle of proportionality, which allows them to implement a system of governance adapted to their respective business models.	
39.	EFI (European Federation of Investors)	63.	Yes we agree. We also consider that it is very important that beneficiaries participate to the governance structure of the IOPR and be majority. Never forget that finally it is their money that is invested and that they will collect through the benefits !	Noted
40.	European Federation for Retirement Provision (EFRP)	63.	<p>Yes, the EFRP agrees. The material elements of solvency II requirements for governance could apply to IORPs, subject to a respecting the proportionality principle and to a proper impact assessment of how these requirements can be applied efficiently and effectively to (small) IORPs.</p> <p>A proportionality check should be made at level 1. Further detailing of the rules can then be done at level 2. The EFRP believes that "proportionality" should reflect the nature and the scale of IORPs.</p> <p>Proportionality should be applied through rules equally applicable to all IORPs and not be applied on a case-by-case basis.</p> <p>In this discussion, it should be recalled that the Call for Advice explicitly states that a new supervisory system for IORPs should not undermine the supply or the cost efficiency of</p>	Noted

			occupational retirement provision in the EU.	
41.	European Fund and Asset Management Association (EFAMA)	63.	<p>We support the general need of transparency and general governance requirements. However, the number of schemes and difference in form make the task of creating a uniform approach potentially costly for the industry, and potentially harmful in terms of benefits for members and beneficiaries. For many schemes, the imposition of the proposed regime would not reflect the differences in business models and backgrounds, and create significant burdens and cost, especially where the IORP has no legal personality and responsibilities are borne by providers, such as asset managers or administrators. Also, we strongly disagree with the analysis in 18.3.23 that there are no major differences between defined benefits and defined contribution schemes, It is also clear that there are profound differences between DC and DB schemes, primarily stemming from the different nature of the benefits being provided. This justifies applying different governance requirements for DB and DC schemes.</p> <p>Thus, if the IORP Directive is to be brought closer to the Solvency II regime, it is crucial that the principle of proportionality is applied, in particular regarding own risk and solvency assessment, internal control, internal audit, actuarial function and outsourcing.</p> <p>EFAMA stresses the need for an impact study to assess the real impact of the new requirements.</p>	<p>Noted</p> <p>EIOPA endorses the point of view that the differences between DB and DC schemes could bring different governance requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level 1 can be taken into account by applying the principle of proportionality</p>
42.	European	63.	8. We agree with the analysis of the EIOPA that in principle	Noted

	Metalworkers Federation		the material elements of the Solvency II requirements for governance could be applied to most IORPs "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." EMF would like to stress that on the basis of the impact assessment exemptions should be possible.	
43.	European Mine, Chemical and Energy workers' Fede	63.	8. We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to most IORPs "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." EMCEF would like to stress that on the basis of the impact assessment exemptions should be possible.	Noted
44.	FAIDER (Fédération des Associations Indépendantes)	63.	Yes we agree. We also consider that it is very important that beneficiaries participate to the governance structure of the IOPR and be majority. Never forget that finally it is their money that is invested and that they will collect through the benefits !	Noted
45.	FairPensions	63.	Yes. We agree that governance standards should be comparable in DB and DC provision. They should also be comparable across different corporate forms of retirement provision. In the UK, there are two parallel legal and regulatory regimes governing trust-based and contract-based pension arrangements. With the advent of automatic enrolment in 2012, many employers are likely to provide workplace pensions through contract-based arrangements. Unlike trust-based pension arrangements, these providers do not have a built-in governance structure designed to protect the interests of members, and generally do not accept that they may have fiduciary duties to their policyholders, instead regarding themselves simply as a platform. Yet the basic relationship	Noted

			<p>between saver and provider is the same whether trust- or contract-based: where members are bearing the investment risk they should be protected by similar governance standards regardless of the form of their retirement provision.</p> <p>We therefore welcome this attempt at harmonisation. However, in a UK context we remain concerned that requirements applying to contract-based providers, such as insurance companies, are insufficient to ensure members are protected. Our research (forthcoming, 2012) suggests that the absence of fiduciary-like responsibilities may lead to a governance vacuum, since neither the insurance company nor the asset managers to whom they outsource feel the responsibility to ensure that savers are looked after and that conflicts of interest are managed effectively. One possible solution would be to require such providers to establish bodies charged specifically with defending policyholders' interests – mirroring boards of trustees in trust-based arrangements, or the boards of pension providers in countries such as South Africa where the trust does not exist as a legal concept. We appreciate that this falls outside the scope of this review of the IORP Directive, but do believe that this is an important issue which merits further attention.</p> <p>As the consultation paper notes, the OECD's best practice guidance for pension fund governance requires the existence of a policy on conflicts of interest. This is fundamental to good governance and to ensuring beneficiaries' interests are protect. We would therefore suggest that this should be an explicit requirement in the new IORP directive.</p>	
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46.	Federation of the Dutch Pension Funds	63.	We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.	Noted
47.	Financial Reporting Council	63.	The proposals seem not unreasonable provided they can be implemented on a proportionate basis for less complex IORPS.	Noted
48.	FNV Bondgenoten	63.	We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.	Noted
49.	Generali vie	63.	Yes, with the principle: "same risk same rules".	Noted
50.	GESAMTMETALL - Federation of German employer	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>In our view there is room for improvement in the field of Good Governance, the proposals are basically applicable, provided they are modified by a general proportionality clause. It also seems more effective not to refer to the size of the IORPs but rather to the nature and complexity.</p> <p>It is very important, to avoid needless bureaucracy and</p>	<p>Noted</p> <p>18.3.9b refers to size, nature and complexity</p>

			additional costs for IORPs – all the more as many IORPs are administered by the staff of the relevant companies.	
51.	Groupe Consultatif Actuariel Européen.	63.	<p>We are supportive of the need for “an effective system of governance which provides for sound and prudent management” of the IORP as described in Article 41 (1) of the Solvency II Framework Directive. However, we would emphasise (as has been recognised in the draft response) that there are three key aspects where it may be necessary to depart from the way in which Solvency II is applied to insurance undertakings:</p> <ol style="list-style-type: none"> <li>1. The heterogeneity of IORPS (and other arrangements not currently covered under the Directive) across Europe, so that a one-size-fits all solution may not be possible</li> <li>2. The vital importance of proportionality given the small size of many IORPS. Under the current Directive, Member States are permitted to excuse “small” IORPS (fewer than 100 members) from some of the supervisory/reporting requirements, but this approach may not be appropriate in any new regime, given the focus on risk management i.e. a “small” IORP satisfies one of the three criteria set out in Article 41 (2) of the Solvency II Framework Directive for the exercise of proportionality (“scale”) but not necessarily the other two – “nature” and “complexity”.</li> <li>3. The fact that many IORPS (and in practice almost all medium/small IORPS) outsource most or all of their functions to third parties.</li> </ol> <p>We support the proposed response that Article 41 of the Solvency II Framework Directive should be amended to</p>	Noted

			<p>a. permit (but not require) member representation in the management of the IORP,</p> <p>b. require the legal separation between IORP and sponsoring employer</p> <p>c. provide for “regular” rather than “annual” reviews of written policies which must be approved by the “management body” of the IORP – not by the supervisory authority.</p> <p>We note the comment in 10.3.21 that EIOPA does not see any major differences between DB and DC IORPs in relation to governance requirements. We accept that the principles of good governance apply equally to both types of arrangement but since risks are apportioned differently between employers and employees, there should be appropriate differences in how good governance is implemented, interpreted and by whom.</p> <p>We note the comments in 10.3.22 and 10.3.23 that EIOPA does not expect a high (cost) impact from the introduction of general governance requirements as proposed, but that an impact study is required and that the application of the proportionality principle is important.</p> <p>We strongly support the need for an impact assessment before any decision is taken to introduce the general governance requirements proposed, and that proportionality must be taken into account appropriately.</p>	
52.	Groupement Français des Bancassureurs	63.	<p>FBIA supports EIOPA’s view that the governance requirements for IORPs should be similar to those of insurance and reinsurance undertakings according to the “same risks, same rules” principle whilst taking into account the specific</p>	Noted

			<p>characteristics of the pension products or schemes. The governance system of an IORP should be aligned with the aims of the insurance industry which: (i) ensure that management is sound and prudent, (ii) secure a high standard of Members' and Beneficiaries' protection and (iii) assist the management board if appropriate.</p> <p>Pillars 2 and 3 of the Solvency II Framework Directive offer useful principles that are also applicable to IORPs, particularly in areas around governance, risk management supervisory reporting and public disclosure and as such, certain pillar 2 and 3 provisions should be directly applied to IORPs, such as Article 41 of the Solvency II.</p> <p>As a general approach, pillar 2 and 3 principles should be used at least as a basis.</p> <p>FBIA does not agree with the exclusions from the revised IORP Directive by means of membership size. This could be done using the amount of technical provisions – similarly to article 4 of the Solvency II Framework Directive - provided that these are calculated in a transparent and harmonised basis.</p>	Noted, (see 2.8.3)
53.	PMT-PME-Mn Services	63.	<p>We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.</p>	Noted
54.	IBM Deutschland Pensionskasse	63.	<p>There may be room for improvement in the area of good governance of pension schemes. As part of the review, we</p>	Noted

	VVaG and IBM Deutsch		agree that it is important to look at how to ensure that employers appropriately carry out their duties in terms of governance, as well as ensuring that the structures for governance of the scheme work effectively. However, any changes to governance requirements in the IORP Directive should ensure that the costs for pension funds are not increased, else offering occupational pension schemes to their employees will become unaffordable for employers.	
55.	IMA (Investment Management Association)	63.	<p>We support the proportionate application of any governance requirements. However, as we noted in our response to the first EIOPA consultation (paragraph 10.3.21) on the Call for Advice, we disagree with the observation that there are no major differences in governance requirements between DB and DC schemes.</p> <p>In our view, there are profound differences in governance issues, primarily stemming from the different nature of the benefits being provided. In pure DC, there is complete transfer of investment risk from the scheme and the sponsoring entity onto the individuals. This raises a range of wholly distinct issues. We would highlight particularly here the individuals' high dependence on default fund provision (80-90% of DC scheme members either default into or actively choose a fund or strategy designated as the default by the scheme or provider). As discussed elsewhere in the current EIOPA consultation, one of the key questions therefore is how investment governance is handled and how default funds are designed. There are also other elements: for example, how much choice should be provided, or how scheme or fund managers should be appointed and monitored.</p> <p>In the UK, addressing DC governance has been the subject of a</p>	<p>Noted EIOPA endorses the point of view that the differences between DB and DC schemes could bring different governance requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level 1 can be taken into account by applying the principle of proportionality</p>

			significant workstream by a sub-group of the Investment Governance Group.□ This has resulted in a series of principles, which it is hoped will be at the basis of good investment governance as the automatic enrolment process begins in 2012.	
56.	Institute and Faculty of Actuaries (UK)	63.	It is difficult to answer this question without understanding how proportionality will be interpreted in practice. We agree in principle that the material elements of the Solvency II requirements for governance should apply to IORPs, subject to proportionality. However whether or not we agree in practice depends on how “proportionality” is interpreted. 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. We therefore believe that, in general, the best approach is to define high-level objectives in the legislation and then to hold those running the IORP responsible for meeting those objectives in the way most appropriate for that IORP.	Noted
57.	Italian Banking Association	63.	ABI agrees with EIOPA’s advice on the way to adapt the material elements of Art. 41 of Solvency II requirements for governance to IORPs, which takes into account the principle of proportionality, the difference between governance systems in IORPs in different Member States and the special characteristics of IORPs.	Noted
58.	KPMG LLP (UK)	63.	We agree that the material elements of the Solvency II requirements for governance could apply equally to IORPs. However we strongly agree that this needs to be subject to	Noted

			proportionality, as outlined in section 18.3.5 et seq. Further, proportionality needs to be taken account of in a more thoughtful manner than e.g. specifying a simple limit of 100 members below which the requirements do not apply.	
59.	Le cercle des épargnants	63.	Yes, with the principle: "same risk same rules".	Noted
60.	Macfarlanes LLP	63.	<p>93. (CfA 13 General Governance Requirements) Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>94. No. The implication here is that larger pension schemes should be subject to these requirements, but that smaller schemes should not. The point is that there are already detailed governance requirements for all company schemes within the UK which broadly work well, and which do not need an additional level of supervision. We repeat the point we have made throughout this evidence, which is that companies and trustee boards devise arrangements within a strictly policed regulatory system, which are suitable for the particular needs of the scheme and the employer and give due weight to member protection.</p>	This can be dealt with applying the principle of proportionality
61.	Mercer	63.	<p>Yes, we support the application of strong governance principles to IORPs, provided the principle of proportionality is applied appropriately and the associated information requirements imposed on IORPs (for example, to meet the measures proposed under CfA11) are not onerous.</p> <p>However, rather than mandating regular reviews of IORPs' governance documents, we feel that, in many cases, supervisory authorities should be able to rely on self-</p>	Noted

			<p>certification of processes by those responsible for the IORP. In particular, where the processes have been introduced following advice from an individual or entity already subject to regulation, the IORP's supervisory authority might be prepared to accept certification from the regulated individual or entity.</p> <p>However, 'proportionality' needs to take risk into account as well as size. There could be some circumstances where it is not reasonable to subject smaller IORPs to lighter regulation, in which case, if the regulatory burden is perceived as onerous, member states should consider whether the delivery model selected by the IORP is fit for purpose. Enabling alternative structures that create the economies of scale necessary for strong risk management and governance (for example, creating federations of smaller IORPs under a common governance structure) might meet the objectives underlying the Directive better, as well as achieving better member outcomes.</p>	
62.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	63.	We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.	Noted
63.	National Association of Pension Funds	63.	GOVERNANCE	

	(NAPF)		<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>The NAPF agrees that the governance elements of Solvency II could reasonably be used as a basis for a new section of the IORP Directive. High standards of governance are vital for good retirement provision.</p> <p>Although the NAPF opposes the translation of Pillar I of Solvency II into the IORP Directive, we recognise that provisions from Pillars II and II could usefully be imported in order to strengthen protection for scheme members.</p> <p>Any new governance clause must allow for flexibility; the diversity of pension and governance systems at national level should be seen as a strength for the EU, not as a weakness. So the new IORP Directive should set high-level requirements for governance, allowing national supervisors to set detailed standards at Member State level.</p> <p>EIOPA should also point out that governance requirements must not impose burdensome requirements on IORPs. As EIOPA states at section 10.3.4, "A new supervisory system for IORPs shall not undermine the supply or the cost efficiency of occupational retirement provision in the EU". This is a further reason for a detailed impact assessment, which should take particular account of the potential impact on small pension schemes.</p>	Noted
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64.	NEST Corporation	63.	We strongly support good governance arrangements for IORPS. The principle of proportionality is essential. Similar principles to those in Solvency II should apply to IORPS, as indeed should other sources of good governance advice (such as that from the Financial Reporting Council in the UK). We do not believe that the implementation mechanisms of Solvency II are proportionate.	Noted
66.	NORDMETALL, Verband der Metall- und Elektroindustr	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>In our view the proposed principles of the revised directive are applicable, provided they are modified by a general proportionality clause. It seems more effective not to refer to the size of the IORPs but rather to the nature and complexity. It is very important, to avoid needless bureaucracy and additional costs for IORPs. Account must be taken of the fact, that many IORPs have rather simple pensions plans and no staff of their own, because they are administered by the staff of the undertakings. Such IORPs should not have with additional burdens imposed on them.</p>	Noted
67.	Pan-European Insurance Forum (PEIF)	63.	The principles of Solvency II concerning general governance requirements are generally suitable for IORPs. There is also a need for IORP II to have a general proportionality clause applicable to all elements of the governance. The principle of proportionality should apply to the whole governance system	Noted

			<p>and, as a consequence, to all future implementing measures.</p> <p>It is welcome that EIOPA now takes the differences between a single-tier and two-tier governance systems into account and that in each system, adequate control is needed in order to ensure an effective system of governance. However, we have concerns with regard to alternative measures (see par 18.3.9.). Application of alternative measures should also depend on the nature, complexity and scale of risks, not only on the size and the legal form of the IORP.</p>	
68.	Pensioenfonds Zorg en Welzijn (PFZW)	63.	<p>We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.</p>	Noted
69.	Predica	63.	<p>Predica supports EIOPA's view that the governance requirements for IORPs should be similar to those of insurance and reinsurance undertakings according to the "same risks, same rules" principle whilst taking into account the specific characteristics of the pension products or schemes. The governance system of an IORP should be aligned with the aims of the insurance industry which: (i) ensure that management is sound and prudent, (ii) secure a high standard of Members' and Beneficiaries' protection and (iii) assist the management board if appropriate.</p> <p>Pillars 2 and 3 of the Solvency II Framework Directive offer useful principles that are also applicable to IORPs, particularly</p>	Noted

			<p>in areas around governance, risk management supervisory reporting and public disclosure and as such, certain pillar 2 and 3 provisions should be directly applied to IORPs, such as Article 41 of the Solvency II.</p> <p>As a general approach, pillar 2 and 3 principles should be used at least as a basis.</p> <p>Predica does not agree with the exclusions from the revised IORP Directive by means of membership size. This could be done using the amount of technical provisions – similarly to article 4 of the Solvency II Framework Directive - provided that these are calculated in a transparent and harmonised basis.</p>	Noted, (see 2.8.3)
70.	PTK (Sweden)	63.	<p>Yes PTK agrees. The material elements of solvency II requirements for governance could apply to IORPs, subject to a respecting the proportionality principle and to a proper impact assessment of how these requirements can be applied efficiently and effectively to (small) IORPs.</p> <p>A proportionality check should be made at level 1. Further detailing of the rules can then be done at level 2. PTK believes that “proportionality” should reflect the nature and the scale of IORPs.</p> <p>Proportionality should be applied through rules equally applicable to all IORPs and not be applied on a case-by-case basis.</p> <p>In this discussion, it should be recalled that the Call for Advice</p>	Noted

			explicitly states that a new supervisory system for IORPs should not undermine the supply or the cost efficiency of occupational retirement provision in the EU.	
71.	Railways Pension Trustee Company Limited ("RPTCL	63.	If such proposals were implemented, it is important that they are implemented on a proportionate basis.	Noted
72.	Standard Life Plc	63.	<p><input type="checkbox"/> We believe the advice on general governance is appropriate, and that a proportionality clause applicable to all elements of the governance framework is necessary.</p> <p><input type="checkbox"/> Like other members of the European pensions industry, and as explained elsewhere in our response (please see answer to Q.49 above), we do not agree with the analysis in 18.3.23 that there are no major differences between defined benefits and defined contribution schemes. We believe there are fundamental differences.</p>	<p>Noted</p> <p>EIOPA endorses the point of view that the differences between DB and DC schemes could bring different governance requirements. However, EIOPA is of the opinion that the differences that are relevant for the general governance principles at Level 1 can be taken into account by applying the principle of proportionality</p>

73.	TCO	63.	<p>Yes TCO agrees. The material elements of solvency II requirements for governance could apply to IORPs, subject to a respecting the proportionality principle and to a proper impact assessment of how these requirements can be applied efficiently and effectively to (small) IORPs.</p> <p>A proportionality check should be made at level 1. Further detailing of the rules can then be done at level 2. TCO believes that “proportionality” should reflect the nature and the scale of IORPs.</p> <p>Proportionality should be applied through rules equally applicable to all IORPs and not be applied on a case-by-case basis.</p> <p>In this discussion, it should be recalled that the Call for Advice explicitly states that a new supervisory system for IORPs should not undermine the supply or the cost efficiency of occupational retirement provision in the EU.</p>	Noted
74.	The Association of Pension Foundations (Finland)	63.	We agree with EIOPA on importance of proportionality in governance requirements.	Noted
75.	The Association of the Luxembourg	63.	Despite regulatory and industry initiatives, governance weaknesses persist across OECD and non-OECD countries.	Noted

	Fund Industry (A		<p>Therefore, the Respondents welcome and agree to these amendments. Governance is increasingly recognized as an important aspect of an efficient private pension system, enhancing investment performance and benefit security.</p> <p>The Respondents agree to these amendments that suggest the importance of governance through a more balanced representation of stakeholders in the governing body, higher levels of expertise (and the implementation of codes of conduct addressing conflicts of interest. Consolidation of the pension industry in some countries may also be required to achieve economies of scale and reduce costs, which in turn would allow pension funds to dedicate more resources to strengthening their internal governance.</p> <p>Although these amendments need to be applied to all elements of the governance system, the Respondents stress out the amendments have to be put into relation with the principle of proportionality (nature, scale).</p>	
76.	THE SOCIETY OF PENSION CONSULTANTS	63.	<p>We agree that governance provisions should be added and welcome the proposal that the revised directive should provide for flexibility in this area with an overriding proportionality principle so, for example, the requirement to review written policies at least annually (as in article 41(3) of Solvency II need not be adopted. We also agree that policies adopted for the IORP should not be required to be submitted as of course to the supervisory authority. As noted in paragraph 18.3.16, the responsibility for governance must remain with the IORP and current systems where employees participate in – and have some responsibility for – governance should be allowed to continue. The authority will have powers of intervention and can call for the policies if required.</p>	Noted

77.	Towers Watson Deutschland GmbH	63.	We agree. In particular, we welcome EIOPA's strong guidance that the diversity of pension systems throughout the EEA must be recognised and that any measures implemented are proportionate. We know from the excellent work carried out by the OECD and, most recently, in EIOPA's own report on 'Risks Related to DC Pension Plan Members', that costs represent a significant risk to citizens' retirement outcomes.	Noted
78.	Trades Union Congress (TUC)	63.	<p>5. General Governance Requirements</p> <p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>The TUC recognises that that the governance elements of Article 41 of the Solvency II Directive could reasonably be applied to IORPs to form part of a revised IORP Directive. However, it is essential that EIOPA emphasises that Solvency II is not extended to Pillar I.</p> <p>Good scheme governance is vitally important but any new Article on governance should allow Member States flexibility to set governance requirements.</p> <p>We believe that regular, clear and accurate member communications should also be included within the scheme governance framework.</p>	Noted

79.	Transport for London / TfL Pension Fund	63.	Any new governance clause should not undermine or replace those governance arrangements that already operate at a national level	Noted
80.	UK Association of Pension Lawyers	63.	<p>CfA 13 (General governance requirements): Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>1. In relation to the policy options considered, we support option 1: Leave the IORP Directive unchanged.</p> <p>2. We note that:</p> <p>2.1 EIOPA prefers option 2, and</p> <p>2.2 EIOPA says that:</p> <p>“... assessment of impact is only an estimation and does not in principle replace the need for an impact study to assess the real impact of the new requirements. Furthermore EIOPA stresses that the impact could significantly increase if the principle of proportionality were not appropriately applied.”</p> <p>3. We would strongly recommend that:</p> <p>3.1 before any change is made, there should be an estimate of the number of person hours required to perform the proposed governance functions along with the cost per person hour in performing those functions and a clear analysis of the problems with existing systems which those changes are intended to address.</p> <p>3.2 the assumptions used for any impact assessment are widely publicised and that the impact assessment also be</p>	Noted

		<p>published in draft form so that it can be subject to critical scrutiny and challenge.</p> <p>4. Within the UK there is some history in compliance cost analyses consistently under-estimating the true cost of compliance with any regulatory or legislative requirement.</p> <p>5. We would suggest that governments and regulators are, in general, not good at proportionate and appropriate regulation. In the absence of compelling reasons to regulate, it follows that the status quo should be preserved.</p> <p>6. Every Euro spent on regulation is Euro 1 less that could be spent on more retirement provision.</p> <p>7. 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>8. 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>9. 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>	
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			10. Furthermore, if you follow the logic you should extend Solvency II to pillar one public sector pension schemes.	
81.	UNI Europa	63.	8. We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to most IORPs "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." UNI Europa would like to stress that on the basis of the impact assessment exceptions should be possible.	Noted
82.	Universities Superannuation Scheme (USS),	63.	<p>GOVERNANCE</p> <p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>USS agrees that the governance elements of Solvency II could reasonably be used as a basis for a new section of the IORP Directive. High standards of governance are vital for good retirement provision.</p> <p>Although USS strongly opposes the translation of Pillar I of Solvency II into the IORP Directive, we recognise that provisions from Pillars II and II could usefully be imported in order to strengthen protection for scheme members.</p> <p>Any new governance clause must allow for flexibility; the diversity of pension and governance systems at national level</p>	Noted

			<p>should be seen as a strength for the EU, not as a weakness. So the new IORP Directive should set high-level requirements for governance, allowing national supervisors to set detailed standards at Member State level.</p> <p>EIOPA should also point out that governance requirements must not impose burdensome requirements on IORPs. As EIOPA states at section 10.3.4, "A new supervisory system for IORPs shall not undermine the supply or the cost efficiency of occupational retirement provision in the EU". This is a further reason for a detailed impact assessment, which should take particular account of the potential impact on small pension schemes.</p>	
83.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	63.	<p>Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?</p> <p>In our view the proposed principles of the revised directive are applicable, provided they are modified by a general proportionality clause. It seems more effective not to refer to the size of the IORPs but rather to the nature and complexity. It is very important, to avoid needless bureaucracy and additional costs for IORPs. Account must be taken of the fact, that many IORPs have rather simple pensions plans and no staff of their own, because they are administered by the staff of the undertakings. Such IORPs should not have with additional burdens imposed on them.</p>	Noted

84.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	63.	We agree with the analysis of the EIOPA that in principle the material elements of the Solvency II requirements for governance could be applied to all IORP's "subject to the proportionality principle and a proper impact assessment to assess the real impact of the new requirements." as stated on page 362 of the Response for the Call for Advice on the review of Directive 2003/41/EC. We furthermore refer to our answer to question 13 of the first consultation of EIOPA.	Noted
85.	Whitbread Group PLC	63.	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, EIOPA and most of the other respondents believe that members and beneficiaries will benefit from governance rules taking into account the principle of proportionality
86.	Zusatzversorgungs kasse des Baugewerbes AG	63.	84. We agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality. We would like EIOPA to conduct an impact assessment in order to gain knowledge of the real impact of the new requirements.  We would like to invite EIOPA to consider a longer-lasting transition period when implementing the new rules.	Noted
87.	Towers Watson	63.	64. CfA 13 General Governance Requirements  Do stakeholders agree with the principle that the material elements of the Solvency II requirements for governance apply to IORPs, subject to proportionality?	

			<p>We agree with EIOPA’s assessment and consider the proposals reasonable. In particular, we welcome</p> <p>EIOPA’s strong guidance that the diversity of pension systems throughout the EEA must be recognised</p> <p>and that any measures implemented are proportionate; so, for example, the requirement to review written policies at least annually (as in article 41(3) of Solvency II) need not be adopted. We also agree that policies adopted for the IORP should not be required to be submitted as of course to the supervisory authority. As noted in paragraph 18.3.16, the responsibility for governance must remain with the IORP and current systems where employees participate in – and have some responsibility for – governance should be allowed to continue. The authority will have powers of intervention and can call for the policies to be disclosed if required.</p> <p>Whilst consistency of supervision, built on a common foundation of regulatory principles is prima facie attractive, changes from the existing arrangements will involve further costs. Ultimately in many instances these increased costs will have to be met (indirectly) by European citizens – members/participants of these pension arrangements. A serious assessment of the cost to members – for example through expected increase in ‘charges’ for members of defined contribution arrangements - should be carried out. We know from the excellent work carried out by the OECD and, most recently, in EIOPA’s own report on ‘Risks Related to DC Pension Plan Members’, that costs represent a significant risk to citizens’ retirement outcomes.</p>	Noted
88.	OPSG (EIOPA Occupational	64.	See question 63	Noted

	Pensions Stakeholder Group)			
89.	AbA Arbeitsgemeinschaft für betriebliche Altersver	64.	Yes. The AbA agrees with EIOPA (see in particular section 18.3.21)	Noted
90.	ABVAKABO FNV	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
91.	AEIP	64.	122. EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements.  A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems necessary.	Noted
93.	AMONIS OFP	64.	Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?  Yes, remuneration policy and member participation are areas of difference between IORP's and insurers.  A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems	Noted

			necessary.	
94.	ANIA – Association of Italian Insurers	64.	<p>The ANIA agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that insurance companies should have similar requirements when they have a similar structure as IORPs.</p> <p>For instance, the ANIA supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Art. 8 of the IORP Directive. This principle should be retained in the revised IORP Directive. Furthermore, consistent with solvency principles, the ANIA believes that written policies should be subject to prior approval by the administrative management or supervisory body. Again, where this would be overly burdensome for IORPs with a very small risk profile, the proportionality principle should provide the necessary flexibility.</p> <p>In addition, the ANIA agrees that the revised Directive should not prevent Member States from requiring or permitting IORPs to allow for the participation of members in their governance board. However, as EIOPA correctly indicates, this should be appropriate. In addition, allowing members in the governance board should not harm the fit and properness of the governance board of the IORP.</p> <p>Finally, the ANIA can support that an annual review is not necessary annually if this is based on proportionality to allow the necessary flexibility.</p>	Noted
95.	Association Française de la Gestion financière (AF)	64.	As specified in FG agrees that EIOPA has correctly identified the areas where there should be differences between insurers and IORPs/DC schemes on general government requirements.	Noted

96.	Association of British Insurers	64.	<p>The ABI believes EIOPA has identified correctly the areas where there should be differences between insurers and IORPs on general governance requirements.</p> <p>The ABI agrees with EIOPA that the general governance system should not prevent members' participation in governance. The CP also suggests including provisions to ensure a sound remuneration policy, provided the characteristics of the IORP (such as unpaid trustees) does not make this irrelevant. Again, we agree with this.</p>	Noted
97.	Association of Consulting Actuaries (UK)	64.	<p>We agree that member participation and remuneration policy are examples of areas where IORPs and insurers differ. A full list of these areas needs to be developed as part of the impact assessment of the proposed new arrangements.</p>	Noted
98.	Association of French Insurers (FFSA)	64.	<p>83. The FFSA agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.</p> <p>84. The FFSA supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Article 8 of the IORP Directive. This principle should be retained in the revised IORP Directive.</p> <p>Furthermore, consistent with solvency principles; the FFSA believes that written policies should be subject to prior approval by the administrative management or supervisory body.</p>	Noted
99.	Assoprevidenza – Italian Association for supplement	64.	Yes	Noted

100.	Assuralia	64.	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
101.	Belgian Association of Pension Institutions (BVPI-	64.	<p>Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?</p> <p>Yes, remuneration policy and member participation are areas of difference between IORP's and insurers.</p> <p>A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems necessary.</p>	Noted
102.	BNP Paribas Cardif	64.	<p>BNP Paribas Cardif agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.</p> <p>BNP Paribas Cardif supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Article 8 of the IORP Directive. This principle should be retained in the revised IORP Directive.</p> <p>Furthermore, consistent with solvency principles; BNP Paribas Cardif believes that written policies should be subject to prior approval by the administrative management or supervisory</p>	Noted

			body.	
103.	Bosch Pensionsfonds AG	64.	<p>Any requirements added for a remuneration policy should take into account:</p> <p>Probably the majority of IORPs do not employ own staff, but use staff of the sponsoring undertaking to fulfil their duties:</p> <ul style="list-style-type: none"> <li>- who don't receive remuneration from the IORP itself</li> <li>- or outsource functions to external service providers. Their remuneration is usually linked to the pay policy of the sponsoring undertaking / the external service provider.</li> </ul> <p>Requirements for a remuneration policy must therefore not be extended to staff of sponsoring undertakings or external service providers.</p>	Noted
104.	Bosch-Group	64.	<p>Any requirements added for a remuneration policy should take into account:</p> <p>Probably the majority of IORPs do not employ own staff, but use staff of the sponsoring undertaking to fulfil their duties:</p> <ul style="list-style-type: none"> <li>- who don't receive remuneration from the IORP itself</li> <li>- or outsource functions to external service providers. Their remuneration is usually linked to the pay policy of the sponsoring undertaking / the external service provider.</li> </ul> <p>Requirements for a remuneration policy must therefore not be extended to staff of sponsoring undertakings or external service providers.</p>	Noted
105.	BT Pension Scheme Management Ltd	64.	<p>We indeed agree that member-nominated trustees are a significant element of the protections offered by pension fund governance. We also agree that remuneration will often be a difference between pension funds and insurers. We would note other important aspects of high quality IORP governance which</p>	Noted

			give beneficiaries additional protection: these are such issues as the need to have independent advisers, the need to have explicit investment principles, and the need to report transparently and accountably to beneficiaries.	
106.	BVI Bundesverband Investment und Asset Management	64.	BVI agrees that EIOPA has correctly identified the areas where there should be differences between insurers and IORPs on general government requirements.	Noted
107.	CEA	64.	<p>The CEA agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that insurance companies should have similar requirements when they have a similar structure as IORPs.</p> <p>For instance, the CEA supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Art. 8 of the IORP Directive. This principle should be retained in the revised IORP Directive. Furthermore, consistent with solvency principles; the CEA believes that written policies should be subject to prior approval by the administrative management or supervisory body. Again, where this would be overly burdensome for IORPs with a very small risk profile, the proportionality principle should provide the necessary flexibility.</p> <p>In addition, the CEA agrees that the revised Directive should not prevent Member States from requiring or permitting IORPs to allow for the participation of members in their governance board. However, as EIOPA correctly indicates, this should be appropriate. In addition, allowing members in the governance</p>	Noted

			<p>board should not harm the fit and properness of the governance board of the IORP.</p> <p>Finally, the CEA can support that an annual review is not necessary annually if this is based on proportionality to allow the necessary flexibility.</p>	
108.	Charles CRONIN	64.	Yes, I agree the EIOPA has correctly identified the material areas of difference between insurance companies and IORPs; namely lay member participation and remuneration policy.	Noted
109.	Chris Barnard	64.	Partly. One of the main differences between insurers and IORPs is their role and purpose. Insurers compete for profits, or to generate surpluses for their owners; some IORPs also do this, but many are tied with employment, and the employer, and are a form of deferred pay. Another key difference is in the heterogeneity of IORPs, which is discussed in Paragraph 18.3.5. In consequence, I believe that this generally demands a broader application of the proportionality principle.	18.3.5 stipulates a broader application of the proportionality principle
110.	CMHF (Centrale van Middelbare en Hogere Functionar	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
111.	De Unie (Vakorganisatie voor werk, inkomen en loop	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules	Noted

			to IORPs.	
112.	Ecie vie	64.	Yes, there are differences between insurers and IORPs on general governance requirement, but EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.	Noted
113.	European Federation for Retirement Provision (EFRP)	64.	Yes, the EFRP agrees that remuneration policy and member participation are areas of difference between IORP's and insurers and this should be reflected in any new rules. A proper impact assessment is necessary on the efficiency and the effectiveness of new governance rules for IORPs in this field.	Noted
114.	European Fund and Asset Management Association (EF)	64.	EFAMA agrees that EIOPA has correctly identified the areas where there should be differences between insurers and IORPs on general government requirements.	Noted
115.	European Metalworkers Federation	64.	EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements.  A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems necessary.	Noted
116.	European Mine, Chemical and Energy workers' Fede	64.	EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements.  A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems	Noted

			necessary.	
117.	FairPensions	64.	Yes.	Noted
118.	Federation of the Dutch Pension Funds	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
119.	Financial Reporting Council	64.	We have not considered this question.	Noted
120.	FNV Bondgenoten	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
121.	Generali vie	64.	Yes there are differences between insurers and IORPs on general governance requirement, but EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.	Noted
122.	Groupement Français des Bancassureurs	64.	<p>FBIA agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.</p> <p>FBIA supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Article 8 of the IORP Directive. This</p>	<p>Mutual insurance companies are not in the scope of this CfA</p> <p>Noted</p>

			<p>principle should be retained in the revised IORP Directive.</p> <p>Furthermore, consistent with solvency principles; FBIA believes that written policies should be subject to prior approval by the administrative management or supervisory body.</p>	
123.	PMT-PME-Mn Services	64.	<p>EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.</p>	Noted
124.	HM Treasury/Department for Work and Pensions	64.	<p>The UK Government agrees that at their broadest, the general governance requirements in the Solvency II Directive could be applied to IORPs.</p>	Noted
125.	Institute and Faculty of Actuaries (UK)	64.	<p>The areas EIOPA has identified are correct but incomplete:</p> <p><input type="checkbox"/> Firstly we repeat the comment made in our response to Question 54 that UK IORPs are not a financial institutions in the same sense as banks and insurers, rather they are part of the social security and employment framework and, crucially, the primary duty of those running the IORP is to act in the best interest of the members, not a third party. This difference means that it is not clear that the same general governance requirements are required or appropriate.</p> <p><input type="checkbox"/> We also echo the second bullet of 18.3.21 that most of the individuals who make up the trustee bodies who govern UK IORPs are unpaid volunteers and suggest that, in consequence, the governance requirements for charitable bodies are arguably a more appropriate reference than the governance</p>	<p>Noted, however the comment is very general and it is not clear what should be changed in the advice</p>

			requirements for insurance companies.	
126.	KPMG LLP (UK)	64.	Yes, subject to an impact assessment.	Noted
127.	Le cercle des épargnants	64.	Yes there are differences between insurers and IORPs on general governance requirement, but EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.	Noted
128.	Mercer	64.	We believe so, but the Directive should be amended in such a way that does not prevent new forms of IORP being developed for which other requirements might be inappropriate.	Noted
129.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
130.	National Association of Pension Funds (NAPF)	64.	<p>Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?</p> <p>Yes, NAPF agrees that remuneration policy and member participation are areas of difference between IORPs and insurers; this should be reflected in any new rules.</p> <p>Any new governance requirements should be subject to a full impact assessment.</p>	Noted

131.	NEST Corporation	64.	We agree that Member participation is a matter for individual IORPS, within a national framework. We agree that Remuneration policy is a matter for the governing body of the IORP, and that specific attention should be given to addressing areas of remuneration practice which have proven problematic in other sectors (such as the basis for performance related pay, conflict of interest, agency risk etc).	Noted
132.	Pan-European Insurance Forum (PEIF)	64.	<p>We share the view of EIOPA on the differences between insurers and IORPs on general governance requirements.</p> <p>The revised Directive should not prevent Member States from requiring or permitting IORPs to allow for the participation of members or beneficiaries in their governance board. However, as EIOPA correctly indicates, this should be appropriate. In addition, allowing members in the governance board should not harm the fit and properness of the governance board of the IORP.</p> <p>Regarding a sound remuneration policy for IORPs we support EIOPA's advice. Details should be developed at Level 2. It is to be ensured that wherever a remuneration policy may be irrelevant (e.g. with volunteers) the policy regulation should remain prudent.</p> <p>Although governance rules set by the IORP Directive can only address financial services issues, certain decisions may relate to social and labour law matters (e.g. benefit reductions, change of membership conditions or transferability conditions). The governance structure or its method of operation needs to distinguish sufficiently clearly between these spheres</p>	Noted

			particularly in the context of cross-border activity.	
133.	Pensioenfonds Zorg en Welzijn (PFZW)	64.	EIOPA has rightly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
134.	Predica	64.	<p>Predica agrees on the differences between insurers and IORPs on general governance requirements as indicated by EIOPA. However, EIOPA should keep in mind that mutual insurance companies should have similar requirements when they have a similar structure as IORPs.</p> <p>Predica supports the principle that there should be a legal separation between the sponsoring undertaking and the IORP as is currently stated in Article 8 of the IORP Directive. This principle should be retained in the revised IORP Directive.</p> <p>Furthermore, consistent with solvency principles; Predica believes that written policies should be subject to prior approval by the administrative management or supervisory body.</p>	<p>Mutual insurance companies are not in the scope of this CfA</p> <p>Noted</p>
135.	PTK (Sweden)	64.	Yes, the PTK agrees that remuneration policy and member participation are areas of difference between IORP's and insurers and this should be reflected in any new rules. A proper impact assessment is necessary on the efficiency and the effectiveness of new governance rules for IORPs in this field.	Noted

136.	Railways Pension Trustee Company Limited ("RPTCL	64.	We have not considered this question.	Noted
137.	TCO	64.	Yes, TCO agrees that remuneration policy and member participation are areas of difference between IORP's and insurers and this should be reflected in any new rules. A proper impact assessment is necessary on the efficiency and the effectiveness of new governance rules for IORPs in this field.	Noted
138.	The Association of Pension Foundations (Finland)	64.	Investment policy requirement is good example of differences between insurance company and pension fund. It should be very carefully studied that leaving investment policy as it should doesn't bring aspects of solvency II mechanism with overlapping functions for IORPs as there is no investment policy in insurance company.	Investment policy is in the scope of general governance requirement. So even this area will benefit from advantages of good governance
139.	The Association of the Luxembourg Fund Industry (A	64.	See 63	Noted
140.	THE SOCIETY OF PENSION CONSULTANTS	64.	The proposal to adopt a remuneration policy is sensible in the states where IORPs employ staff. This would rarely impact in the UK where IORP senior management would typically be employed by the sponsoring employer or be a professional services firm.	Noted
141.	Towers Watson Deutschland GmbH	64.	A remuneration policy is sensible where IORPs employ staff. We would not expect this to have a substantial impact in most	Noted

			countries due to the business model of an IORP typically differing from that of an insurer.	
142.	Trades Union Congress (TUC)	64.	<p>Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?</p> <p>We welcome the recognition of the difference between the roles played between insurers and IORPs. We agree that a sound remuneration policy should be part of a good governance system. Any policy on remuneration should recognise the key role lay trustees have in the running of IORPs.</p>	Noted
143.	UK Association of Pension Lawyers	64.	<p>CfA 13 (General governance requirements): Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?</p> <p>Our view is that the general governance requirements in Article 41 of the Solvency II Directive should not be introduced for IORPs (see our response to question 63 above). Accordingly we do not consider it necessary to identify areas in which distinctions between IORPs and insurers should be drawn.</p>	Noted
144.	UNI Europa	64.	<p>EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements.</p> <p>A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems</p>	Noted

			necessary.	
145.	Universities Superannuation Scheme (USS),	64.	Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?	Noted
146.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	64.	EIOPA has correctly identified the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance principle. A proper impact assessment is necessary on the efficiency and the effectiveness of such new governance rules to IORPs.	Noted
147.	Whitbread Group PLC	64.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	For the advantages of a effective system of governance please see 18.3.2.  EIOPA and most of the other respondents believe that this is sufficient to introduce general governance requirements.
148.	Zusatzversorgungskasse des Baugewerbes AG	64.	85. EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance	Noted

			<p>requirements.</p> <p>86. A proper impact assessment regarding the efficiency and the effectiveness of such new governance rules to IORPs seems necessary.</p>	
149.	Towers Watson	64.	<p>65. Has EIOPA identified correctly the areas such as member participation and remuneration policy where there should be differences between insurers and IORPs on general governance requirements?</p> <p>The proposal to adopt a remuneration policy is sensible in the states where IORPs employ staff. We would not expect this to have a substantial impact in the UK where IORP senior management would typically be employed by the sponsoring employer or be a professional services firm.</p> <p>We also have some concern that legislating in this area (which seems to be driven by a desire to replicate as far as is possible the requirements for insurers, rather than what is appropriate for IORPs, their sponsors or the IORP membership) might have a negative effect on those IORPs where the management/trustee body has largely comprised individuals who are not employed by the IORP per se. This appears to be recognised by EIOPA (in para 18.3.22 and 18.4.3) as suggesting that the policy should only be in those IORPs where it is relevant. To this end we endorse EIOPA's call for this to be subject to further analysis.</p>	Noted
150.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	65.	<p>The OPSG considers that the existing IORP Directive Article 9 is an adequate description of a fit and proper test and does not in itself need any expansion – it clearly requires that the institution is run by persons of good repute and who have the appropriate qualifications or employ those who have.</p>	Noted.

			<p>However in terms of establishing the fitness criteria, the OPSG would not object to the addition of “integrity” to the requirement to be of good repute – in line with Article 42 of the Solvency II Directive. Nor would it object to the addition of professional qualification and experience requirement, of an additional criterion of “appropriate” [knowledge] for sound and prudent management, although it does believe that this is already the way that Article 9 is operated. In so far as it extends to advisers, it is important for the criterion of proportionality, that this does not require any duplication of rules for professional advisers who are already governed by at least as strict professional standards. Being professionally qualified in light of these standards, should be sufficient evidence of the test of knowledge and qualification.</p> <p>The OPSG agrees with EIOPA (19.3.6) that the level of fitness required to be shown depends on the nature and complexity of the activities. If the fit and proper test is adopted such that the qualification, knowledge and experience have to be “appropriate” to enable sound management, it is also very important that where there is a board, trustees, or other group of persons who effectively run the IORP, that the adequacy test be applied to the collective function and not to each individual component. For example, on a management board, it is acceptable and indeed useful, to have a person whose area of expertise is financial, another whose is investment , another whose is administration, but that collectively the level of qualification knowledge and experience should be “appropriate”.</p> <p>A minority view in the OPSG was that it should be a</p>	<p>Noted. The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (see paragraph 19.3.6).</p> <p>Not agreed. The</p>
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			<p>requirement for every IORP to have an investment specialist on the IORP board. This would enable the IORPs to meet the requirements of the amendment proposed in response to CfA 7 to include suitably amended text from Article 132 (2), 1st subpar. Of the Solvency II Directive.</p> <p>As the OPSG considers that the fit and proper test as outlined in Article 9 is already sufficient, it cannot see a need for additional definitions of key functions. However, if this is introduced it fully endorses the view of EIOPA that in respect of fitness, the principles of good governance must be implemented in a reasonable and proportionate manner (19.3.11) and that this may allow for non-segregation of duties (19.3.13), outsourcing (19.3.12) and that it is crucially the IORP itself which must judge whether the persons with key functions meet the fit and proper criteria.</p> <p>The OPSG does not consider that there is a need for ex-ante assessment by supervisory authorities, nor that there should be periodic assessment. The role of the supervisory authority should be to deal with the reporting and whistle-blowing in exceptional cases, for failures to comply with these fit and proper criteria. The test is in the proper performance of all the functions and duties of the IORP management bodies. If a</p>	<p>elements that should be taken into account with determining the required level of inter alia knowledge are stated in paragraph 19.3.3. This provides flexibility; it could mean that an investment specialist is required for an IORP, but that depends on the assessment on the basis of these elements. This does not alter the fact that the board members have to be fit and proper and, consequently, should have a minimum level of knowledge.</p> <p>Noted. The heterogeneous nature of occupational pensions among</p>
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			<p>matter comes to the attention of the supervisory authority which suggests a person may not be fit and proper, the supervisory body would then take into account the function of that person, its importance and relevance to the IORP and a number of other relevant factors. It would not be useful to try and set out a list of these matters in advance.</p> <p>Given that these are criteria which should be managed and assessed by the IORP itself and that the way in which these criteria are evidenced in the various duties will differ extensively between different IORPs, the OPSG cannot see the need for further elaborating these principles in the level 2 text (19.3.26), although it is supportive of a level 1 general principle.</p>	<p>Member States requires a flexible principle. Nevertheless EIOPA is of the opinion that it is important that supervisory authorities have effective powers in this respect. This is reflected in the advice by means of a flexible principle in level 1 text. The level 2 recommendations leave room for national legislators to decide whether ex-ante assessment should be required. As to the possibility to reassess persons, it is explicitly stated that this should not involve the standard or periodical assessment of these requirements.</p>
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151.	AbA Arbeitsgemeinschaft für betriebliche Altersver	65.	<p>No. We believe that the fit and proper test in Article 9 IORP Directive should be taken at least as starting point for the discussion.</p> <p>We refer to our response on the first draft: It is fundamentally the IORP's own responsibility to ensure that the persons who effectively run the IORP and have other key functions are fit and proper. This responsibility cannot be transferred to the Supervisory Authority.</p> <p>The requirement of "fit and proper" - and the involvement of the Supervisory Authority in assessing this - should therefore remain restricted to management board members only. Extending this to other functions would only lead to increased bureaucratic burden and costs for IORPs and their sponsoring company/ies. This would be especially cumbersome for company IORPs (that do usually not employ own staff / use staff of the sponsoring undertaking to fulfil their duties) with their outstanding cost-effectiveness.</p> <p>We agree with EIOPA that the fitness requirements should "depend on the nature, scale and complexity of the activities of the IORP" (see section 19.3.5). It's important that the Board as a whole have an adequate level of qualification knowledge and experience. Therefore, "the composition and functioning of the whole group of persons who effectively run the IORP" have to be taken into account (see section 19.3.5).</p> <p>The AbA agrees with EIOPA that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.</p>	<p>Noted. EIOPA agrees that the fitness and propriety of persons who effectively run the IORP and have other key functions is IORPs' own responsibility (paragraph 19.3.4).</p> <p>Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs' activities and consequently the members' interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective</p>
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				governance system is in place. As follows from paragraph 19.3.7, it remains possible to outsource key functions to experts, so it will not be an obstacle for company IORPs.
152.	ABVAKABO FNV	65.	We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.	Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and

				<p>19.3.6.)</p> <p>Furthermore, the required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
153.	AEIP	65.	<p>123. AEIP disagrees with EIOPA on the proposal that the same 'fit and proper' requirements have to be applied as for insurance and reinsurance undertakings foreseen in Art. 42 (1) of the Solvency II Framework Directive</p> <p>124. AEIP agrees that persons who direct the undertaking have to possess an adequate professional qualification, knowledge and experience ("fit"), and be of good repute and integrity ("proper"). AEIP agrees that a pension provider has to have sufficient knowledge, must be reliable and apt to fulfil his/her tasks. A number of principles should however be taken into account :</p> <p>125. • The requirements have to be linked to the nature and the content of the pension schemes managed, and the complexity of the activities and the investments.</p>	<p>Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends</p>

			<p>126. • Professional qualification, knowledge and experience may be acquired by representing the members of pension schemes.</p> <p>127. • Fitness of non-executive board members or members of a supervisory board should be easier to gain than fitness of executive board members.</p> <p>128. • The “fit” rule (knowledge and experience) should be applied at the level of the board, which should have the necessary qualification, knowledge and experience as a whole.</p> <p>129. • “Key functions” should be defined on level 1 and should be consistent with the rest of the regulation insofar as it should be clarified that the amount of key functions and separation of duties depends on the size and complexity of the IORPs operations. Furthermore the qualitative requirements of key personnel should not prevent IORP to establish these kinds of position.</p> <p>130. Taking these into account, AEIP thinks that the current Art. 9 of the IORP Directive can be amended.</p> <p>A proper impact assessment seems necessary to validate that these requirements are proportional towards different types of IORP.</p>	<p>of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6.)</p> <p>Furthermore, it cannot be dictated how ‘fitness’ should be gained or which experience is sufficient to be fit to enable sound and prudent management (this depends on the persons involved and several ‘external’ factors as indicated in paragraph 19.3.6).</p> <p>As to key functions, in paragraph 19.3.11. et seq is explained that it is the IORP’s responsibility to define a consistent</p>
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				and adequate solution to the carrying out of a function (depending on the nature, scale and complexity of its activities and hence depending on its risk profile).
155.	AMICE	65.	As outlined in our introduction, we generally support the application of the principles of pillar 2 of Solvency II, with an appropriate division between level 1 and level 2 texts. We underline the importance of the principle of proportionality in all provisions on governance.	Noted.
156.	AMONIS OFP	65.	<p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>AMONIS OFP agrees with EIOPA on the proposal that similar 'fit and proper' requirements have to be applied as for insurance and reinsurance undertakings foreseen in Art. 42 (1) of the Solvency II Framework Directive, albeit taking proportionality into account.</p> <p>Any fit and proper requirements should not affect the participation of members, beneficiaries and social partners in the IORP governance structure.</p>	<p>Noted.</p> <p>Noted. The required level of</p>

			It is important that the Board as a whole has an adequate level of expertise. AMONIS OFP agrees with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.	professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).
157.	ANIA – Association of Italian Insurers	65.	The ANIA welcomes the protection of Members and Beneficiaries in the best possible way, as described in Articles 42 and 43 of the Solvency II Framework Directive, to have fit and proper requirements by those really performing the function. These are critical requirements for persons running any kind of business and should be legislated in a way that explicitly reflects the specific responsibilities associated with taking care of the retirement interest of members and beneficiaries. Key functions can have a major impact on the activities of IORPs and as a result on Members' security. The ANIA considers fit and proper requirements as necessary to ensure that an effective government system is in place. Therefore the ANIA strongly suggests including the full solvency II framework Directive articles 42 and 43 in the revised IORP Directive.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.
158.	Association Française de la Gestion financière (AF	65.	AFG agrees that fit and proper requirements be introduced as proposed by EIOPA. However these need to be applied proportionally. The advice should require that those who run or have key functions to have professional qualification. We	Noted. Lessons learned from the turmoil on the financial markets.

			<p>also believe the IORP Directive should remain as is in this respect so as not to impose a disproportionate burden. Furthermore the test should be applied across the whole group of persons who effectively run the IORP without requesting the same level of qualification and experience from each person.</p> <p>These rules have to be coherent with existing rules for entities already covered by other Directives.</p>	<p>Persons who effectively run the IORP or have key functions can have a major impact on the IORP's activities and consequently on the members' interests. Therefore, such persons need to be fit to do so.</p> <p>The level of professional qualifications, knowledge and experience required, depends inter alia of the nature, scale and complexity of the activities of the IORP. Additionally, the required level of professional qualifications, knowledge and experience is depending on the composition and functioning of the whole group of</p>
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				persons who effectively run the IORP (paragraph 19.3.6).
159.	Association of British Insurers	65.	<p>As we said in our response to EIOPA's first consultation paper, the ABI believes the proposed principles are disproportionate and are likely to act as a huge disincentive to a wide range of trustees in the UK, to the extent that only highly paid professional trustees will want to operate in the market.</p> <p>The current IORP text states that the IORP must be run by people who have appropriate professional qualifications and experience or employ advisers with appropriate professional qualifications and experience. This is appropriate, especially where there are member-nominated trustees, as in the UK, who are advised by professional advisers.</p> <p>However, the advice would require that those who run or who have 'other key functions' have "professional qualifications" "adequate to enable sound and prudent management of the IORP or to properly perform their key function." We disagree with this change and believe the IORP Directive should remain the same so as not to impose a disproportionate burden on schemes.</p> <p>Further we note in paragraph 18.3.19 under the General Governance Requirements of the consultation paper, that the revised governance system should not prevent participation of members in their governance structures. The ABI believes the proposed "fit" requirements would do exactly that and therefore the Directive should remain the same.</p>	<p>Not agreed. Persons who effectively run the IORP or have key functions can have a major impact on the activities of the IORP and consequently on the members' interests. Therefore, such persons need to be fit to do so.</p> <p>The level of professional</p>

			<p>Alternatively, if the "fit" requirements are applied, there should be an ability to outsource the running of the IORP or the 'other key functions'. Further the "fit" requirements could be applied to those running an IORP as a group, which would not require all individuals to meet this test</p>	<p>qualifications, knowledge and experience required, depends inter alia of the nature, scale and complexity of the activities of the IORP. Furthermore, EIOPA advises to retain the current exemption for IORPs with less than 100 members. This should avoid that the requirements will be overburdensome for IORPs.  Noted. Effectively running the IORP is the core business of the IORP. Therefore, EIOPA considers that this task cannot be outsourced. The people who effectively run the IORP should be fit</p>
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				<p>to do so themselves. That does not alter the fact that the IORP is free to decide - taking into account the nature, scale and complexity of its activities - in which way it's key functions should be carried out.</p> <p>Furthermore, the required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
160.	Association of Consulting Actuaries (UK)	of 65.	<p>This response also addresses the issues raised in question 66. We agree that fit and proper requirements should be adopted for IORPs. However, the text of the EIOPA commentary appears to envisage the supervisor taking significant direct responsibility for monitoring the status of all those with</p>	<p>Noted. EIOPA agrees that the fitness and propriety of persons who</p>

			<p>significant functions within an IORP, perhaps maintaining a database of individuals. This sounds like a highly bureaucratic process, with significant cost issues given the large number of IORPs compared with insurers. We think that risk-based monitoring by the supervisor coupled with a clear statement by the supervisor of the fit and proper requirements that must be met, to be monitored by the IORP, would be a far better use of resources.</p>	<p>effectively run the IORP and have other key functions is IORPs' own responsibility. This is reflected in paragraph 19.3.4. In addition, EIOPA is of the opinion that supervisory authorities should have effective powers to assess and monitor whether at least persons who effectively run the IORP are fit and proper, given the importance thereof for the IORPs' activities and consequently the members' interests. However, the heterogeneous nature of occupational pensions among Member States requires a flexible principle in level 1</p>
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				text. Furthermore, the level 2 recommendations leave room for national legislators to decide whether ex-ante assessment should be required. As to the possibility to reassess persons, it is explicitly stated that this should not involve the standard or periodical assessment of these requirements.
161.	Association of French Insurers (FFSA)	65.	The FFSA strongly suggests including the full solvency II framework Directive article 42 in the revised IORP Directive.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.
162.	Association of Pensioner Trustees in Ireland	65.	We recognise the growing emphasis on governance across financial services and in this regard we would support a requirement for at least one trustee of a trust based IORP to meet specified fitness and probity requirements (a 'professional	Not agreed. EIOPA considers it important that all persons who

			trustee'). It should not be compulsory however for there to be more than one professional trustee.	effectively run the business/have key functions have a minimum level of professional qualifications, knowledge and experience at all times given their influence on the IORP's activities and consequently the members' interest.
163.	Assoprevidenza – Italian Association for supplement	65.	<p>We disagree with EIOPA on the proposal that the same 'fit and proper' requirements have to be applied as for insurance and reinsurance undertakings foreseen in Art. 42 (1) of the Solvency II Framework Directive</p> <p>We agree that persons who direct the undertaking have to possess an adequate professional qualification, knowledge and experience ("fit"), and be of good repute and integrity ("proper").</p> <p>A pension provider has to have sufficient knowledge, must be reliable and apt to fulfil his/her tasks. A number of principles should be taken into account :</p> <ul style="list-style-type: none"> <li>- The requirements have to be linked to the nature and the content of the pension schemes managed, and the complexity of the activities and the investments.</li> <li>- Fitness of non-executive board members or members of a supervisory board should be easier to gain than fitness of</li> </ul>	<p>Noted. The level of professional qualifications, knowledge and experience required, depends inter alia of the nature, scale and complexity of the activities of the IORP. (paragraph 19.3.6.).</p> <p>Furthermore, it cannot be dictated how 'fitness' should be gained</p>

			<p>executive board members.</p> <ul style="list-style-type: none"> <li>- The “fit” rule (knowledge and experience) should be applied at the level of the board, which should have the necessary qualification, knowledge and experience as a whole.</li> <li>- “Key functions” should be defined on level 1 and should be consistent with the rest of the regulation insofar as it should be clarified that the amount of key functions and separation of duties depends on the size and complexity of the IORPs operations. Furthermore the qualitative requirements of key personnel should not prevent IORP to establish these kinds of position.</li> <li>- We think that the current Art. 9 of the IORP Directive is sufficient and should not be revised.</li> </ul> <p>There should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety.</p>	<p>or which experience is sufficient to be fit to enable sound and prudent management (this depends on the persons involved and several ‘external’ factors as indicated in paragraph 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is furthermore depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p> <p>As to key functions, in paragraph 19.3.11. is explained that it</p>
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				<p>is the IORP's responsibility to define a consistent and adequate solution to the carrying out of a function (depending on the nature, scale and complexity of its activities and hence depending on its risk profile).</p> <p>EIOPA considers it necessary to adjust the current directive in line with the advice given in the blue box in order to ensure that an effective governance system is in place.</p>
164.	Assuralia	65.	<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>	<p>Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among</p>

				Member States requires some adjustments.
165.	Bayer AG	65.	<p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>Of course it is essential, that the staff and all responsible persons of IORPs are fit and proper. But the responsibility has to remain by the management board members and should not be extended to staff members who have key-functions.</p>	<p>Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs' activities and consequently the members' interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place.</p>
166.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	65.	<p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>Of course it is essential, that the staff and all responsible persons of IORPs are fit and proper. But the responsibility has</p>	<p>Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs' activities</p>

			to remain by the management board members and should not be extended to staff members who have key-functions.	and consequently the members' interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place.
167.	Belgian Association of Pension Institutions (BVPI-	65.	<p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>BVPI-ABIP disagrees with EIOPA on the proposal that the same 'fit and proper' requirements have to be applied as for insurance and reinsurance undertakings foreseen in Art. 42 (1) of the Solvency II Framework Directive</p> <p>Any fit and proper requirements should not affect the participation of members, beneficiaries and social partners in the IORP governance structure.</p> <p>The "fit and proper" requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of "fit and proper" requirements that are be similar to insurance and reinsurance undertakings, but the content of</p>	<p>Noted. See paragraph 19.3.6.</p> <p>Noted. The required level of</p>

			<p>the requirements need to be adapted to the specificities of the IORPs. A proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs.</p> <p>It is important that the Board as a whole has an adequate level of expertise; it should not be required that each and every member of the Board of the IORP fulfil all "fit" professional expertise requirements. BVPI-ABIP agrees with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.</p>	<p>professional qualifications, knowledge and experience is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
168.	BNP Paribas Cardif	65.	<p>BNP Paribas Cardif strongly suggests including the full solvency II framework Directive article 42 in the revised IORP Directive.</p>	<p>Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.</p>
169.	Bosch Pensionsfonds AG	65.	<p>It is fundamentally the IORP's own responsibility to ensure that the persons who effectively run the IORP and have other key functions are fit and proper. This responsibility cannot be transferred to the Supervisory Authority.</p>	<p>EIOPA agrees that the fitness and propriety of persons who effectively run the IORP and have other key functions is IORPs' own responsibility. This</p>

			<p>The requirement of “fit and proper” - and the involvement of the Supervisory Authority in assessing this - should therefore remain restricted to management board members only. Extending this to other functions would only lead to increased bureaucratic burden and cost for IORPs and its sponsoring companies. This would be especially cumbersome for company IORPs (that do usually not employ own staff / use staff of the sponsoring undertaking to fulfil their duties) with their outstanding cost-effectiveness. Ultimately this is an obstacle for the sponsoring undertaking and thus a burden for the economy as a whole.</p>	<p>is reflected in paragraph 19.3.4.</p> <p>Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs’ activities and consequently the members’ interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place. As follows from paragraph 19.3.14, it remains possible to outsource key functions to experts, so it will not be an obstacle for company</p>
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				IORPs.
170.	Bosch-Group	65.	<p>It is fundamentally the IORP's own responsibility to ensure that the persons who effectively run the IORP and have other key functions are fit and proper. This responsibility cannot be transferred to the Supervisory Authority.</p> <p>The requirement of "fit and proper" - and the involvement of the Supervisory Authority in assessing this - should therefore remain restricted to management board members only. Extending this to other functions would only lead to increased bureaucratic burden and cost for IORPs and its sponsoring companies. This would be especially cumbersome for company IORPs (that do usually not employ own staff / use staff of the sponsoring undertaking to fulfil their duties) with their outstanding cost-effectiveness. Ultimately this is an obstacle for the sponsoring undertaking and thus a burden for the economy as a whole.</p>	<p>EIOPA agrees that the fitness and propriety of persons who effectively run the IORP and have other key functions is IORPs' own responsibility. This is reflected in paragraph 19.3.4.</p> <p>Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs' activities and consequently the members' interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an</p>

				effective governance system is in place. As follows from paragraph 19.3.14, it remains possible to outsource key functions to experts, so it will not be an obstacle for company IORPs.
171.	BT Pension Scheme Management Ltd	65.	It would represent a significant step backwards if fit and proper standards were applied to IORPs so as to in effect prevent the presence of member-nominated trustees on pension fund boards. We believe that member-nominated trustees are an important element of the protections offered by IORPs to their beneficiaries, by bringing the IORP and its investment processes closer to the needs and wishes of those beneficiaries, and while member-nominated trustees rapidly build their expertise over the time of their presence on IORP boards, they certainly will not usually have the stated fit and proper standards at the moment of appointment. For these reasons, we strongly oppose the application of fit and proper standards to IORP boards.	Not agreed. Persons who effectively run the IORP or have key functions can have a major impact on the activities of the IORP and consequently on the members' interests. Therefore, such persons need to be fit to do so at all times.
172.	Bundesarbeitgeber verband Chemie e.V. (BAVC)	65.	Of course it is essential, that the staff and all responsible persons of IORPs are fit and proper. But the responsibility has to remain by the management board members and should not be extended to staff members who have key-functions.	Not agreed. Lessons learned from the turmoil on the financial markets. Key

			<p>The “fit and proper” requirements have to be linked to the nature and risk profile of an IORP and need to be adapted to the specificities of the IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each and every member of the Board of the IORP fulfil all “fit” professional expertise requirements.</p>	<p>functions can have a major impact on IORPs’ activities and consequently the members’ interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place.</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the scale, nature and complexity of the IORP’s activities as well as on the composition and functioning of the whole group of persons who</p>
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				effectively run the IORP (paragraph 19.3.6).
173.	BUSINESSEUROPE	65.	We agree that scheme trustees should be properly equipped with the necessary knowledge to run the IORP effectively. However, we warn against making these requirements too strict, as in many cases member nominated trustees in particular would not be able to pass a “fit and proper test” similar to that in Solvency II. Nevertheless they play an important role in representing the voice of the employees in the IORP. For that reason we do not support a straight application of the “fit and proper” requirements of Solvency II.	Noted. See paragraph 19.3.6.
174.	BVI Bundesverband Investment und Asset Management	65.	BVI agrees that fit and proper requirements should be introduced as proposed by EIOPA. However these need to be applied proportionally.	Noted. See paragraph 19.3.6.
175.	CEA	65.	The CEA welcomes the protection of Members and Beneficiaries in the best possible way, as described in Articles 42 and 43 of the Solvency II Framework Directive, to have fit and proper requirements by those really performing the function. These are critical requirements for persons running any kind of business and should be legislated in a way that explicitly reflects the specific responsibilities associated with taking care of the retirement interest of members and beneficiaries. Key functions can have a major impact on the activities of IORPs and as a result on Members’ security. The CEA considers fit and proper requirements as necessary to ensure that an effective government system is in place. Therefore the CEA strongly suggests including the full solvency II framework Directive articles 42 and 43 in the revised IORP Directive.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.

			However, requirements for professional qualifications could also be applied to those running the IORP as a group in order to ensure that members can still nominate their own representatives. Additionally, proportionality should be taken into account	See paragraph 19.3.6.
176.	Charles CRONIN	65.	<p>The fit and proper section of the CfA needs to address the deficit in professional investment experience amongst asset owners (trustees, or people who `effectively run' the IORP). Hence I believe that amongst those who effectively run the IORP there should be a requirement for someone who is either a current or former investment professional. There is a clear need for someone who is independent, with a fiduciary obligation or loyalty (see answer to question 47) to the IORP, who has the ability to challenge the advice of external consultants and investment managers. This is consistent with EIOPA's advice that the IORP should be responsible for its investments: "With respect to the whole portfolio of assets, IORPs shall only invest in assets and instruments whose risks the institution concerned can properly identify, measure, monitor, manage, control and report ...". With respect to proportionality the position could be remunerated part-time role, details could be developed at Level 2.</p> <p>My colleague John Mellor and I co-wrote a report into Stewardship (thoughtful ownership) which has contributed to the corporate governance debate in London and Brussels. The report investigated the chain of agent/principle relationships from scheme members, asset owners through to investment consultants, investment managers and issuers. One of its conclusions was that the asset owners were the weakest link in this chain because they lacked the knowledge to act as</p>	Not agreed. The elements that should be taken into account with determining the required level of inter alia knowledge are stated in paragraph 19.3.6. EIOPA considers it important to apply the principle of proportionality given the heterogeneity. This provides flexibility; it could mean that an investment specialist is required for an IORP, but that depends on the assessment on the basis of these elements. This does not alter the

		<p>effective stewards of the scheme members assets. Recognising their knowledge deficit trustees promptly delegated (outsourced) their investment duties to external consultants and agents. Superficially this appears to be most prudent course of action. However this shortage of professional investment knowledge means that asset owners can become captured by the latent agent/principle conflicts, which obfuscate their duty of loyalty owed to scheme members. While it would be impractical to require that all IORPs should internalise their investment advice; I do believe that agent/principle conflicts could be restrained through some internalisation of this human resource. The logic being that someone with a direct loyalty to the IORP, and good knowledge of the investment business, would be better able to challenge the advice of investment consultants and managers.</p> <p>The other issue of concern is litigation; under UK trustee law, in addition to civil and criminal penalties, trustees risk their personal assets if found in breach of their duties and responsibilities as trustees. As most trustees are unremunerated and have little investment experience, the downside for performing this service is disproportionate to the personal gain. My suggestion is that the Directive incorporates some requirement that persons who effectively run the IORP are covered by professional insurance and that personal liability from civil prosecution is capped to reduce the cost of the insurance premium. Again further details can be developed at Level 2.</p> <p>Outside these two points, I support EIOPA's draft advice to the Commission, which is to include the same fit and proper</p>	<p>fact that the board members have to be fit and proper and, consequently, should have a minimum level of knowledge.</p>
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			requirements for IORPs as were introduced in Article 42(1) of the Solvency II Directive. I support the principle of harmonisation wherever it is relevant and possible. The positive aspect of the proposal is that it should raise standards. The negative impact is that smaller schemes may find it difficult to comply and seek to delegate more functions externally. Given my belief that IORPs need to bolster their internal investment expertise, such behaviour by small schemes would be a cause for concern.	
177.	Chris Barnard	65.	<p>I agree with the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive. Introducing such fit and proper requirements for IORPs is overwhelmingly positive: it should improve security for members and beneficiaries and promote confidence in pension provision more generally. I do not believe that this would be burdensome or costly to implement. Either persons who have key functions are fit and proper, which is good, or they are not, in which case they should be retrained or replaced.</p> <p>Re: Paragraph 19.3.16, I would suggest limiting the key functions to those included in the system of governance.</p>	<p>Noted.</p> <p>Noted. The functions included in the system of governance are considered to be key functions (but this is not limited).</p>
178.	CMHF (Centrale van Middelbare en Hogere Functionar	65.	We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the	Noted. The different characteristics of IORPs and differences between IORPs and insurers can

			<p>requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.</p>	<p>be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
179.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	65.	See answer to question 63 above.	noted

180.	De Unie (Vakorganisatie voor werk, inkomen en loop	65.	<p>We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.</p>	<p>Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of</p>
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				persons who effectively run the IORP (paragraph 19.3.6).
181.	Direction Générale du Trésor, Ministère des finances	65.	Yes, we agree on the introduction of the same fit and proper requirements for IORPs as defined in Solvency 2.	Noted.
182.	Ecie vie	65.	Yes	Noted.
183.	EFI (European Federation of Investors)	65.	Yes we agree.	Noted.
184.	European Federation for Retirement Provision (EFRP)	65.	<p>The EFRP agrees with the introduction of fit and proper requirements for persons who effectively run the IORP and those with key functions, but not with using Solvency II as a starting point. This is because IORPs are fundamentally different from insurance companies.</p> <p>Any fit and proper requirements should not affect the participation of members, beneficiaries and social partners in the IORP governance structure.</p> <p>The “fit and proper” requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of “fit and proper” requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of the IORPs. A proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs.</p>	Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the

			<p>It is important that the Board as a whole has an adequate level of expertise; it should not be required that each and every member of the Board of the IORP fulfil all "fit" professional expertise requirements. The EFRP agrees with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.</p>	<p>IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
185.	European Fund and Asset Management Association (EFAMA)	65.	<p>EFAMA agrees that fit and proper requirements be introduced as proposed by EIOPA. However these need to be applied proportionally. The advice should require that those who run or have key functions to have professional qualification. We also believe the IORP Directive should remain as is in this respect so as not to impose a disproportionate burden. Furthermore the test should be applied across the whole group of persons who effectively run the IORP without requesting the same level of qualification and experience from each person.</p>	<p>Noted. The level of professional qualifications, knowledge and experience required, depends inter alia of the nature, scale and complexity of the activities of the IORP (paragraph 19.3.6). EIOPA recommends to adjust the current directive in line</p>

				<p>with the blue box in order to ensure that an effective governance system is in place.</p> <p>Furthermore, the required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
186.	European Metalworkers Federation	65.	<p>We do not agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are</p>	<p>Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the</p>

			<p>proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all “fit” professional expertise requirements. Also the role of employee representatives as a non-executive board member, supervisory board member or trustee should be taken into consideration. For this kind of participation there should be proper training.</p>	<p>level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
187.	European Mine, Chemical and Energy workers’ Fede	65.	<p>We do not agree with the EIOPA that the same ‘fit and proper’ requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The ‘fit and proper’ requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of ‘fit and proper’ requirements that are be similar to insurance</p>	<p>Noted. The different characteristics of IORPs and differences between IORPs</p>

			<p>and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements. Also the role of employee representatives as a non-executive board member, supervisory board member or trustee should be taken into consideration. For this kind of participation there should be proper training.</p>	<p>and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
188.	FAIDER (Fédération des	65.	Yes we agree.	Noted.

	Associations Indépendantes			
189.	FairPensions	65.	Yes, although this should not compromise member participation. In the UK, occupational pension schemes are required to include at least one-third Member-Nominated Trustees (MNTs) on their boards. As indicated in our reponse to Q50 and Q80, we do believe it is vital that IORPs have the in-house expertise to effectively monitor their external agents and to understand the investment process. However, this should not be a bar to the participation of independent figures who can act as champions for members and help to drive accountability to ultimate beneficiaries. What matters is that the board as a whole should have the relevant expertise, rather than each individual member. We are happy with the explanatory text at para 19.3.6 in this regard.	Noted.
190.	Federation of the Dutch Pension Funds	65.	We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.	Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale

				<p>and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
191.	Financial Reporting Council	65.	<p>It is proposed that the requirements of Article 42 of Directive 2009/138/EC are introduced for IORPS but with modifications. It is noted in the preliminary impact assessment that the proposal could complicate wider participation in the scheme and the use of lay trustees. Noting this we would encourage EIOPA to consider other approaches. IORPs have different characteristics to insurance companies and different governance approaches may be appropriate and it is not clear to us what the benefit to IORPs and their members would be from the proposed change.</p> <p>Article 9 of the current IORP Directive states that the institution is effectively run run by persons of good repute</p>	<p>Noted. EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place. The specific characteristics of IORPs should be</p>

		<p>who must themselves have appropriate professional qualifications and experience or employ advisors with appropriate qualifications and experience.</p> <p>This is supported in the UK by the Pensions Regulator’s Code of Practice for trustee knowledge and understanding which sets out standards of conduct and practice for pension schemes which it regulates and a set of training modules which is available on the Pensions Regulator’s website. These resources support trustees in the governance of UK IORPs.</p> <p>The FRC’s UK Corporate Governance Code recognises that the composition of a Board is important for its effectiveness and includes a very similar principle to the current directive that says</p> <p>The board and its committees should have the appropriate balance of skills, experience, independence and knowledge of the company to enable them to discharge their respective duties and responsibilities effectively.</p> <p>This principle is supported by some further principles and provisions.</p> <p>We recommend that it might be more appropriate to build on the current wording, perhaps within Level 2, along the lines on the FRC’s UK Corporate Governance Code. We would be happy to work with EIOPA in developing this proposal.</p>	<p>taken into account by applying the principle of proportionality as indicated in paragraph 19.3.6.</p> <p>The wording of the UK corporate code seems to fit into the requirements as set forth in article 42 Solvency II framework directive. In light of a level playing field between insurers and IORPs and the lessons learned from the turmoil on the financial markets, EIOPA advises the current wording and to include ‘knowledge’ and the requirement that each person who effectively run the IORP or has a key function should meet these criteria. EIOPA</p>
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				thinks this is necessary to ensure an effective system of governance and consequently to safeguard the members' interests.
192.	FNV Bondgenoten	65.	We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.	Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).  The required level

				of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).
193.	Generali vie	65.	Yes	Noted.
194.	GESAMTMETALL - Federation of German employer	65.	<p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>Of course it is essential, that the staff and all responsible persons of IORPs are fit and proper. But the responsibility has to remain by the management board members and should not be extended to staff members who have key-functions.</p>	<p>Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs' activities and consequently the members' interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an</p>

				effective governance system is in place.
195.	Groupe Consultatif Actuariel Européen.	65.	<p>We support the recommendation that the fit and proper requirements be applied to the management board and key function holders, many of whom will in practice be outsourced functions and may be required to meet fit and proper criteria in order to offer the service.</p> <p>In our view, the decision as to whether a member of the management board meets the criteria should not be left to the IORP (i.e. the management board) but should be the subject of pre-approval by the supervisory authority (even where "registration" of the IORP is required rather than "authorisation").</p> <p>We also support the proposal that supervisors have power to investigate whether individuals in management/key functions are "fit and proper" at all times, and to take action if they find that this is not the case.</p>	<p>Noted.</p> <p>Given the heterogeneous sector it is not desirable to have pre-approval at all times.</p>
196.	Groupement Français des Bancassureurs	65.	<p>FBIA strongly suggests including the full solvency II framework Directive article 42 in the revised IORP Directive.</p>	<p>Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.</p>
197.	PMT-PME-Mn Services	65.	<p>We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit</p>	<p>Noted. The different characteristics of</p>

			<p>and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.</p>	<p>IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
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198.	HM Treasury/Department for Work and Pensions	65.	The UK Government questions the need for such a change given that the requirements in Article 9(1)(b) of the IORP Directive are already very close to those subsequently adopted for Article 42(1) of the Solvency II Framework Directive.	Noted. EIOPA considers this necessary in order to ensure that an effective governance system is in place.
199.	Institute and Faculty of Actuaries (UK)	65.	<p>We agree that the management of IORPs should be undertaken by fit and proper people. We think that the phrase “Persons who effectively run the IORP” will need to be well-defined in law and that all such persons should be “proper”. However we also believe that “proportionality” requires that:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> it should be made clear in the revised directive that “fitness” applies collectively to the body running the IORP (i.e. that it is not necessary for every individual on that body to possess all the necessary skills) and</li> <li><input type="checkbox"/> “fitness” is measured by reference to the skills and knowledge required to run only the specific IORP in question.</li> </ul>	<p>Paragraph 19.3.6. states that the required level of fitness depends inter alia of the composition and functioning of the whole group of persons who effectively run the IORP.</p> <p>The different characteristics of IORPs can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of</p>

				the activities of the IORP.
200.	KPMG LLP (UK)	65.	Yes in principle, but the application of proportionality is key. Particularly where IORPs outsource many or all of the key functions, it is the overall fitness of a combination of the IORP's board and its providers which matters. In particular, there should be no bar on lay trustees (e.g. member representatives). This means that a universal requirement for professional qualifications for all would be disproportionate.	Noted. See paragraph 19.3.6.
201.	Le cercle des épargnants	65.	Yes	Noted.
202.	Mercer	65.	It seems reasonable to require those with control over the way an IORP is managed or administered to meet 'fit and proper' criteria, regardless of whether the benefits provided are defined benefit or defined contribution. However, whilst agreeing that some level of knowledge and understanding is essential, we are less concerned that they have necessary qualifications. Often, having a range of diverse skills and backgrounds on a governing body, rather than a narrow group of 'experts', creates an environment that is more likely to challenge the status quo so, in our view, even if the main principles from Solvency II Directive are transposed into the IORP Directive, it is important to retain the existing provision in Article 9, which permits those running the scheme to rely on advisers.	Lessons learned from turmoil on financial markets that the fitness criteria should be on a higher level. Nevertheless, EIOPA is of the opinion that the current wording and the explanation in paragraph 19.3.6 provides enough flexibility to (even requires) a range of diverse skills and backgrounds on the board. Furthermore, the

			<p>Where an IORP's management relies on advisers to support it to make key decisions, it seems appropriate that the 'fit and proper' test should apply to those advisers, and the senior management in those advisers' firms, as well as the requirement for appropriate qualifications and experience.</p>	<p>running the IORP is the core business of the IORP. Therefore, EIOPA considers that the people who effectively run the IORP should be fit to do so themselves. That does not alter the fact that the IORP is free to decide - taking into account the nature, scale and complexity of its activities - in which way it's key functions should be carried out.</p> <p>The IORP remains ultimately responsible and should therefore be satisfied that the advisers meet the required criteria.</p>
203.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	65.	<p>We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and</p>	<p>Noted. The different characteristics of IORPs and</p>

			<p>risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.</p>	<p>differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
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204.	National Association of Pension Funds (NAPF)	65.	<p>FIT AND PROPER</p> <p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>The NAPF disagrees with EIOPA's draft recommendation that the 'fit and proper' definition in Article 42 of Solvency II should be copied across into the IORP Directive.</p> <p>Article 42's requirement for 'professional qualifications' fails to take account of the approach to governance in the UK, where lay trustees play a major – and very effective – role in ensuring that members' interests are well protected. The UK's Pensions Act 2004 requires trustees to have knowledge and understanding of the law relating to pensions and trusts and the principles of funding and investment. They are also expected to be familiar with the scheme's deed, rules and other documents.</p> <p>Article 42 would also fail to recognise the effective contribution to good pension scheme governance made by the Myners Principles for Occupational Pension Schemes, first published in the UK in 2001, which set a widely respected benchmark for good governance. The first principle, on 'Effective decision-making', is as follows:</p>	<p>Not agreed.</p> <p>Lessons learned from the turmoil on the financial markets. Persons, who can have a major impact on IORPs' activities and consequently the members' interests, should meet the mentioned fit and proper requirements. EIOPA considers this is necessary in order to ensure that an effective governance system is in place.</p> <p>The different situations in Member States has been taken into account through the fact that the level of professional qualifications, knowledge and experience</p>
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			<p>'Decisions should be taken only by persons or organisations with the skills, information and resources necessary to take them effectively. Where trustees elect to take investment decisions, they must have sufficient expertise and appropriate training to be able to evaluate critically any advice they take.</p> <p>'Trustees should ensure that they have sufficient in-house staff to support them in their investment responsibilities. Trustees should also be paid, unless there are specific reasons to the contrary.</p> <p>'It is good practice for trustee boards to have an investment sub-committee to provide the appropriate focus.</p> <p>'Trustees should assess whether they have the right set of skills, both individually and collectively, and the right structures and processes to carry out their role effectively. They should draw up a forward-looking business plan.</p> <p>'We recognise that it is important to ensure all trustees have the necessary skills and knowledge, and this is why the NAPF runs training courses for trustees and strongly supports the Pensions Regulator's requirements on Trustee Knowledge and Understanding (TKU).'</p>	<p>required, depends of the nature, scale and complexity of the activities of the IORP as well as the responsibilities that go with the particular key/management function of the person and, in the case of persons who effectively run the IORP, the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6). Furthermore, EIOPA advises to retain the current exemption for IORPs with less than 100 members. This should avoid that the requirements will be overburdensome for IORPs.</p>
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				Besides, national authorities have to ensure that the directive is correctly implemented in their national laws. If national law already reflects the requirements included in the IORP directive, no further amendments would be required. This is, however, outside the scope of the advice.
205.	NEST Corporation	65.	We agree with the principle, but would recommend that implementation should be risk based and less bureaucratic than that applying to insurance companies.	Noted. Outside the scope of the mandate.
207.	NORDMETALL, Verband der Metall- und Elektroindustr	65.	Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?  Of course it is essential, that the staff and all responsible persons of IORPs are fit and proper. But the responsibility has to remain by the management board members and should not be extended to staff members who have key-functions.	Not agreed. Lessons learned from the turmoil on the financial markets. Key functions can have a major impact on IORPs' activities and consequently the members'

				<p>interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place.</p>
208.	Pan-European Insurance Forum (PEIF)	65.	<p>Solvency II Framework Directive concerning fit and proper requirements seem to be generally suitable for IORPs.</p> <p>All individuals should be 'proper'. However, as regards 'fitness', one should look at the team of those individuals with key roles on governance and operational issues and consider their expertise as a whole. In the event that incoming individuals lack skills etc., there should be training to ensure they meet requisite standards. Even volunteers needs to be fit and proper. Where certain expertise is not available, there should be a duty to outsource to ensure it is present. Alternatively, if lower standards are accepted, for whatever reason, this needs to be made clear to members.</p>	<p>The fit and proper requirements apply at all times. Furthermore, the required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
209.	Pensioenfonds Zorg en Welzijn (PFZW)	65.	<p>PFZW disagrees with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit</p>	<p>Noted. The different characteristics of</p>

			<p>and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements.</p>	<p>IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>Furthermore, the required level of fitness depends inter alia of the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
210.	Predica	65.	<p>Predica strongly suggests including the full solvency II framework Directive article 42 in the revised IORP Directive.</p>	<p>Noted. EIOPA is of the opinion that</p>

				the heterogeneous nature of occupational pensions among Member States requires some adjustments.
211.	PTK (Sweden)	65.	<p>PTK agrees with the introduction of fit and proper requirements, but not with those that are stipulated in the Solvency II Directive.</p> <p>Any fit and proper requirements should not affect the participation of members, beneficiaries and social partners in the IORP governance structure.</p> <p>The “fit and proper” requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of “fit and proper” requirements that are similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of the IORPs. A proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs.</p> <p>It is important that the Board as a whole has an adequate level of expertise; it should not be required that each and every member of the Board of the IORP fulfil all “fit” professional expertise requirements. PTK also agrees with EIOPA’s assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.</p>	<p>The fact that scheme members are appointed as board members does not detract from the importance thereof. IORPs may increase the level of fitness/expertise by means of courses. Moreover, proportionality principle applies also to fit and proper requirements.</p> <p>Noted. Paragraph 19.3.6. states that the required level of professional qualifications,</p>

				knowledge and experience is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP.
212.	Railways Pension Trustee Company Limited ("RPTCL	65.	RPTCL is made up of a Board of 16 Trustee Directors and we consider that any 'fit and proper' requirement should be measured collectively, rather than individually.	Noted. Paragraph 19.3.6. states that the required level of professional qualifications, knowledge and experience is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP.
213.	Sacker & Partners LLP	65.	Fit and proper Do stakeholders agree the introduction of the same fit and proper requirements for IORPS as were introduced for insurance and reinsurance undertakings in article 42(1) of the Solvency II Framework Directive?  Article 42 of the Solvency II Framework Directive sets out the fit and proper requirements "for persons who effectively run the undertaking or have other key functions", which includes	

			<p>professional qualifications.</p> <p>We recognise the fact that persons who effectively run the IROP or have key functions can have a major impact on the activities of the IORP and consequently on members' interests and therefore need to be fit to do so. However, we would reiterate the comments made in response to EIOPA's first consultation on this subject.</p> <p>Although UK pension scheme trustees are not required to gain professional qualifications before joining a pension scheme trustee board, there is a legal requirement in the UK (under the Pensions Act 2004) for trustees of occupational pension schemes to have appropriate knowledge and understanding of the law relating to pensions and trusts, the principles relating to the funding of occupational pension schemes (for DB schemes) and the investment of the assets of such schemes. To help trustees achieve this standard, the UK Pensions Regulator requires trustees to undertake its "Trustee Toolkit" (a free e-learning programme designed to help trustees meet the requirements for trustee knowledge and understanding, introduced by the Pensions Act 2004), "unless they can find an alternative learning programme which covers all the items in the scope guidance at a level relevant for them and within the timescale allowed."□</p> <p>Where the UK Pensions Regulator becomes aware of circumstances which could cause it to have concerns as to whether a trustee was a 'fit and proper person' to be a trustee of a pension scheme, it can consider the matter and decide whether or not to issue an order prohibiting that individual from acting as a trustee. The Pensions Regulator also has power to issue improvement notices.</p> <p>In the UK, there is currently strong support for member</p>	<p>Noted.</p> <p>Noted. This is outside the scope of the mandate.</p> <p>The fact that scheme members</p>
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			<p>involvement in pension scheme management. The result for many schemes is diversity and balance on trustee boards, with all individuals subject to a minimum standard, but without a requirement any individual to become an “expert” (unless they hold themselves out to be). Member trustees can be an invaluable resource, as they potentially have a level of knowledge and understanding of both the history of scheme and the employer’s covenant that a professional trustee may struggle to emulate.</p> <p>In our view, the existing requirements work well to ensure a minimum standard among those who “effectively run” occupational pension schemes. Additional requirements, such as the introduction of professional qualifications, are likely to result in fewer members taking on the role of pension scheme trustee.</p> <p>Given the different nature of trust based occupational pension schemes and insurance companies, it is, in our view, unnecessary to create a level playing field with insurance companies in the context of qualifications for those who effectively run such pension schemes.</p> <p>In the event that such provisions are applied, trustees would require a period of grace to allow them to meet any new test.</p> <p>2.</p>	<p>are appointed as board members does not detract from the importance thereof. IORPs may increase the level of fitness/expertise by means of courses. Moreover, as stated in the response, the fitness is assessed at the level of the board. Finally, proportionality principle applies also to fit and proper requirements.</p> <p>EIOPA considers this necessary to ensure an effective system of governance and consequently to safeguard the members’ interests.</p>
214.	Standard Life Plc	65.	<input type="checkbox"/> We are concerned by the potential implications of this suggestion. In particular, we would not want to see trustees	The fact that scheme members

			<p>being deterred from being involved, so that only highly paid professional trustees will be willing to operate in the market – with negative consequences for both choice and cost.</p> <p><input type="checkbox"/> We believe strongly that member involvement is crucial for the engagement of employees in their pension scheme arrangements and do not want to see any barriers to their involvement as trustees.</p> <p><input type="checkbox"/> The current IORP text states that the IORP must be run by people who have appropriate professional qualifications and experience or employ advisers with appropriate professional qualifications and experience. We think this is a good approach, especially where there are member-nominated trustees, as in the UK, who can directly represent the needs, interests and opinions of members in trustee discussions, and who can be advised by professional advisers where they need to refer to relevant expertise.</p> <p><input type="checkbox"/> The advice in this consultation paper which requires that those who run or who have ‘other key functions’ have “professional qualifications” “adequate to enable sound and prudent management of the IORP or to properly perform their key function” may prevent some member-nominated trustees from continuing their role. We therefore disagree with this change and believe the IORP Directive should remain unchanged in this regard.</p> <p><input type="checkbox"/> Alternatively, if the “fit” requirements are applied, there should be an ability to outsource the running of the IORP or the ‘other key functions’. Further the “fit” requirements could be applied to those running an IORP as a group, which would not require all individuals to meet this test.</p>	<p>are appointed as board members does not detract from the importance thereof. IORPs may increase the level of fitness/expertise by means of courses. Moreover, as stated in the response, the fitness is assessed at the level of the board. Finally, proportionality principle applies also to fit and proper requirements.</p> <p>Furthermore, running the IORP is the core business of the IORP. Therefore, EIOPA considers that this task cannot be outsourced. The people who</p>
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				effectively run the IORP should be fit to do so themselves. That does not alter the fact that the IORP is free to decide - taking into account the nature, scale and complexity of its activities - in which way it's key functions should be carried out.
216.	TCO	65.	<p>TCO agrees with the introduction of fit and proper requirements, but not with those that are stipulated in the Solvency II Directive.</p> <p>Any fit and proper requirements should not affect the participation of members, beneficiaries and social partners in the IORP governance structure.</p> <p>The "fit and proper" requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of "fit and proper" requirements that are similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of the IORPs. A proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs.</p>	<p>The fact that scheme members are appointed as board members does not detract from the importance thereof.</p> <p>Noted. The different characteristics of IORPs and differences</p>

			<p>It is important that the Board as a whole has an adequate level of expertise; it should not be required that each and every member of the Board of the IORP fulfil all "fit" professional expertise requirements. TCO also agrees with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.</p>	<p>between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>Noted. Paragraph 19.3.6. states that the required level of professional qualifications, knowledge and experience is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP.</p>
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217.	The Association of Pension Foundations (Finland)	65.	<p>It is agreeable to apply same kind of requirements for IORPs as for insurance undertakings. The nature of IORP differs fundamentally from insurance undertaking and for that reason it should be accept a certain kind of differences in government requirements. Fit and proper requirements should not technically prevent participation of members and beneficiaries in governance bodies of IORP. Requirements for small IORP should not be the same as large scale insurance undertaking. We suggest that adequate level of expertise should not be required for each Board member but rather on Board as in its entirety. There is still many IORPs with barely enough insured members or beneficiaries together to meet the mimimum requirements of governmentalk body to fill positions in the Board of directors. With new requirements such IORPs are facing final closure. If governnence requirements are broadened to persons who have other key functions, the specities of IORP should be taken into account and not to require extra proof of good reputre from such expertises who already must fulfil their professional competence requiremens as auditor and attorney at law.</p>	<p>Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The fact that scheme members are appointed as board members does not detract from the importance thereof.</p>
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				<p>Noted. Paragraph 19.3.6. states that the required level of professional qualifications, knowledge and experience is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP and the responsibilities that go with the particular key/management function of the person.</p>
218.	The Association of the Luxembourg Fund Industry (A	65.	<p>The Respondents generally support EIOPA's proposition to introduce the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive.</p> <p>The Respondents fully adhere to the suggestion that the requirement for persons who effectively run the IORP be subject to the fit and proper requirements as it is already the case. The submission of persons who are responsible for other</p>	Noted.

			<p>key functions to the fit and proper requirements should take into account the proportionality principle and the differences between the different types of IORPs in Europe, the nature, scale and complexity of their operations as well as their operational structures. These key functions are not necessarily carried out internally and for certain types of IORPs will be outsourced.</p> <p>The Respondents also fully agree that these requirements have to be complied with at all times and that it should be ensured that effective procedures and on-going controls be in place to enable the supervisory authority to assess the fitness and propriety and that supervisory authorities be granted the relevant powers to take adequate measures when fit and proper requirements are not fulfilled.</p> <p>The Respondents do not foresee any negative impact as a result of the application of these principles which are in the best interest of the affiliated members of the IORPS and which participate to strong governance principles.</p>	
219.	THE SOCIETY OF PENSION CONSULTANTS	65.	<p>We agree there should be broad principles of good governance, covering, amongst other things, the propriety of management and personnel exercising key functions. The way in which these principles are applied should be the responsibility of the IORP. In practice in the UK where, as already mentioned, the sponsoring employer's staff will typically exercise management roles in the IORP, one of the ways in which these principles will be applied is by establishing procedures dealing with conflicts of interests. By their nature, these conflicts are largely peculiar</p>	Noted.

			to the employer's business and organisation and so the legislation needs to be flexible enough to allow the most effective arrangements to be put in place.	
220.	Towers Watson Deutschland GmbH	65.	We agree wholeheartedly that the management of IORPs should be undertaken by fit and proper persons. Again, as with all Governance matters being considered by EIOPA and the Commission, proportionality is key. "Persons who effectively run the IORP" needs to be well-defined in law. All such persons should be "proper". It should be unambiguous that "fitness" applies collectively and is measured by reference to the skills and knowledge required to run the specific IORP in question.	Noted. See paragraph 19.3.6.
221.	Trades Union Congress (TUC)	65.	<p>Fit and proper</p> <p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>The TUC strongly disagrees with the EIOPA recommendation that the same fit and proper requirements for insurance and reinsurance undertakings set out in Article 42(1) of the Solvency II Directive should be applied to IORPs.</p> <p>We also disagree with the EIOPA recommendation that persons who effectively run IORPs should have professional qualifications at all times.</p>	The fact that lay trustees are appointed as board members does not detract from the importance of persons who effectively run the IORP have to be fit to do so.

			In the UK lay trustees have a major and crucial role in the running of pension schemes. By law trustees must act in the beneficiaries, i.e. scheme members, best interests. The TUC is a strong supporter of member nominated trustees (MNTs) and there is currently a requirement for occupational pension schemes to have one-third MNTs on the trustee board, although we would like this to be increased to fifty per cent. Lay trustees are crucial to maintaining member trust in pension schemes and member interaction with pension schemes.	
222.	Transport for London / TfL Pension Fund	65.	We disagree with EIOPA's recommendation that the "fit and proper" definition of Article 42 of Solvency II should be copied across into the IORP Directive. The requirement for "professional qualifications" does not recognise the critical role played by lay trustees in UK pension schemes in protecting member benefits. These lay trustees are in any case subject to requirements under UK legislation and regulation which ensure they have sufficient "knowledge and understanding".	The fact that lay trustees are appointed as board members does not detract from the importance of persons who effectively run the IORP have to be fit to do so.
223.	UK Association of Pension Lawyers	65.	<p>CfA 14 (Fit and proper): Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42(1) of the Solvency II Framework Directive?</p> <ol style="list-style-type: none"> <li>1. Currently, the IORP Directive contains a general requirement on the fitness and propriety of persons who effectively run the IORP.</li> <li>2. The Solvency II Framework Directive sets out fit and proper requirements for all persons who effectively run the insurance/reinsurance undertaking or have other key functions.</li> </ol>	<p>The European commission has indicated that further harmonization is required to facilitate cross-border activities.</p> <p>The different</p>

			<p>3. We note that EIOPA is in favour of adopting the Solvency II requirements recognising that the revised IORP Directive will have to take into account the heterogeneous nature of occupational pensions among Member States. It will be the responsibility of the IORP and not the supervisory authority to ensure that the persons who effectively run and have other key functions within the IORP are fit and proper. The principles of good governance must be implemented in a reasonable and proportionate manner.</p> <p>4. We are of the view that the UK pension system does not need another layer of regulation in this area. We already have a sophisticated approach to the fit and proper criteria included in existing UK legislation such as the Pensions Acts 1995 and 2004. The UK Pensions Regulator already has power to provide sanctions where the trustees or managers of UK pension schemes act with impropriety. Other professionals administering functions on behalf of the trustees or managers are similarly governed by the robust standards of their own professional bodies.</p> <p>5. The cost of additional but in our view unnecessary compliance diverts valuable funds that could otherwise be available for benefit provision to deserving members, and this is against a very poor economic backdrop where the average private sector pension is already very low. It should also be borne in mind that in the hitherto highly successful governance regime operated in the UK often individuals acting as trustees of pension schemes are ordinarily volunteers and do not receive remuneration for their role. Imposing a regime applicable to insurance companies in relation to IORPs is not appropriate in this instance.</p> <p>6. Likewise, and of key importance in distinguishing IORPs</p>	<p>situations in Member States has been taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP as well as the responsibilities that go with the particular key/management function of the person and, in the case of persons who effectively run the IORP, the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
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			in the UK from insurance/reinsurance companies, IORPs are, at least in the UK, not established to generate profit but instead constitute an element of the benefits package available to employees. Another layer of regulation in this area is highly likely to have the effect of encouraging employer disengagement with retirement benefits and consequently increase the burden on the state in providing retirement provision.	
224.	UNI Europa	65.	We do not agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit" professional expertise requirements. Also the role of employee representatives as a non-executive board member, supervisory board member or trustee should be taken into consideration. For this kind of participation there should be proper training.	Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).  The required level of professional

				<p>qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
225.	Universities Superannuation Scheme (USS),	65.	<p><b>FIT AND PROPER</b></p> <p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>USS disagrees with EIOPA's draft recommendation that the 'fit and proper' definition in Article 42 of Solvency II should be copied across into the IORP Directive.</p> <p>Article 42's requirement for 'professional qualifications' fails to take account of the approach to governance in the UK, where lay trustees play a major – and very effective – role in ensuring that members' interests are well protected. The UK's Pensions Act 2004 requires trustees to have knowledge and understanding of the law relating to pensions and trusts and the principles of funding and investment. They are also expected to be familiar with the scheme's deed, rules and</p>	<p>Lessons learned from the turmoil on the financial markets. Persons, who can have a major impact on IORPs' activities and consequently the members' interests, should meet the mentioned fit and proper requirements. EIOPA considers this is necessary in order to ensure that an effective governance system is in place.</p>

			<p>other documents.</p> <p>Article 42 would also fail to recognise the effective contribution to good pension scheme governance made by the Myners Principles for Occupational Pension Schemes, first published in the UK in 2001, which set a widely respected benchmark for good governance. The first principle, on 'Effective decision-making', is as follows:</p> <p>'Decisions should be taken only by persons or organisations with the skills, information and resources necessary to take them effectively. Where trustees elect to take investment decisions, they must have sufficient expertise and appropriate training to be able to evaluate critically any advice they take.</p> <p>'Trustees should ensure that they have sufficient in-house staff to support them in their investment responsibilities. Trustees should also be paid, unless there are specific reasons to the contrary.</p> <p>'It is good practice for trustee boards to have an investment sub-committee to provide the appropriate focus.</p> <p>'Trustees should assess whether they have the right set of skills, both individually and collectively, and the right structures and processes to carry out their role effectively. They should draw up a forward-looking business plan.</p>	<p>The different situations in Member States has been taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP as well as the responsibilities that go with the particular key/management function of the person and, in the case of persons who effectively run the IORP, the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6). Furthermore,</p>
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			<p>'We recognise that it is important to ensure all trustees have the necessary skills and knowledge, and this is why the NAPF runs training courses for trustees and strongly supports the Pensions Regulator's requirements on Trustee Knowledge and Understanding (TKU).'</p>	<p>EIOPA advises to retain the current exemption for IORPs with less than 100 members. This should avoid that the requirements will be overburdensome for IORPs.</p> <p>Besides, national authorities have to ensure that the directive is correctly implemented in their national laws. If national law already reflects the requirements included in the IORP directive, no further amendments would be required. This is, however, outside the scope of the advice.</p>
226.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	65.	<p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the</p>	<p>Lessons learned from the turmoil on the financial</p>

			<p>Solvency II Framework Directive?</p> <p>Of course it is essential, that the staff and all responsible persons of IORPs are fit and proper. But the responsibility has to remain by the management board members and should not be extended to staff members who have key-functions.</p>	<p>markets. Key functions can have a major impact on IORPs' activities and consequently the members' interests. Therefore, EIOPA considers fit and proper requirements appropriate and necessary in order to ensure that an effective governance system is in place.</p>
227.	Verbond van Verzekeraars	65.	We agree on the introduction of the same Fit and Proper requirements.	Noted.
228.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	65.	We don't agree with the EIOPA that the same 'fit and proper' requirements as for insurance and reinsurance undertakings as in Art. 42 (1) of Solvency II shall be applied to IORPs. The 'fit and proper' requirements have to be linked to the nature and risk profile of an IORP. There may be some general principles of 'fit and proper' requirements that are be similar to insurance and reinsurance undertakings, but the content of the requirements need to be adapted to the specificities of IORPs. As EIOPA correctly stated, a proper impact assessment is necessary in order to make sure that the requirements are proportionate for IORPs. It is important that the Board as a whole has an adequate level of expertise; it should not be required that each member of the Board fulfil all "fit"	Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications,

			professional expertise requirements.	<p>knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.2 and 19.3.6).</p> <p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p>
229.	Whitbread Group PLC	65.	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. Lessons learned from the turmoil on the financial markets.
230.	Zusatzversorgungskasse des Baugewerbes AG	65.	87. EIOPA should reconsider its proposal that the same 'fit and proper' requirements have to be applied as for insurance and reinsurance undertakings in Art. 42 (1) of the Solvency II Framework Directive	Noted. EIOPA recommends to apply the 'fit and proper'

		<p>88. We agree that persons who direct the IORP have to possess an adequate professional qualification, knowledge and experience (“fit”), and must be of good repute and integrity (“proper”). We agree that a pension provider has to have sufficient knowledge, must be reliable and apt to fulfil his/her tasks. A number of principles should however be taken into account :</p> <p>89. • The requirements have to be linked to the nature and the content of the pension schemes managed, and the complexity of the activities and the investments.</p> <p>90. • Professional qualification, knowledge and experience may be acquired by representing the members and beneficiaries of pension schemes. Otherwise no representatives of trade unions or employer associations could acquire functions within paritarian organisations like ZVK-Bau any more, which would be the end of the paritarian idea.</p> <p>91. • Fitness of non-executive board members or members of a supervisory board should be easier to gain than fitness of executive board members.</p> <p>92. • The “fit” rule (knowledge and experience) should be applied at the level of the board, which should have the necessary qualification, knowledge and experience as a whole.</p> <p>93. • “Key functions” should be defined on level 1. It should be clarified that the amount of key functions and separation of duties depends on the size and complexity of the IORPs operations. Furthermore the qualitative requirements of key personnel should not prevent IORP to establish these kinds of position.</p> <p>94. Taking these into account, we think that the current Art. 9 of the IORP Directive can be amended.</p>	<p>requirements to IORPs as well in such way that by determining the required level of professional qualifications, knowledge and experience the elements mentioned in paragraph 19.3.6. are taken into account.</p> <p>Furthermore, it cannot be dictated how ‘fitness’ should be gained or which experience is sufficient to be fit to enable sound and prudent management (this depends on the persons involved and several ‘external’ factors as indicated in paragraph 19.3.6).</p>
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			<p>95. A proper impact assessment seems necessary to validate that these requirements are proportional towards different types of IORP.</p>	<p>The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p> <p>As to key functions, in paragraph 19.3.11. is explained that it is the IORP's responsibility to define a consistent and adequate solution to the carrying out of a function (depending on the nature, scale and complexity of its activities and hence depending on its risk profile).</p>
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				Lessons learned from the turmoil on the financial markets; adjustment is recommended in order to ensure an effective governance system is in place.
231.	Towers Watson	65.	<p>66. CfA 14 Fit and proper</p> <p>Do stakeholders agree the introduction of the same fit and proper requirements for IORPs as were introduced for insurance and reinsurance undertakings in article 42 (1) of the Solvency II Framework Directive?</p> <p>We support the principle that the management of IORPs should be undertaken by fit and proper persons – it would be perverse to argue against this. Again, as with all Governance matters being considered by EIOPA and the Commission, proportionality is key. EIOPA has identified that there are in excess of 140,000 IORPs in the EU, compared with around 7,000 insurers. This should illustrate to decision makers that whilst some of the principles of Solvency II for insurers might be appropriate, some significant change in application to pension funds is essential.</p> <p>“Persons who effectively run the IORP” needs to be well-defined in law. All such persons should be “proper” but it should be unambiguous in the revised directive that “fitness” applies collectively and is measured by reference to the skills</p>	<p>Noted. The different characteristics of IORPs and differences between IORPs and insurers can be taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs</p>

			and knowledge required to run the specific IORP in question.	19.3.2 and 19.3.6).
232.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	66.	See question 65	noted
233.	AbA Arbeitsgemeinschaft für betriebliche Altersver	66.	Yes, the EFRP agrees that fit and proper requirements for persons who effectively run the IORP should apply at all times and that there should be procedures and controls to enable supervisory authorities to assess fitness and propriety.	Noted.
234.	ABVAKABO FNV	66.	The PF agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
235.	AEIP	66.	<p>131. Under the condition that the proportionality rules will be applied properly, AEIP agrees.</p> <p>132. 'Fit and proper requirements' should apply at all times and effective procedures and controls should exist to enable supervisory authorities to assess fitness and propriety.</p> <p>Supervisory authority should be granted advisory powers on the nomination of a candidate before such nomination is decided within the IORP. This can be done by asking the IORP to complete a standard questionnaire on the fitness and propriety of the candidate, to be sent to the supervisor who needs to provide the IORP with its advice on the nomination of the candidate. This will avoid the need for an ex-post intervention of the supervisor.</p>	<p>Noted. See paragraph 19.3.6.</p> <p>As to supervisory powers, EIOPA considers a flexible principle in level 1 text required given the heterogeneous nature of occupational pensions among Member States</p>

				requires.
237.	AMONIS OFP	66.	<p>Do stakeholders agree with the advise that:</p> <p>a. The fit and proper requirements should apply at all times</p> <p>b. There should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety</p> <p>Yes, fit and proper requirements should apply at all times and Yes, there should be procedures and controls to enable supervisory authorities to assess fitness and propriety but there should be sufficient flexibility so as to allow these procedures to be fulfilled in another member state.</p>	Noted.
238.	ANIA – Association of Italian Insurers	66.	Yes, the ANIA fully supports these principles.	Noted.
239.	Association Française de la Gestion financière (AF)	66.	AFG agrees that fit and proper requirements be introduced as proposed by EIOPA.	Noted.
240.	Association of British Insurers	66.	<p>While the ABI believes the proposed 'fit and proper' principles are disproportionate, we believe it is appropriate that fitness and propriety of those who run or have key functions, whether outsourced or applying to those running an IORP as a group should apply at all times.</p> <p>While the ABI believes the proposed 'fit and proper' principles are disproportionate, we agree that there should be effective procedures and controls in place to enable supervisory authorities to assess fitness and propriety.</p>	Noted. See paragraph 19.3.6.
241.	Association of	66.	We agree that fit and proper requirements should apply at all	Noted.

	Consulting Actuaries (UK)		times. Our response to question 66(b) is included in our response to question 65.	
242.	Association of French Insurers (FFSA)	66.	The FFSA agrees with EIOPA advice.	Noted.
243.	Assoprevidenza – Italian Association for supplement	66.	Under the condition that the proportionality rules will be applied properly, AEIP agrees.  'Fit and proper requirements' should apply at all times and effective procedures and controls should exist to enable supervisory authorities to assess fitness and propriety.  Supervisory authority should be granted advisory powers on the nomination of a candidate before such nomination is decided within the IORP. This can be done by asking the IORP to complete a standard questionnaire on the fitness and propriety of the candidate, to be sent to the supervisor who needs to provide the IORP with its advice on the nomination of the candidate. This will avoid the need for an ex-post intervention of the supervisor.	Noted. See paragraph 19.3.6.  As to supervisory powers, EIOPA considers a flexible principle in level 1 text required given the heterogeneous nature of occupational pensions among Member States requires.
244.	Assuralia	66.	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. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.

245.	Belgian Association of Pension Institutions (BVPI-	66.	<p>Do stakeholders agree with the advise that:</p> <p>a. The fit and proper requirements should apply at all times</p> <p>b. There should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety</p> <p>Yes, fit and proper requirements should apply at all times and Yes, there should be procedures and controls to enable supervisory authorities to assess fitness and propriety but there should be sufficient flexibility so as to allow these procedures to be fulfilled in another member state.</p>	Noted.
246.	BNP Paribas Cardif	66.	Yes	Noted.
247.	BT Pension Scheme Management Ltd	66.	Given our opposition to the application of fit and proper standards, as outlined in our response to Question 65, we also oppose these proposals.	Noted.
248.	BVI Bundesverband Investment und Asset Management	66.	BVI agrees that fit and proper requirements should be introduced as proposed by EIOPA.	Noted.
249.	CEA	66.	Yes, the CEA fully supports these principles	Noted.
250.	Charles CRONIN	66.	<p>a) Yes I agree that 'Fit and proper' should apply at all times.</p> <p>b) Yes, I agree that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety.</p>	Noted.

251.	Chris Barnard	66.	I agree that the fit and proper requirements should apply at all times. This is basic good governance and risk management and is prudentially appropriate. I also agree that there should be effective (including cost-effective) procedures and controls to enable Supervisory authorities to assess fitness and propriety.	Noted.
252.	CMHF (Centrale van Middelbare en Hogere Functionar	66.	The CMHF agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
253.	De Unie (Vakorganisatie voor werk, inkomen en loop	66.	De Unie agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
254.	Direction Générale du Trésor, Ministère des financ	66.	The "fit and proper" requirements should apply at all times and there should be effective procedures and controls to enable supervisory authorities to assess them.	Noted.
255.	Ecie vie	66.	Yes	Noted.
256.	EFI (European Federation of Investors)	66.	Yes we agree.	Noted.
257.	European Federation for Retirement Provision (EFRP	66.	Yes, the EFRP agrees that fit and proper requirements should apply at all times and that there should be procedures and controls to enable supervisory authorities to assess fitness and propriety. However, there should be arrangements so as to allow these procedures to be fulfilled in another member state.	Noted.
258.	European Fund and	66.	EFAMA agrees that fit and proper requirements be introduced	Noted.

	Asset Management Association (EF)		as proposed by EIOPA.	
259.	European Metalworkers Federation	66.	EMF agrees on condition that the proportionality rules will be properly applied.	Noted.
260.	European Mine, Chemical and Energy workers' Federation	66.	EMCEF agrees on condition that the proportionality rules will be properly applied.	Noted.
261.	FAIDER (Fédération des Associations Indépendantes)	66.	Yes we agree.	Noted.
262.	Federation of the Dutch Pension Funds	66.	The PF agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
263.	Financial Reporting Council	66.	No, we consider that it should be possible for a member of the IORP's governing body to take up their position and then complete an appropriate training course. This is particularly relevant to member nominated governors.  We agree that supervisory bodies should have effective procedures and controls to assess fitness and propriety. However this might impose a substantial burden on the supervisor. We also consider it important that fitness be assessed collectively for the body running the IORP rather than individually as different individuals will have different strengths and experiences.	Noted.

264.	FNV Bondgenoten	66.	FNV BG agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
265.	Generali vie	66.	Yes	Noted.
266.	Groupement Français des Bancassureurs	66.	Yes	Noted.
267.	PMT-PME-Mn Services	66.	We agree that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
268.	HM Treasury/Department for Work and Pensions	66.	UK law requires IORPs in the private sector to be set up under trust, and as part of the fit and proper person requirements, requires trustees to have (inter alia) appropriate knowledge and understanding of the law relating to pensions and trusts, and the principles relating to scheme funding and investments. The UK has a tradition of voluntary trusteeship, and trustees may be nominated by members. Consequently, newly appointed trustees have a 6 month period of grace to acquire the knowledge and understanding to carry out their role (the period of grace does not apply to professional trustees). This period of grace should be retained. Given the diversity of pensions systems and design across the EU, we consider that procedures and controls to enable supervisory authorities to assess fitness are best left to national Regulatory Authorities.	Lessons learned from the turmoil on the financial markets. Persons, who can have a major impact on IORPs' activities and consequently the members' interests, should meet the mentioned fit and proper requirements. EIOPA considers this is necessary in

				<p>order to ensure that an effective governance system is in place. The fact that trustees are appointed as board members does not detract from the importance thereof.</p> <p>The different situations in Member States has been taken into account through the fact that the level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP as well as the responsibilities that go with the particular key/management function of the</p>
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				person and, in the case of persons who effectively run the IORP, the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).
269.	Institute and Faculty of Actuaries (UK)	66.	<p>a. Yes, provided the conditions outlined in our response to Q65 are satisfied. (We note that this requirement would be stronger than currently applies in the UK where a period of 6 months is allowed to acquire the required knowledge and understanding.)</p> <p>b. Supervisory authorities should have the power to assess fitness and propriety but they should be subject to appropriate checks and balances so that these powers are used only as can be justified by the risk to the outcomes for members. In particular the assessment should be reasonable and proportionate in the context solely of the IORP in question.</p> <p>We consider that the definition of 'fitness' should be left to the national supervisor and that the qualification rules could be satisfied by completion of computer-based training in the case of lay trustees, although we recognise that a higher standard may be appropriate to individuals who are involved in the running in a professional capacity.</p>	Noted.
270.	KPMG LLP (UK)	66.	Fit and proper requirements should apply at all times. Supervisory authorities should have the ability to assess fitness and propriety, but they should not be required to carry out	Noted. The level 1 principle should be flexible. EIOPA

			such assessments for all IORPs on a regular basis – proportionality should dictate that it should be up to the supervisors how and when they carry out any such assessments.	recommends for level 2 to ensure that supervisory authorities can reassess persons if there are facts and/or circumstances that constitute reasonable grounds to do so. The advice explicitly states that this does not involve the standard or periodical assessment of these requirements.
271.	Le cercle des épargnants	66.	Yes	Noted.
272.	Mercer	66.	We consider that the knowledge requirements should apply to the group of people (the 'board') who effectively run the IORP at all times, but need not apply all the time to individuals. This enables lay people to join the board and subsequently acquire the necessary knowledge about the scheme: otherwise it could be difficult to attract the right mix of people, which in some cases includes scheme members.	Noted. The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the

				whole group of persons who effectively run the IORP (paragraph 19.3.6).
273.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	66.	The MHP agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
274.	National Association of Pension Funds (NAPF)	66.	<p>14. Do stakeholders agree with the advice that:</p> <p>15. a. The fit and proper requirements should apply at all times</p> <p>16. b. There should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety</p> <p>The NAPF agrees that fit and proper requirements should apply at all times and that there should be procedures and controls to enable supervisory authorities to assess fitness and propriety.</p>	Noted.
276.	Pan-European Insurance Forum (PEIF)	66.	Yes.	Noted.
277.	Pensioenfondsen Zorg en Welzijn	66.	PFZW agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and	Noted.

	(PFZW)		controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	
278.	Predica	66.	Yes	Noted.
279.	PTK (Sweden)	66.	Yes, PTK agrees that fit and proper requirements should apply at all times and that there should be procedures and controls to enable supervisory authorities to assess fitness and propriety.	Noted.
280.	Railways Pension Trustee Company Limited ("RPTCL	66.	RPTCL would consider it appropriate for a period of time to be available to enable new Trustee Directors to complete an appropriate training after their appointment.	Noted. Lessons learned from the turmoil on the financial markets. Persons, who can have a major impact on IORPs' activities and consequently the members' interests, should meet the mentioned fit and proper requirements at all times. EIOPA considers this is necessary in order to ensure that an effective

				governance system is in place. The fact that trustees are appointed as board members does not detract from the importance thereof.
281.	TCO	66.	Yes, TCO agrees that fit and proper requirements should apply at all times and that there should be procedures and controls to enable supervisory authorities to assess fitness and propriety.	Noted.
282.	The Association of the Luxembourg Fund Industry (A	66.	See 65	-
283.	THE SOCIETY OF PENSION CONSULTANTS	66.	We agree with paragraph (a), but it must be clarified that this relates (at least in the fitness strand) to the management body as a whole, rather than to each individual member of the management board. In particular, rules on 'professional qualifications' should not rule out participation of 'lay members' representing the wider pension scheme population. The supervisory authority should not have to routinely approve the suitability of individuals – this would be unworkable in those Member States where IORPs number in 100s or 1,000s: rather it should have the power to call for information and assess suitability if the circumstances suggest that there may be an issue.	Noted. The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).

				<p>EIOPA is of the opinion that supervisory authorities should have effective powers to assess and monitor whether at least persons who effectively run the IORP are fit and proper, given their influence on the IORP's functioning.</p> <p>This level 1 principle should, however, be flexible. The level 2 recommendations leave room for national legislators to decide whether ex-ante assessment should be required. Furthermore, for level 2, it is recommended to ensure that supervisory</p>
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				<p>authorities can reassess persons if there are facts and/or circumstances that constitute reasonable grounds to do so. The advice explicitly states that this does not involve the standard or periodical assessment of these requirements.</p>
284.	Towers Watson Deutschland GmbH	66.	<p>We agree in principle. In particular, rules on 'professional qualifications' should not rule out participation of 'lay members' representing the wider pension scheme population. In this context a 'period of grace' should be permitted for a 'lay member' of the management body to become familiar with the legal and supervisory regime in which the IORP is operating and to acquire knowledge and understanding appropriate to the role. In particular, the assessment should be reasonable in the context of the IORP in question.</p>	<p>Noted. Lessons learned from the turmoil on the financial markets. Persons, who can have a major impact on IORPs' activities and consequently the members' interests, should meet the mentioned fit and proper requirements at all</p>

				<p>times. EIOPA considers this is necessary in order to ensure that an effective governance system is in place. The fact that trustees are appointed as board members does not detract from the importance thereof.</p> <p>The level of professional qualifications, knowledge and experience required, depends of the nature, scale and complexity of the activities of the IORP (paragraphs 19.3.6).</p>
285.	UK Association of Pension Lawyers	66.	<p>CfA 14 (Fit and proper): Do stakeholders agree with the advice that: (a) the fit and proper requirements should apply at all times and (b) there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety?</p> <p>For the reasons stated above we do not agree that the fit and proper requirements should apply at all and therefore it is not</p>	Noted.

			necessary to put such procedures in place.	
286.	UNI Europa	66.	UNI Europa agrees provided that the proportionality rules are properly applied.	Noted. See paragraph 19.3.6.
287.	Universities Superannuation Scheme (USS),	66.	<p>7. Do stakeholders agree with the advice that:</p> <p>8. a. The fit and proper requirements should apply at all times</p> <p>9. b. There should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety</p> <p>USS agrees that fit and proper requirements should apply at all times and that there should be procedures and controls to enable supervisory authorities to assess fitness and propriety.</p>	Noted.
288.	Verbond van Verzekeraars	66.	The Fit and Proper requirements should indeed apply at all times and effective procedures to assess these should be introduced.	Noted.
289.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	66.	The VHP2 agrees that 'fit and proper requirements' should apply at all times and that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety. However, such ex-post intervention could -as an "ultimum remedium"- be desirable in specific situations.	Noted.
290.	Whitbread Group PLC	66.	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.
291.	Zusatzversorgungs	66.	96. Under the condition that the proportionality rules will be	Noted.

	kasse des Baugewerbes AG		<p>applied properly, we agree.</p> <p>97. 'Fit and proper requirements' should apply at all times and effective procedures and controls should exist to enable supervisory authorities to assess fitness and propriety.</p>	
292.	Towers Watson	66.	<p>67. Do stakeholders agree with the advice that:</p> <p>The fit and proper requirements should apply at all times</p> <p>There should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety</p> <p>We agree in principle that the fit and proper requirements should apply at all times, but this must be clarified that this relates (at least in the fitness strand) to the management body as a whole, rather than each individual member of the management board. In particular, rules on 'professional qualifications' should not rule out participation of 'lay members' representing the wider pension scheme population. In this context a 'period of grace' should be permitted for a 'lay member' of the management body to become familiar with the legal and supervisory regime in which the IORP is operating and to acquire knowledge and understanding appropriate to the role. Moreover, the supervisory authority should not have to routinely approve the suitability of individuals – this would be unworkable in those Member States where IORPs number in 100s or 1,000s: rather it should have the power to call for information and assess suitability if the circumstances suggest that there may be an issue.</p> <p>Supervisory authorities should have the power to assess fitness and propriety but they should be subject to appropriate checks and balances. In particular the assessment should be reasonable and proportionate in the context of the IORP in question and not result in what would otherwise be an</p>	<p>Noted. The required level of professional qualifications, knowledge and experience of a person is inter alia depending on the composition and functioning of the whole group of persons who effectively run the IORP (paragraph 19.3.6).</p> <p>Lessons learned from the turmoil on the financial markets. Persons, who can have a major impact on IORPs' activities and consequently the members' interests, should meet the mentioned fit and</p>

			<p>inevitable increase in costs.</p>	<p>proper requirements at all times. EIOPA considers this is necessary in order to ensure that an effective governance system is in place. The fact that trustees are appointed as board members does not detract from the importance thereof.</p> <p>EIOPA is of the opinion that supervisory authorities should have effective powers to assess and monitor whether at least persons who effectively run the IORP are fit and proper, given their influence on the IORP's functioning.</p> <p>This level 1 principle should,</p>
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				<p>however, be flexible. The level 2 recommendations leave room for national legislators to decide whether ex-ante assessment should be required. Furthermore, for level 2, it is recommended to ensure that supervisory authorities can reassess persons if there are facts and/or circumstances that constitute reasonable grounds to do so. The advice explicitly states that this does not involve the standard or periodical assessment of these requirements.</p>
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293.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	67.	See question 65	noted
294.	AbA Arbeitsgemeinschaft für betriebliche Altersver	67.	We agree with EFRP that an ex-post intervention by the supervisor should be avoided. The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate.	Noted.
295.	ABVAKABO FNV	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
296.	AEIP	67.	<p>133. Experience shows that today supervisors have all the powers needed to react accordingly if they think that fit and/or proper requirements are not fulfilled or not fulfilled anymore. Therefore AEIP does not see the need for an amendment of any legislation.</p> <p>If there would be an amendment, which would be the criteria on which supervisors would assess an ongoing fitness and properness and when do they judge them as not being fulfilled any longer ? Is it a legal conviction of a certain degree or is completely left to the discretion of supervisory assessment? In case there would, although we don't support this, come a change in the rules, we suggest that the trigger events would be described in detail.</p>	Noted. EIOPA is of the view that the Level 1 text should contain a flexible principle on the assessment procedure and ongoing controls, which will be interpreted at Level 2.

298.	AMICE	67.	See our response to Q 65.	noted
299.	AMONIS OFP	67.	<p>What powers should supervisory authorities have in the event that the fit and/or proper requirements are not fulfilled?</p> <p>Supervisory authority should be granted advisory powers on the nomination of a candidate before such nomination is decided within the IORP. This can be done by asking the IORP to complete a standard questionnaire on the fitness and propriety of the candidate, to be sent to the supervisor who needs to provide the IORP with its advice on the nomination of the candidate. This will avoid the need for an ex-post intervention of the supervisor.</p>	Noted.
300.	ANIA – Association of Italian Insurers	67.	<p>The powers should be substantially the same as the powers used under the Solvency II regime, subject to the principle of proportionality. In any case, the supervisory authorities should have the power to refuse that a person is appointed to run the IORP or be in a key function or to require the replacement of individuals that do not meet these criteria as EIOPA correctly indicated in paragraph 19.3.24. However, the ANIA strongly supports EIOPAs suggestion including these in the level 2 implementing measures.</p>	Noted.
301.	Association Française de la Gestion financière (AF)	67.	<p>Different Member States have already sanction systems in place for similar activities/breaches. General guidelines from EIOPA should be sufficient.</p>	Noted.
302.	Association of British Insurers	67.	<p>It could be argued that powers of supervisory authorities in this are irrelevant because fit and proper is a condition of appointment. A ban will only serve a purpose if they are professional trustees.</p> <p>The ABI does believe however, that those deemed not fit and</p>	Noted.

			<p>proper should be given the opportunity to rectify the situation, for example by appropriate training,</p> <p>The ABI also believes that there needs to be a distinction between those who are trying to act in the best interests of the members but fail through a lack of qualification, and those who might have the correct qualifications but act to the detriment of members</p>	
303.	Association of Consulting Actuaries (UK)	67.	<p>We agree that the supervisor should have appropriate powers to take action to enforce the fit and proper requirements. The most important of these is the power to remove and replace individuals who are not fit and proper. Other sanctions may be appropriate if, for example, an individual has lied about significant issues to obtain their appointment.</p> <p>Any system that is put in place must be proportionate, must be capable of being appealed, and must not have the same organisation acting as “judge, jury and executioner”.</p>	Noted.
304.	Association of French Insurers (FFSA)	67.	The powers should be substantially the same as the powers used under the Solvency II regime.	Noted.
305.	Assoprevidenza – Italian Association for supplement	67.	We share EIOPA advice	Noted.
306.	Assuralia	67.	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.
307.	Belgian Association	67.	What powers should supervisory authorities have in the event	Noted.

	of Pension Institutions (BVPI-		that the fit and/or proper requirements are not fulfilled?  Supervisory authority should be granted advisory powers on the nomination of a candidate before such nomination is decided within the IORP. This can be done by asking the IORP to complete a standard questionnaire on the fitness and propriety of the candidate, to be sent to the supervisor who needs to provide the IORP with its advice on the nomination of the candidate. This will avoid the need for an ex-post intervention of the supervisor.	
308.	BNP Paribas Cardif	67.	The powers should be substantially the same as the powers used under the Solvency II regime.	Noted.
309.	BT Pension Scheme Management Ltd	67.	Given our opposition to the application of fit and proper standards, as outlined in our response to Question 65, we oppose supervisory authorities having any such powers.	Noted.
310.	CEA	67.	The powers should be substantially the same as the powers used under the Solvency II regime, subject to the principle of proportionality. In any case, the supervisory authorities should have the power to refuse that a person is appointed to run the IORP or be in a key function or to require the replacement of individuals that do not meet these criteria as EIOPA correctly indicated in paragraph 19.3.24. However, the CEA strongly supports EIOPAs suggestion including these in the level 2 implementing measures.	Noted.
311.	Charles CRONIN	67.	If fit and proper requirements are not fulfilled then the supervisor should require that they are. If after a defined period the IORP is unable or unwilling meet the regulatory requirements then the supervisor should have the ultimate	Noted.

			sanction of dismissing the board and organising its replacement. The new board should be composed of individuals who are themselves fit and proper, with a requirement that they bring the scheme's key functions up to an acceptable standard, within a limited period of time.	
312.	Chris Barnard	67.	The fit and proper requirements are a basic duty of care. Supervisors should have broad powers to take any action, in order to protect an IORP or its members and beneficiaries, in the event that the fit and proper requirements are not fulfilled.	Noted.
313.	CMHF (Centrale van Middelbare en Hogere Functionar	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
314.	De Unie (Vakorganisatie voor werk, inkomen en loop	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
315.	Ecie vie	67.	The powers should be the same as the powers used under Solvency II regime.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.

316.	EFI (European Federation of Investors)	67.	The power to take the necessary actions to ensure that the fit and proper requirements are fulfilled.	Noted.
317.	European Federation for Retirement Provision (EFRP)	67.	The EFRP believes that these powers should rest with national supervisory authorities, which should exercise them at their discretion. National supervisory authorities are best placed to assess the fitness and probity of those managing the IORP.	Noted.
318.	European Fund and Asset Management Association (EF)	67.	Different Member States have already sanction systems in place for similar activities/breaches. General guidelines from EIOPA should be sufficient.	Noted.
319.	European Metalworkers Federation	67.	Experience shows that today supervisors have all the powers needed to react accordingly if they think that fit and/or proper requirements are not fulfilled or not fulfilled anymore. Therefore EMF does not see the need for an amendment of any legislation.	Noted.
320.	European Mine, Chemical and Energy workers' Fede	67.	Experience shows that today supervisors have all the powers needed to react accordingly if they think that fit and/or proper requirements are not fulfilled or not fulfilled anymore. Therefore EMCEF does not see the need for an amendment of any legislation.	Noted.
321.	FAIDER (Fédération des Associations Indépendantes)	67.	The power to take the necessary actions to ensure that the fit and proper requirements are fulfilled.	Noted.
322.	Federation of the	67.	The IORP could be asked to complete a standard questionnaire	Noted.

	Dutch Pension Funds		on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	
323.	Financial Reporting Council	67.	We have not formed a view on this question.	Noted.
324.	FNV Bondgenoten	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
325.	Generali vie	67.	The powers should be the same as the powers used under Solvency II regime.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.
326.	Groupeement Français des Bancassureurs	67.	The powers should be substantially the same as the powers used under the Solvency II regime.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.

327.	PMT-PME-Mn Services	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
328.	HM Treasury/Department for Work and Pensions	67.	The UK Regulatory Authority has wide powers from the issue of improvement notices (that identify areas of weakness that must be addressed) through civil penalties (fines) to the appointment of professional trustees and ultimately the removal of trustees.	Noted.
329.	Institute and Faculty of Actuaries (UK)	67.	We consider that there should be a range of measures available to supervisory authorities in the event that the fit and/or proper requirements are not met, including the power to remove an individual from office, however: <ul style="list-style-type: none"> <li><input type="checkbox"/> where "fitness" is the issue, the primary focus should be on education first and enforcement, if required, thereafter</li> <li><input type="checkbox"/> where "propriety" is the issue, enforcement to protect members' interests should be paramount.</li> </ul> These supervisory powers should be subject to appropriate checks and balances.	Noted.
330.	KPMG LLP (UK)	67.	Supervisory authorities should have the power to replace persons who do not satisfy the fit and proper requirements, subject to being able to justify such actions.	Noted.
331.	Le cercle des épargnants	67.	The powers should be the same as the powers used under Solvency II regime.	Noted. EIOPA is of the opinion that the heterogeneous

				nature of occupational pensions among Member States requires some adjustments.
332.	Mercer	67.	If decision makers at an IORP fail collectively or individually the fit and proper requirements, it should be possible for the supervisory authorities to replace them with alternative representatives. However, because of the different legal frameworks for IORPs we consider it most appropriate for these measures to be determined at the member state level.	Noted.
333.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
334.	National Association of Pension Funds (NAPF)	67.	What powers should supervisory authorities have in the event that the fit and/or proper requirements are not fulfilled?  National supervisors should be allowed to decide on the best approach to assessing the fitness and probity of IORP trustees.	Noted.
335.	Pan-European Insurance Forum	67.	Substantially the same as the powers used under the emerging Solvency II regime, subject to the principle of proportionality	Noted. EIOPA is of the opinion that

	(PEIF)		(which also includes the scale of any non-fulfilments).	the heterogeneous nature of occupational pensions among Member States requires some adjustments.
336.	Pensioenfonds Zorg en Welzijn (PFZW)	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	Noted.
337.	Predica	67.	The powers should be substantially the same as the powers used under the Solvency II regime.	Noted. EIOPA is of the opinion that the heterogeneous nature of occupational pensions among Member States requires some adjustments.
338.	PTK (Sweden)	67.	The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.  PTK believes that these powers should rest with national	Noted.

			supervisory authorities, which should exercise them at their discretion.	
339.	Railways Pension Trustee Company Limited ("RPTCL	67.	We have not considered this question.	Noted.
340.	Standard Life Plc	67.	As stated in our previous answer, we do not believe the advice in this consultation paper is appropriate. However, in the event that the requirements are not amended in response to feedback derived from the consultation, those deemed not fit and proper should be given the opportunity to rectify the situation, for example by appropriate training.	Noted.
342.	TCO	67.	<p>The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.</p> <p>TCO believes that these powers should rest with national supervisory authorities, which should exercise them at their discretion.</p>	Noted.
343.	The Association of Pension Foundations (Finland)	67.	National laws already make it possible for authorities to react if fit and proper requirements are not fulfilled. According to principle of subsidiarity this should be left to the discretion of member states supervisors.	Noted.
344.	The Association of the Luxembourg Fund Industry (A	67.	See 65	noted

345.	THE SOCIETY OF PENSION CONSULTANTS	67.	<p>If, on an assessment as a result of an issue arising (as mentioned in our response to question 66), there should be a power for the authority to remove an individual from office.</p> <p>Responsibility for supervising and ultimately dismissing other staff and external service providers should remain with the trustees/scheme managers.</p>	Noted.
346.	UK Association of Pension Lawyers	67.	<p>CfA 14 (Fit and proper): What powers should supervisory authorities have in the event that the fit and / or proper requirements are not fulfilled?</p> <p>For the reasons given in response to question 65 above, there should be no such requirements.</p>	Noted.
347.	UNI Europa	67.	<p>Experience shows that supervisors already have all the powers needed to react accordingly if they think that fit and/or proper requirements are not fulfilled. Therefore UNI Europa does not see the need for an amendment of any legislation.</p>	Noted.
348.	Universities Superannuation Scheme (USS),	67.	<p>What powers should supervisory authorities have in the event that the fit and/or proper requirements are not fulfilled?</p> <p>National supervisors should be allowed to decide on the best approach to assessing the fitness and probity of IORP trustees.</p>	Noted.
349.	VHP2 (Vakorganisatie)	67.	<p>The IORP could be asked to complete a standard questionnaire on the fitness and propriety of the candidate for the IORP</p>	Noted.

	voor middelbaar en hoger pers		board, to be sent to the supervisor who could then provide the IORP with its advice on the nomination of the candidate. This would avoid the need for an ex-post intervention by the supervisor.	
350.	Whitbread Group PLC	67.	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.
351.	Zusatzversorgungskasse des Baugewerbes AG	67.	98. Experience shows that today supervisors have all the powers needed to react accordingly if they think that fit and/or proper requirements are not fulfilled or not fulfilled anymore. Therefore we do not see the need for amendment of any legislation.	Noted.
352.	Towers Watson	67.	68. What powers should supervisory authorities have in the event that the fit and/or proper requirements are not fulfilled?  There should be a power for the authority to remove an individual from office. However, where "fitness" is the issue then the primary focus should be on education first and enforcement, if required, afterwards. Where "propriety" is the issue then enforcement to protect members' interests should be paramount.  Responsibility for supervising and ultimately dismissing other staff and external service providers should remain with the trustees/scheme managers.	Noted.
353.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	68.	The OPSG supports EIOPA's view "that IORPs should have an effective risk management system comprising strategies, processes and reporting procedures to identify, measure, monitor, manage and report risks" (20.3.1). Furthermore, we appreciate the explicit reference of EIOPA to the heterogeneous nature of IORPs and therefore to the need for reasonable and proportional risk management requirements depending on the	Noted

			<p>nature, scale and complexity of the IORP's activities.</p> <p>We also agree with the impact assessment made by EIOPA. From our point of view, the main negative impact would be the sharp increase in costs to beneficiaries, sponsoring companies and IORPs if the requirements are not defined in a reasonable and proportional manner.</p>	
354.	AbA Arbeitsgemeinschaft für betriebliche Altersver	68.	<p>The AbA agrees to introduce general principles of risk management. We agree with EIOPA that risk management must depend on the IORP's risk profile (see section 20.3.3). We agree with EIOPA that the proposed requirements could significantly increase</p> <p>Nevertheless the IORPs will need an adequate period for implementation.</p> <p>The EFRP agrees with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.</p> <p>We reject risk-based capital requirements which are not appropriate for IORPs. Therefore we reject strongly the following proposed wording (see section 21.5.10):</p> <p>Article XY</p> <p>Risk management</p> <p>".. 5. For IORPs using a partial or full internal model approved in accordance with Articles 112 and 113 the risk-management function shall cover the following additional tasks:</p> <ul style="list-style-type: none"> <li>(a) to design and implement the internal model;</li> <li>(b) to test and validate the internal model;</li> <li>(c) to document the internal model and any subsequent changes made to it;</li> </ul>	<p>Noted</p> <p>CfA 15 does not stipulate to introduce risk based capital requirements. Section 5 was only included precautionary if it is decided elsewhere to do so. See also 20.3.24.</p>

			<p>(d) to analyse the performance of the internal model and to produce summary reports thereof;</p> <p>(e) to inform the administrative, management or supervisory body of the IORP about the performance of the internal model, suggesting areas needing improvement, and up-dating that body on the status of efforts to improve previously identified weaknesses.”</p>	
355.	ABVAKABO FNV	68.	<p>We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line ‘this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing’. The PF proposes to remove the last part of this sentence (‘as well as the impact on overall risk that is generated through the outsourcing’). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.</p>	<p>Noted</p> <p>As it is stated in the answer of ABVAKABO FV outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact.</p>
356.	AEIP	68.	<p>134. All IORP’s should have an effective risk management system but as the nature of the risks, the size of IORP and its complexity might differ, the qualitative measures and requirements should be in proportion to the risk profile of the</p>	<p>Noted</p>

			<p>IORP (proportionality).</p> <p>An appropriate period of transition will be needed, in order not to have a negative impact on the activity of pensions schemes.</p>	
358.	AMICE	68.	<p>As outlined in our introduction, we generally support the application of the principles of pillar 2 of Solvency II, with an appropriate division between level 1 and level 2 texts. We underline the importance of the principle of proportionality in all provisions on governance</p>	Noted
359.	AMONIS OFP	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>All IORP's should have an effective risk management system but as the nature of the risks, the size of IORP and its complexity might differ, the qualitative measures and requirements should be in proportion to the risk profile of the IORP (proportionality), and risk management should be principle based rather than rule based.</p> <p>Risk management should be looked at in function of the risk sharing mechanism of the pension scheme. When the investment risk is not borne by the IORP the focus should concentrate on operational and compliance risk. Basically ALM is a pension scheme issue, irrespective of the funding vehicle. Investment and liquidity risks are relevant in all cases but should be looked at taking the long term nature of the commitments into account.</p> <p>AMONIS OFP strongly supports the view expressed in 20.3.28 that IORPs should not be imposed a higher burden than already exists under Solvency II for insurance companies taking similar commitments.</p>	<p>Noted</p> <p>CfA 15 does not stipulate a rule based risk management</p> <p>As laid down in the example (20.03.27) it is important that investment risks must be considered even in the case of DC schemes</p>

			<p>Prioritisation and proportionality should also be taken into account.</p> <p>As EIOPA, AMONIS OFP also emphasizes the need for different impact studies to assess the real impact of the new requirements.</p>	
360.	ANIA – Association of Italian Insurers	68.	<p>The ANIA believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, the ANIA strongly suggest deleting the proposed amendments regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As such there is no need for a statement “all risks”. Moreover, the ANIA sees no reason to introduce specific rules for cases where members and beneficiaries bear the risks as this implies that the IORP should somehow be responsible for the investment choice of the employer or, as regards member-directed DC plans, the employees.</p>	<p>Noted, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account</p> <p>Outsourcing in the field of IORPs plays a much bigger role than it does in the insurance sector.</p> <p>Therefore it is necessary to stress that outsourced functions must be in the scope of the risk management.</p> <p>As laid down in the example in (20.03.27) sometimes special rules for DC plans are necessary.</p>

361.	Association Française de la Gestion financière (AF	68.	AFG considers that IORPs should have adequate risk management mechanisms in place with the understanding that their scope and complexity may vary according to the type and size of pension plan, fund and entity and the type and extent of risks faced.	Noted
362.	Association of British Insurers	68.	<p>While the ABI agrees with the principle that IORPs should have an effective risk management system comprising strategies, processes and reporting procedures to identify, measure, monitor, manage and report risks, we strongly oppose the need for IORPs having to reserve for operational risks in DC schemes. Rather, this should be covered by the cash flow of the IORP.</p> <p>As we said in our response to Question 42 within the UK we believe that the biggest risk to members of DC schemes is "investment risk". There are adequate provisions in place within the UK pension regulatory framework to minimise operational risk, and UK employment law would require employers to make good any benefit deficiencies caused by the incorrect payment of contributions.</p> <p>Any additional contribution required to fund the additional capital requirements would effectively be an extra tax on the employer and possibly the members of the scheme. It will be difficult enough for small to medium size employers who do not already have adequate pension provision to fund the additional cost of establishing a scheme and contributing the minimum levels required by UK law required under automatic enrolment. Adding an additional requirement to fund for extra capital will increase that burden. There is also a risk that employers who</p>	<p>Noted</p> <p>CfA 15 does not stipulate additional capital requirements</p>

			<p>are currently contributing at levels above that which is required for automatic-enrolment may be forced to divert a proportion of those contributions to fund the additional capital requirement. This would reduce the level of pension provision for the members of such schemes, thereby going against the basic fundamental principle to provide good quality retirement outcomes.</p> <p>The ABI would emphasize again that this does not mean the member would lose out; rather the IORP still has responsibility to rectify the member's position, just not through capital reserves</p>	
363.	Association of Consulting Actuaries (UK)	68.	<p>We agree with the overall purpose of the proposal to have a risk-management system that addresses all risks. However, some small alterations must be made to the list for insurers to make them relevant to IORPs. For example, many IORPs will be obliged to accept all employees of the sponsoring employer as members, regardless of their state of health. For that reason, underwriting is a far less relevant issue than it is for insurers. If the main headings are not changed, there is a risk that management time will be wasted addressing issues that are of marginal relevance.</p> <p>We suggest the following revised list could act as a basis:</p> <ul style="list-style-type: none"> <li>(a) evaluation of technical provisions</li> <li>(b) asset–liability management;</li> <li>(c) investment, including derivatives and similar commitments, liquidity and concentration risk management;</li> <li>(e) operational risk management (including data management);</li> </ul>	<p>Noted</p> <p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA</p>

			<p>(f) insurance and other risk-mitigation techniques, including underwriting if relevant</p> <p>During the impact assessment phase of this project, we strongly recommend an assessment of the requirement to manage risk “on a continuous basis”. As pointed out earlier, many IORPs do not have any full-time employees or other individuals who are capable of managing all aspects of risk on a continuous basis. In practice, a risk management plan might include some or all of:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reporting to trustees or a management board on key activities at their regular meetings</li> <li><input type="checkbox"/> Whistle-blowing responsibility for individuals involved in the management of some scheme activities who discover significant issues at any time</li> <li><input type="checkbox"/> If considered relevant by the trustees or board, the breach of pre-set triggers that have been set by the board or trustees, for example in relation to significant movement in investment markets, or significant events in relation to the sponsor (eg M&amp;A activity, insolvency).</li> </ul> <p>Finally, although proportionality is a difficult concept within the topic of risk management we would ask that the impact on smaller schemes be particularly studied and would note that there be a need for supervisors to assist and guide schemes in this area (for instance by supplying standard documentation).</p>	<p>decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments “if applicable” and “the list is not exhaustive”. EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p>
364.	Association of French Insurers (FFSA)	68.	The FFSA believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, the FFSA strongly suggest deleting the proposed amendments	Noted, but EIOPA and most of the respondents

			<p>regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As such there is no need for a statement "all risks".</p>	<p>believe that it is necessary to take the specifics of occupational pensions into account</p> <p>Outsourcing in the field of IORPs plays a much bigger role than it does in the insurance sector. Therefore it is necessary to stress that outsourced functions must be in the scope of the risk management.</p>
365.	Association of Pensioner Trustees in Ireland	68.	<p>See response to question 63.</p> <p>RESPONSE TO QUESTION 63</p> <p>We believe that a distinction needs to be made between defined benefit schemes and defined contribution schemes, particularly one member arrangements. The material elements of the Solvency II requirements for governance are disproportionate for defined contribution schemes i.e. explicit requirements to establish risk management, internal control, internal audit and actuarial functions and to develop various written policies would not be proportionate for defined contribution schemes (especially one member arrangements). We recognise however the need for sound governance of schemes to protect members' interests. A regime requiring that appropriately authorised entities be responsible for</p>	<p>One Member arrangements are not and will not be in the scope of the IORP directive</p> <p>As laid down in the example in (20.03.27) sometimes rules for DC plans are necessary.</p>

			administering pension scheme would be more appropriate for defined contribution schemes i.e. applying governance requirements at the entity level rather than the pension scheme level.	
366.	Assoprevidenza – Italian Association for supplement	68.	All IORP’s should have an effective risk management system but as the nature of the risks, the size of IORP and its complexity might differ, the qualitative measures and requirements should be in proportion to the risk profile of the IORP (proportionality).  An appropriate period of transition will be needed, in order not to have a negative impact on the activity of pensions schemes.	Noted
367.	Assuralia	68.	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, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account
368.	Bayer AG	68.	What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?  We agree to introduce general principles of risk management. So we agree also with EIOPA that the proposed requirements could significantly increase. Nevertheless the IORPs will need an adequate period for implementation. We agree with EIOPA’s	Noted  CfA 15 does not

			assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs. We reject risk-based capital requirements which are not appropriate for IORPs.	stipulate risk based capital requirements
369.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>15. We agree to introduce general principles of risk management. So we agree also with EIOPA that the proposed requirements could significantly increase. Nevertheless the IORPs will need an adequate period for implementation. We agree with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs. We reject risk-based capital requirements which are not appropriate for IORPs.</p>	<p>Noted</p> <p>CfA 15 does not stipulate risk based capital requirements</p>
370.	Belgian Association of Pension Institutions (BVPI-	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>All IORP's should have an effective risk management system but as the nature of the risks, the size of IORP and its complexity might differ, the qualitative measures and requirements should be in proportion to the risk profile of the IORP (proportionality), and risk management should be principle based rather than rule based.</p> <p>Risk management should be looked at in function of the risk sharing mechanism of the pension scheme. When the</p>	<p>Noted</p> <p>As laid down in the example in (20.03.27) even in</p>

			<p>investment risk is not borne by the IORP the focus should concentrate on operational and compliance risk. Basically ALM is a pension scheme issue, irrespective of the funding vehicle. Investment and liquidity risks are relevant in all cases but should be looked at taking the long term nature of the commitments into account.</p> <p>BVPI-ABIP strongly supports the view expressed in 20.3.28 that IORPs should not be imposed a higher burden than already exists under Solvency II for insurance companies taking similar commitments.</p> <p>Prioritisation and proportionality should also be taken into account.</p> <p>As EIOPA, BVPI-ABIP also emphasizes the need for different impact studies to assess the real impact of the new requirements.</p>	<p>DC schemes the investment risk should be in the focus of the risk management</p>
371.	BNP Paribas Cardif	68.	<p>BNP Paribas Cardif believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, BNP Paribas Cardif strongly suggest deleting the proposed amendments regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As such there is no need for a statement "all risks".</p>	<p>Noted, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account</p> <p>Outsourcing in the field of IORPs plays a much bigger role than it does in the insurance sector. Therefore it is necessary to stress</p>

				that outsourced functions must be in the scope of the risk management.
372.	Bosch Pensionsfonds AG	68.	<p>Fundamental differences between insurance companies and IORPs and the heterogeneous nature of IORPs must be taken into account when laying down principles for risk management. These should therefore not just be copied from the insurance sector and care should be taken that principles for IORPs are defined and applied in a reasonable and proportionate manner.</p> <p>Risk management should be principle rather than rule based. This provides every IORP with the necessary flexibility to design a risk management system appropriate for them. The proposed non-exhaustive list of risks does not add any value.</p>	<p>Noted</p> <p>CfA 15 does not stipulate a rule based risk management</p>
373.	Bosch-Group	68.	<p>Fundamental differences between insurance companies and IORPs and the heterogeneous nature of IORPs must be taken into account when laying down principles for risk management. These should therefore not just be copied from the insurance sector and care should be taken that principles for IORPs are defined and applied in a reasonable and proportionate manner.</p> <p>Risk management should be principle rather than rule based. This provides every IORP with the necessary flexibility to design a risk management system appropriate for them. The proposed non-exhaustive list of risks does not add any value.</p>	<p>Noted</p> <p>CfA 15 does not stipulate a rule based risk management</p>
374.	BT Pension Scheme Management Ltd	68.	<p>We believe that the proposed principles seem appropriate and strike the right balance of fitting risk management requirements proportionately to the needs of the IORP, especially according to its risk sharing nature.</p>	<p>Noted</p>

375.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	68.	<p>BAVC supports EIOPA's view to introduce general principles of risk management. We also agree the proposed requirements could significantly increase. Nevertheless the IORPs will need an adequate period for implementation. We agree with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs. We reject risk-based capital requirements which are not appropriate for IORPs.</p> <p>We also agree with the impact assessment made by EIOPA. From our point of view, the main negative impact would be the sharp increase in costs to beneficiaries, sponsoring companies and IORPs if the requirements are not defined in a reasonable and proportional manner.</p>	<p>Noted</p> <p>CfA 15 does not stipulate risk based capital requirements</p>
376.	BVI Bundesverband Investment und Asset Management	68.	<p>BVI considers that IORPs should have adequate risk management mechanisms in place with the understanding that their scope and complexity may vary according to the type and size of pension plan, fund and entity and the type and extent of risks faced.</p> <p>We agree it must be the responsibility of each IORP to define and implement a consistent and adequate solution for carrying out the risk management requirement. Also, the risk management function and systems should be implemented in a reasonable and proportionate manner depending on the nature, scale and complexity of the IORPs activities.</p>	Noted
377.	CEA	68.	<p>The CEA believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, the CEA strongly suggest deleting the proposed amendments regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As</p>	Noted, but EIOPA and most of the respondents believe that it is necessary to take

			such there is no need for a statement “all risks”. Moreover, the CEA sees no reason to introduce specific rules for cases where members and beneficiaries bear the risks as this implies that the IORP should somehow be responsible for the investment choice of the employer or, as regards member-directed DC plans, the employees.	<p>the specifics of occupational pensions into account</p> <p>Outsourcing in the field of IORPs plays a much bigger role than it does in the insurance sector. Therefore it is necessary to stress that outsourced functions must be in the scope of the risk management. As laid down in the example in (20.03.27) sometimes rules for DC plans are necessary.</p>
378.	Charles CRONIN	68.	I support EIOPA’s view “that IORPs should have an effective risk management system ...” (para 20.3.1). Consequently I support option 2, the introduction of general principles of risk management. I believe EIOPA has fairly evaluated the positive and negative impacts of the proposed risk principles.	Noted
379.	Chris Barnard	68.	I strongly support the proposed principles of the revised IORP directive. The introduction and maintenance of robust and efficient risk management practices in IORPs will improve security of pension provision for members and beneficiaries. It	Noted

			<p>will promote confidence in pension provision more generally, and therefore help to manage expectations concerning the security and sustainability of pension provision in Europe. The proposed principles are also generally internally consistent with Solvency II and the holistic balance sheet approach.</p> <p>I would only caution that, given the heterogeneity of IORPs, and their varying nature, scale and complexity, this will require a broad application of the proportionality principle.</p>	
380.	CMHF (Centrale van Middelbare en Hogere Functionar	68.	<p>We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. The CMHF proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.</p>	<p>Noted</p> <p>As it is stated in the answer of CMHF outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact.</p>
381.	De Unie (Vakorganisatie voor werk,	68.	<p>We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative</p>	<p>Noted</p>

	inkomen en loop		consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. De Unie proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.	As it is stated in the answer of De Unie outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact.
382.	Ecie vie	68.	We consider Articles 44 of Solvency II should apply to IORPs.	Noted, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account
383.	ECIIA	68.	Call up the key role of IA in evaluating and improving risk management system. The paper emphasizes on continuous control. Even if this level of control is fundamental in mitigating risks, as it could identify on an ongoing basis some deficiencies and so reduce the impact of some risks. But it must be coordinated with periodical and more comprehensive review	Noted

			<p>lead by the IAF (cf. 3LD)</p> <p>We agree with the principle of a risk management system covering all the risks.</p>	
384.	EFI (European Federation of Investors)	68.	We support this proposal	Noted
385.	European Federation for Retirement Provision (EFRP)	68.	<p>The EFRP welcomes the taking into account of the differences in risk management rules depending on risk sharing mechanism of the pension scheme. However, the response to this issue is not seen as correctly addressed by EIOPA. The risk management should be principle-based rather than rule-based.</p> <p>The EFRP also agrees on the fact that risk management system shall cover all risks including risks which can occur in outsourced functions and activities.</p> <p>The non-exhaustive list of the areas that must be covered by the risk management is seen as not relevant. The addition of the sentence "all significant risks an IORP is faced to" is sufficiently meaningful.</p> <p>The principle of risk management must be applied in a proportionate and reasonable manner. The risk management task must be proportionate to the risks faced by the IORP. However, the EFRP points out the lack of clearness on principles like proportionality or definitions of types of schemes. Indeed, a clear answer must be provided on notions like complexity and nature of the IORP. Moreover, since the</p>	<p>Noted</p> <p>CfA 15 does not stipulate a rule based risk management</p> <p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is</p>

			<p>de minimis threshold provision has been removed, the notion of scale must also be explained.</p> <p>As EIOPA, the EFRP also emphasizes the need for an impact study to assess the real impact of the new requirements.</p> <p>Positive impacts of the proposed principles:</p> <p>More transparency for members through risk management methods introduction in the Statement of Investment Policy Principles (SIPP).</p> <p>More security for members and pensions.</p> <p>Negative impacts of the proposed principles:</p> <p>Burden for IORPs and especially small ones. The lack of resources might entail outsourcing and increase in IORP's expenses which will lead to increase of contributions or decrease of pension benefits. Hence, the principle of proportionality has to be applied efficiently.</p>	<p>from the insurance sector. But it was weakened through the amendments "if applicable" and "the list is not exhaustive". EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p>
386.	European Fund and Asset Management Association (EFAMA)	68.	<p>EFAMA considers that IORPs should have adequate risk management mechanisms in place with the understanding that their scope and complexity may vary according to the type and size of pension plan, fund and entity and the type and extent of risks faced.</p> <p>We agree it must be the responsibility of each IORP to define and implement a consistent and adequate solution for carrying out the risk management requirement. Also, the risk</p>	Noted

			management function and systems should be implemented in a reasonable and proportionate manner depending on the nature, scale and complexity of the IORPs activities.	
387.	European Public Real Estate Association (EPRA)	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>The response to this question is also relevant for questions 47,48, 49 and 50</p> <p>As the RCfA identifies, 'life-cycling' as an investment strategy in DC schemes can be an important risk-diminishing technique and this has been evidenced through global market developments. We fully support the statements at 11.3.61 that identifies DC pension plan 'best practice' of offering a number of investment options, with at least one low-risk option; the introduction of life-styling of the investment and the introduction of default options for the members not making the choice.</p> <p>We have some concerns with the RCfA statement at 11.3.66 that "default options that comply with [life-styling] principles should be considered as a 'safe harbour' by national legislation". If these principles, and the existence of the safe harbour, compel a narrow strategy of investing progressively more of a pension capital into government bonds the closer one approaches retirement, there is a risk that a focus on</p>	<p>Noted, but it is not suggested to change anything in CfA 15</p>

			<p>these assets could expose the pension fund to unacceptably high investment risks both in terms of initial yields and vulnerability to rising inflation (see introductory comments – Q1).</p> <p>Evidence from global markets have shown that the investment performance of real estate and real estate equities, including REITs, have been characterized by high and stable dividends, competitive total returns, inflation protection, and low to moderate correlation with other assets. The combination of these investment characteristics offers the potential for important portfolio diversification benefits specifically for life-cycle funds:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Of the 27 investment managers in Callan’s Target Date Fund survey, 73% were using real estate in the target date funds [Source: 2009 Callan Target Date Fund Manager Survey, May 2009]</li> <li><input type="checkbox"/> The percentage of target-date)fund companies investing in REITs increased from 26% in 2005 to 54% in 2007. [Source: “Mutual Funds: Future Outlook for Lifecycle Funds; Insights into Emerging Trends and Growth Opportunities”, Financial Research Corporation study, May 23, 2008]</li> </ul> <p>Figure 3 below shows the maximum real estate allocations from a product manufacturer perspective, used by selected organizations for lifecycle and target-risk funds.</p> <p>Figure 3.</p> <p>Organization</p>	
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			<p>Maximum Real Estate Allocation</p> <p>Allocation Type</p> <p>PIMCO</p> <p>15.0%</p> <p>Domestic</p> <p>UBS</p> <p>15.0%</p> <p>Global</p> <p>JPMorgan</p> <p>12.0%</p> <p>Global</p> <p>Alliance Bernstein</p> <p>10.0%</p> <p>Global</p> <p>Dow Jones Indexes Real Return</p> <p>10.0%</p> <p>Domestic</p>	
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			<p>Source: NAREIT®</p> <p>One of the key reasons why REITs and listed real estate equities are favored in existing lifecycle funds and DC schemes in general, as a means to manage real estate exposure in life-cycle funds, is because the liquidity they provide (to an otherwise illiquid asset class) enables fund providers to 'ensure that the change in asset mix happens efficiently' [RCfA 20.3.30(b)]. EPRA strongly believe that any default allocation guidelines developed at an EU or national level should include the ability for a pension fund provider to responsibly manage its real estate exposure using allocations to REITs and listed real estate equities.</p>	
388.	FAIDER (Fédération des Associations Indépendantes)	68.	We support this proposal	Noted
389.	FairPensions	68.	We strongly agree with the OECD's guidance, cited at para 20.2.8 of the consultation paper, that "prudent risk management practices should also consider intangible risk factors such as environmental, political and regulatory changes, as well as the pension fund's potential market impact through its investment decisions", and that "the risk management strategy should seek to proactively identify and explicitly balance short- and long-term considerations".	noted

			<p>In our experience, these intangible long-term risks are not always taken seriously by IORPs. This experience relates primarily to UK occupational pension schemes, but we do not believe the problem is confined to the UK. Our most recent survey of UK pension schemes (available at <a href="http://www.fairpensions.org.uk/research#PF">http://www.fairpensions.org.uk/research#PF</a>) found that, although almost all now recognise the importance of environmental, social and governance (ESG) risks in principle, this is much less frequently translated into robust risk management in practice. Similar findings have been made by more recent research by UKSIF, published in September 2011 (see <a href="http://www.uksif.org/resources/publications">http://www.uksif.org/resources/publications</a>). Part of the problem is that many IORPs still believe that consideration of these factors does not fall within the scope of their legal duties, since the benefits of such risk management are usually not immediately monetisable (see response to Q47). In addition, research suggests that both asset managers and asset owners view it as the other's responsibility to ensure adequate integration of ESG risks: asset managers cite lack of client demand as a reason for not integrating these issues into their analysis, while asset owners assume that their asset managers will factor in all material risks, or say that it is not for them to interfere with their asset manager's strategy.</p> <p>We would therefore suggest that any detailed rules on risk management should include explicit reference to the need to manage environmental, social and governance risks. This would be one approach to addressing the problem of narrow interpretations of the prudent person rule. We would also suggest that implementation of an ESG risk management policy should be explicitly addressed in outsourcing agreements (see our response to Q82).</p>	
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390.	Federation of the Dutch Pension Funds	68.	<p>We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. The PF proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.</p>	<p>Noted</p> <p>As it is stated in the answer of the Federation of the Dutch Pensions Funds outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact.</p>
391.	Financial Reporting Council	68.	<p>We consider that risk management is important for IORPS of all sizes and are supportive of the general concept of requiring a risk management system. However, the approach taken needs to be proportionate and appropriate. While we support the aim of the proposed wording we consider that proposal needs further work to ensure it is appropriate for IORPS – for example the list of risks in paragraph 2 is copied from the Solvency II directive and needs to be amended so it better reflects the common risks in IORPs.</p> <p>The concept of a risk management function does not fit well</p>	<p>Noted</p> <p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some</p>

			<p>into most pension schemes in the UK. Instead we consider the risk management system should be the responsibility of the bodies responsible for running the IORPs acting on advice of the actuarial function.</p> <p>The proposed requirements in respect of partial or full internal models would be likely to result in considerable additional costs.</p>	<p>support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments "if applicable" and "the list is not exhaustive". EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p> <p>Even if there are risk based capital requirements (which is not decided yet) the application of (partial) internal models is (like it is in Solvency 2) voluntary.</p>
392.	FNV Bondgenoten	68.	We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in	Noted

			<p>any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. FNV BG proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.</p>	<p>As it is stated in the answer of FNV Bondgenoten outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact.</p>
393.	Generali vie	68.	<p>We consider Articles 44 of Solvency II should apply to IORPs.</p>	<p>Noted, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account</p>
394.	GESAMTMETALL - Federation of German employer	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p>	<p>Noted</p>

			16. We agree to introduce general principles of risk management as minimum requirements for all Member States. Nevertheless the IORPs will need an adequate period for implementation. We agree with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs.	
395.	Groupe Consultatif Actuariel Européen.	68.	<p>We agree that IORPs should have an effective risk management system which should cover all risks to which the IORP is exposed.</p> <p>We would repeat our comments in relation to other governance requirements that there are three key reasons why it may be necessary to depart from the way in which Solvency II is applied to insurance undertakings (see answer to Q63).</p> <p>We note (20.3.16) that EIOPA considers that sponsor risk can be subsumed under other headings – it is our view that sponsor support is such an important feature in many IORPs that it should be considered as a category of risk in its own right.</p> <p>The response to CfA 19 proposes that the actuarial function should “contribute to the effective implementation of the risk management function” as currently incorporated in Article 48(1)(i) of the Solvency II Framework Directive. We strongly support that view and we believe that in IORPs the actuarial function should play a lead role in developing and implementing the risk management system.</p>	Noted
396.	Groupement Français des Bancassureurs	68.	FBIA believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, FBIA strongly suggest deleting the proposed amendments regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As such there is no need	Noted, but EIOPA and most of the respondents believe that it is necessary to take

			for a statement "all risks".	<p>the specifics of occupational pensions into account</p> <p>Outsourcing in the field of IORPs plays a much bigger role than it does in the insurance sector. Therefore it is necessary to stress that outsourced functions must be in the scope of the risk management.</p>
397.	PMT-PME-Mn Services	68.	<p>We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. We proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment</p>	<p>Noted</p> <p>As it is stated in the answer of Mr. Wouters outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also</p>

			management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.	covers this impact
398.	HM Treasury/Department for Work and Pensions	68.	The UK Government welcomes EIOPA's view that given the heterogeneity of IORPs across the EU, the throughout the EU, the principle of proportionality must apply to all elements of the governance system of IORPs (including internal controls, internal audit, outsourcing).	Noted
399.	IMA (Investment Management Association)	68.	<p>We agree that that IORPs should have adequate risk management mechanisms in place with the understanding that their scope and complexity may vary according to the type and size of pension plan, fund and entity and the type and extent of risks faced (eg. DC will be totally different to DB).</p> <p>We also agree it must be the responsibility of each IORP to define and implement a consistent and adequate solution for carrying out the risk management requirement.</p>	Noted
400.	Institute and Faculty of Actuaries (UK)	68.	<p>As noted in our general comments on CfA9 we advocate applying Enterprise Risk Management techniques to IORPs. We therefore welcome the proposed risk management principles and support the non-exhaustive list and applicability approach. However we believe that substantial further research needs to be done to establish how risk management can be applied to IORPs in a proportionate way and we would welcome an opportunity to work with EIOPA on this.</p> <p>We believe strongly that continuous assessment would not be proportionate except for the very largest IORPs and so we do</p>	Noted

			<p>not support the inclusion of this feature of Solvency II in the revised IORP Directive.</p> <p>We suggest that particular care is required to avoid creating a conflict in IORPs in which members bear the investment risks between members' chosen investment preferences and the requirements on the persons running the IORP to manage the risks.</p> <p>We welcome the comments on communication to the members in 20.3.31 and draw EIOPA's attention to our further comments on this subject in our response to CfA23.</p>	
401.	KPMG LLP (UK)	68.	<p>As a high-level principle we agree with the need for proper risk management by IORPs. However any specific requirements must be practical if they are to have any effect. For instance, a requirement on all IORPs for a continuous basis of monitoring risks would not be practical.</p>	Noted
402.	Le cercle des épargnants	68.	<p>We consider Articles 44 of Solvency II should apply to IORPs.</p>	<p>Noted, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account</p>
403.	Mercer	68.	<p>We agree that principles in relation to the need for risk management should apply to IORPS similarly to how they apply to insurance companies. However, IORPs generally are unable to select members, do not necessarily have to market themselves and do not have to meet shareholders' objectives, so their risk profiles are likely to be different. Consequently,</p>	Noted

			<p>the matters likely to drive risk management strategies could be different. Provided this is taken into account in the transcription of the Solvency II requirements into the IORP Directive, we are supportive of this initiative.</p> <p>However, it is not possible to comment on the consultation document's statement of the positive or negative impacts of introducing these new requirements into the IORP Directive without knowing what actions supervisory authorities will be expected to take in response to the information that emerges from these exercises. In relation to this, and to other aspects of the consultation, without this information and a quantitative impact assessment, the actual effects of the proposals are impossible to assess.</p>	
404.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	68.	<p>We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. The MHP proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most</p>	<p>Noted</p> <p>As it is stated in the answer of MHP outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is</p>

			of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.	useful that the risk management also covers this impact
405.	National Association of Pension Funds (NAPF)	68.	<p>RISK MANAGEMENT</p> <p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>17. The NAPF welcomes the account to be taken of the differences in risk management rules depending on the risk-sharing mechanism of the pension scheme. However, risk management should be principle-based rather than rule-based.</p> <p>18.</p> <p>19. NAPF also agrees that risk management systems should cover all risks, including risks that can occur in outsourced functions and activities.</p> <p>20.</p> <p>21. The principle of risk management must be applied in a proportionate and reasonable manner.</p> <p>As in the consultation paper, the NAPF also emphasises the need for an impact study to assess the real impact of the new requirements.</p>	<p>Noted</p> <p>CfA 15 does not stipulate a rule based risk management</p>

406.	NEST Corporation	68.	<p>We welcome proposals that strengthen the ability of IORPs to monitor and manage risk, but only where they address the specific risks that apply to providing retirement benefits. The holistic approach to risk management suggested in the draft advice to CfA15 is closely aligned to the best practice approach that NEST has already adopted. We would find it difficult to identify any disadvantages to this suggestion that are not significantly outweighed by the positive effects of adopting a comprehensive risk management approach. We would be happy to share further information on our own risk management process with EIOPA at a later stage if this would be helpful. We note that a number of risks rehearsed in the Solvency II directive do not have the same saliency in a DC IORP; however we strongly support the suggestion that risks borne by Members are analysed from the Members' perspective. On a detailed point the use of the word "control" in respect of market risk is inappropriate.</p>	Noted
407.	NORDMETALL, Verband der Metall- und Elektroindustr	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>15. We agree to introduce general principles of risk management. So we agree also with EIOPA that the proposed requirements could significantly increase. Nevertheless the IORPs will need an adequate period for implementation. We agree with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the requirements are suitable for IORPs. We reject risk-based</p>	<p>Noted</p> <p>CfA 15 does not stipulate risk based capital</p>

			capital requirements which are not appropriate for IORPs.	requirements
408.	Pensioenfonds Zorg en Welzijn (PFZW)	68.	We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. We propose to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.	Noted  As it is stated in the answer of PFZW outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact
409.	Predica	68.	Predica believes that the provisions of Article 44 of the Solvency II Directive should apply directly to IORPs. However, Predica strongly suggest deleting the proposed amendments regarding outsourcing. They are not necessary since outsourcing risk is already included in operational risk. As such there is no need for a statement "all risks".	Noted, but EIOPA and most of the respondents believe that it is necessary to take the specifics of occupational pensions into account  Outsourcing in the

				<p>field of IORPs plays a much bigger role than it does in the insurance sector.</p> <p>Therefore it is necessary to stress that outsourced functions must be in the scope of the risk management.</p>
410.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	68.	<p>Agree. We would like to add the following note to EIOPA's analysis.</p> <p>19. Risk-management should be tailor-made for the pension scheme under consideration. At the two extremes of the scale we identify:</p> <p>20. • DB pension schemes with a "hard" guarantee. We believe that for pension benefits with hard guarantees where no ex-ante possibility of lowering the benefits exists, the supervision should focus on ensuring that the guarantees promised to the participants can be realistically met. [This is very well covered in the proposed text by EIOPA]</p> <p>21. • At the other extreme we find individual DC schemes. Here the supervision should focus heavily on the communication of the scheme to the participants. Are the participants fully aware of the risks they are running and the expected benefit in relation to their expectations? Are the participants currently saving enough, to obtain a sufficient level of retirement benefits? [Here we would like to draw EIOPA's attention to the "communication part" as opposed to the "hard-</p>	Noted

			core" Value@Risk approach.]	
411.	PTK (Sweden)	68.	<p>PTK welcomes the taking into account of the differences in risk management rules depending on risk sharing mechanism of the pension scheme. However, the response to this issue is not seen as correctly addressed by EIOPA. The risk management should be principle based rather than rule based.</p> <p>PTK also agrees on the fact that risk management system shall cover all risks including risks which can occur in outsourced functions and activities.</p> <p>The non-exhaustive list of the areas that must be covered by the risk management is seen as not relevant. The addition of the sentence "all significant risks an IORP is faced to" is sufficiently meaningful.</p> <p>The principle of risk management must be applied in a proportionate and reasonable manner. The risk management task must be proportionate to the risks faced by the IORP. However, PTK wish to point out the lack of clearness on principles like proportionality or definitions of types of schemes. Indeed, a clear answer must be provided on notions like complexity and nature of the IORP. Moreover, since the de minimis threshold provision has been removed, the notion of scale must also be explained.</p> <p>As EIOPA, PTK also emphasizes the need for an impact study to assess the real impact of the new requirements.</p>	<p>Noted</p> <p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments "if applicable" and "the list is not</p>

			<p>Positive impacts of the proposed principles:</p> <p>More transparency for members through risk management methods introduction in the Statement of Investment Policy Principles (SIPP).</p> <p>More security for members and pensions.</p> <p>Negative impacts of the proposed principles:</p> <p>Burden for IORPs and especially small ones. The lack of resources might entail outsourcing and increase in IORP's expenses which will lead to increase of contributions or decrease of pension benefits. Hence, the principle of proportionality has to be applied efficiently.</p>	<p>exhaustive". EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p>
412.	Railways Pension Trustee Company Limited ("RPTCL	68.	We have not considered this question.	Noted
413.	TCO	68.	<p>TCO welcomes the taking into account of the differences in risk management rules depending on risk sharing mechanism of the pension scheme. However, the response to this issue is not seen as correctly addressed by EIOPA. The risk management should be principle based rather than rule based.</p> <p>TCO also agrees on the fact that risk management system shall cover all risks including risks which can occur in outsourced functions and activities.</p>	<p>Noted</p> <p>CfA 15 does not stipulate a rule based risk management</p>

		<p>The non-exhaustive list of the areas that must be covered by the risk management is seen as not relevant. The addition of the sentence “all significant risks an IORP is faced to” is sufficiently meaningful.</p> <p>The principle of risk management must be applied in a proportionate and reasonable manner. The risk management task must be proportionate to the risks faced by the IORP. However, TCO wishes to point out the lack of clearness on principles like proportionality or definitions of types of schemes. Indeed, a clear answer must be provided on notions like complexity and nature of the IORP. Moreover, since the de minimis threshold provision has been removed, the notion of scale must also be explained.</p> <p>As EIOPA, TCO also emphasizes the need for an impact study to assess the real impact of the new requirements.</p> <p>Positive impacts of the proposed principles:</p> <p>More transparency for members through risk management methods introduction in the Statement of Investment Policy Principles (SIPP).</p> <p>More security for members and pensions.</p> <p>Negative impacts of the proposed principles:</p> <p>Burden for IORPs and especially small ones. The lack of resources might entail outsourcing and increase in IORP’s</p>	<p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments “if applicable” and “the list is not exhaustive”. EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p>
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			expenses which will lead to increase of contributions or decrease of pension benefits. Hence, the principle of proportionality has to be applied efficiently.	
414.	Tesco PLC	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How to stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>We agree the principles that all IOPRS should have effective risk management systems – but not that DC schemes should reserve for operational risks. The mechanism for measuring how effective a risk management system is and placing a financial value is too complex to apply with any degree of accuracy from a practical perspective.</p>	<p>Noted</p> <p>It is not stipulated that DC schemes should reserve for operational risk. It is only stipulated that the operational risk is in the scope of the risk management</p>
415.	The Association of Pension Foundations (Finland)	68.	<p>Risk management function must be implemented in a reasonable and proportionate manner and it should be up to each IORP to define a consistent and adequate solution to carry out risk management.</p> <p>Positive impacts of proposed principles is increased security for members and beneficiaries. Negative impact relate to increasing expenses as more or least of proposed principles are going to be carried out by outsourcing and buying services from service providers. That stresses the importance of proportionality.</p>	Noted
416.	The Association of	68.	The Respondents welcome the idea of providing additional	Noted

	<p>the Luxembourg Fund Industry (A)</p>		<p>protection to investors by implementing more detailed legislation regarding the use of risk management processes by IORPs. However some elements listed in draft article 44 item 2 are specific to the insurance industry. The Respondents strongly believe that there are differences between pension funds and insurance companies and it is not a trivial task to adapt such a directive to work effectively for pensions. As a consequence, a principle-based approach would be more appropriate than a rule-based approach.</p> <p>In this context, we welcome the removal of the explicit reference to the Solvency Capital Requirement from item 2. In addition, the reference to the fact that the risk management system should cover “all risks” and that the written policy on risk management [...] shall comprise policies relating to “all significant risks an IORP is faced to”, should be sufficient and the list does not add anything new. As a suggestion, we propose to remove this list.</p> <p>The Respondents generally welcome the application of the principle of proportionality depending on the size and complexity (structure, mechanism, and underlying investments) of the relevant IORP and consider that this principle of proportionality should be expressly referred to in the proposed article.</p>	<p>CfA 15 does not stipulate a rule based risk management</p> <p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments</p>
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			<p>Item 4 of the article refers to internal model approaches. Whilst the Respondents believe there should be flexibility in the risk-based adequacy framework, we cannot envisage a significant appetite for a full internal model approach by employers in Europe for their pension funds. In general, it is our feeling that a risk framework, which is appropriate for DB arrangements, can generally be applied to DC and hybrid arrangements without significant adaptation. The Respondents agree that in the context of DC arrangements where the risks are borne by the members and/or the beneficiaries, the risk-management process should ensure adequate protection to members and/or beneficiaries. However, these risks are inherent to DC arrangements and should be also adequately disclosed. The risk management process in place at the level of the IORP should adequately capture the risks to which the members and/or beneficiaries are exposed to indirectly (operational risks, market risks, counterparty risks, liquidity risks....). Therefore, the Respondents wonder whether an additional agreement to be entered into between the IORP and the employer/employee would not constitute an unnecessary burden.</p>	<p>“if applicable” and “the list is not exhaustive”. EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p> <p>CfA 15 does not stipulate to introduce risk based capital requirements. Section 5 was only included precautionary if it is decided elsewhere to do so. See also 20.3.24</p>
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			<p>The Respondents do not consider that specific rules regarding the risk-management process should be adopted for Life cycling in the DC scheme. If the principle of proportionality is applicable, taking inter alia, the complexity of underlying investments when implementing the risk management process the relevant IORP will have the possibility to adapt it over time in line with the allocation of the portfolio.</p>	
417.	THE SOCIETY OF PENSION CONSULTANTS	68.	<p>We agree with the proposed risk management principles and support the non-exhaustive list and applicability approach. The proposals reflect protections which are already in place in the UK: in particular, legislation governing scheme investment functions, accounting and internal controls and reporting to members and the authorities. In a pure DC plan the negative impact of doing nothing (option 1) could be significantly detrimental to members, who normally bear all the investment risk so we agree that the risk assessment needs to focus on members.</p>	<p>Noted</p> <p>The opinions about this list are quite different among the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments "if applicable" and "the list is not exhaustive". EIOPA</p>

			<p>However, we do not think this should be based on rules in the agreement between the IORP and the employer/employee. Such an agreement may not cover this aspect and, even if it does, risk should be assessed on a non-exhaustive and topical basis.</p>	<p>finds it valuable to have this hints on topics for risk management in the level 1 text.</p> <p>CfA 15 does not stipulate a rule based risk management</p>
418.	UK Association of Pension Lawyers	68.	<p>CfA 15 (Risk management): What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>1. Broadly, the Solvency II Framework Directive states that insurance/reinsurance undertakings should have in place an effective risk-management system comprising strategies, processes and reporting procedures necessary to identify, measure, monitor, manage and report, on a continuous basis the risks, at an individual and at an aggregated level, to which they are or could be exposed, and their interdependencies. It sets out the risks which should be covered by the risk-management system such as asset-liability management and investment.</p> <p>2. Our view is that the introduction of general principles on risk management (even with the suggested clarifications) adds another layer of administrative burden which is unnecessary when such requirements in the UK are already burdensome enough. More administrative burden is not helpful on a UK</p>	<p>Noted, however the comment is very general and it is not clear what should be changed in the advice</p>

			<p>pensions landscape which has ever dwindling numbers of employer sponsored pension arrangements. The aim should be to encourage pension provision and not stifle it by yet more regulation, which will only encourage further employer disengagement for little discernible benefit other than the idealistic achievement of a counsel of perfection where the ends do not justify the means and the end in itself achieves little or nothing more than is achieved already.</p> <p>3. As already noted in this response, the cost of additional compliance diverts funds that could otherwise be available for benefits provision.</p>	
419.	Universities Superannuation Scheme (USS),	68.	<p>RISK MANAGEMENT</p> <p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p>	noted
420.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	68.	<p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>15. We agree to introduce general principles of risk management. So we agree also with EIOPA that the proposed requirements could significantly increase. Nevertheless the IORPs will need an adequate period for implementation. We agree with EIOPA's assessment that a proper impact assessment is necessary in order to guarantee that the</p>	<p>Noted</p> <p>CfA 15 does not stipulate risk based</p>

			requirements are suitable for IORPs. We reject risk-based capital requirements which are not appropriate for IORPs.	capital requirements
421.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	68.	We agree with EIOPA that option 2 is preferable and that general principles of risk management should be included in any new IORP Directive. We think that any negative consequence that such introduction may have in terms of added costs or administrative burden is justified by the additional security such a framework will provide for members. As stated in 20.2.16 of the EIOPA response to Call for Advice there are considerable differences between Member States in risk management rules for IORPS. In The Netherlands, a lot of qualitative rules are already in place. EIOPA proposes to add in the Risk Management requirements the line 'this also includes risks which can occur in outsourced functions and activities as well as the impact on overall risk that is generated through the outsourcing'. The VHP2 proposes to remove the last part of this sentence ('as well as the impact on overall risk that is generated through the outsourcing'). In The Netherlands most of the tasks for pension administration and investment management are outsourced by IORPS, which have far more expertise in these fields. According to us this has a risk reducing effect.	Noted  As it is stated in the answer of VHP 2 outsourcing has an impact on the overall risk (in this example the risk is reduced). So it is useful that the risk management also covers this impact.
422.	Whitbread Group PLC	68.	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, however the comment is very general and it is not clear what should be changed in the advice
423.	Zusatzversorgungskasse des Baugewerbes AG	68.	99. All IORPs should have an effective risk management system but as the nature of the risks, the size of IORPs and its complexity might differ, the qualitative measures and	Noted

			<p>requirements should be in proportion to the risk profile of the IORP.</p> <p>An appropriate period of transition will be needed, in order not to have a negative impact on the operations and / or financial situation.</p>	
424.	European Private Equity & Venture Capital Associat	68	<p>With regard to any legal prescription of risk management principles for IORPs, EVCA expresses its concerns that the practical implementation of risk management principles that are solely focused on liquidity and disregard the fact that different asset classes require different risks to be considered would adversely affect the ability of IORPs to invest in long-term non-liquid investments, such as private equity or infrastructure investment funds. IORPs do not require short-termist risk management as their liabilities are long-term and predictable over time.</p> <p>Risk management provisions applicable to IORP funds should take into account risk management requirement already imposed by the AIFM Directive to the PE/VC funds in which they invest.</p>	Noted
425.	Towers Watson	68.	<p>69. CfA 15 Risk management</p> <p>What is the view of stakeholders on the proposed principles of the revised IORP directive? How do stakeholders evaluate the positive and negative impact of the proposed risk management principles?</p> <p>We agree with the general thrust of the proposed risk management principles and support the non-exhaustive list and applicability approach. The proposals reflect protections</p>	<p>Noted</p> <p>The opinions about this list are quite different among</p>

			<p>which are already in place in the UK: in particular legislation governing scheme investment functions, accounting and internal controls and reporting to members and the authorities.</p> <p>However, we do not believe it appropriate to have “on a continuous basis” written into the revised IORP Directive. EIOPA sets out in 20.3.8 to 20.3.11 that this might not be appropriate, as it finds it necessary to qualify what the wording means. We strongly feel that ‘continuous assessment’ is likely rarely to be proportionate. Moreover, as a general principle we favour wording in the Directive that is in itself clear and not such that it requires there to be an ‘explanatory’ manual. If the wording of the current Solvency II Directive is too vague (as here) then it militates in favour of drafting different wording relevant to IORPs.</p> <p>In a pure DC plan the negative impact of doing nothing (option 1) could be significantly detrimental to members who normally bear all the investment risk so we agree that the risk assessment needs to focus on members. However, we do not think this should be based on rules in the agreement between the IORP and the employer/employee. Such an agreement may not cover this aspect and, even if it does, risk should be assessed on a non-exhaustive and topical basis. In any event, we welcome EIOPA’s recognition at 20.3.31 that communication is important in the context of life cycling and the operation of default funds.</p>	<p>the respondents. Some want to change it, some say it is not meaningful or relevant and some support the list. Therefore EIOPA decides to maintain the list. EIOPA is aware that this list is from the insurance sector. But it was weakened through the amendments “if applicable” and “the list is not exhaustive”. EIOPA finds it valuable to have this hints on topics for risk management in the level 1 text.</p>
426.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	69.	<p>The OPSG understands the possible benefits of ORSA, since many IORPs already carry out similar reviews (maybe in a less structured way) and ORSA can help IORPs to further develop a risk-based internal control management. However, the OPSG would also point out that EIOPA should take care not to define several requirements with the same purpose. This would create</p>	<p>Noted.</p> <p>According to Articles 45 (1) and 45 (4) of Solvency II Directive, ORSA is part of the risk</p>

			<p>an accumulation of legislation and requirements which is misleading and too burdensome.</p>	<p>management and integral part of the undertaking's business strategy. EIOPA clarified in its advice that the ORSA in revised IORP Directive should follow the same principles. EIOPA also suggested to COM to define ORSA's scope flexibly enough to take into account different risk sharing mechanisms btw. IORP, sponsoring undertakings and members.</p>
427.	AbA Arbeitsgemeinschaft für betriebliche Altersver	69.	<p>We prefer Option 1 (The revised IORP Directive should not include ORSA). Its aim will be sufficiently achieved by risk management and security mechanisms.</p> <p>In addition, ORSA is linked to the proposed risk-based capital requirements which we oppose. ORSA for insurers is a very time-consuming and costly process. The main focus of ORSA is the compliance with capital requirements.</p>	<p>Noted.</p> <p>According to Articles 45 (1) and 45 (4) of Solvency II Directive, ORSA is part of the risk management and integral part of the undertaking's business strategy.</p>

				EIOPA clarified that ORSA should be defined as extension of RM. The scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.
428.	ABVAKABO FNV	69.	Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.	Agreed.
429.	AEIP	69.	<p>135. We agree with the principle that IORPs have to face all risks and to protect themselves. ORSA can be a tool, but the same functions can be done by risk management and capital requirement if calculated taking in account long period trends. In any case ORSA should be applied proportionately to the nature, size and complexity of IORP's.</p> <p>136. Then the prospective view of ORSA seems to make it an useful part of pillar 2. But there are two aspects to take in account:</p>	<p>Agreed.</p> <p>The text has been clarified. The ORSA is subject to proportionality principle.</p>

			<p>137. 1. Art. 45 (1) deals with capital requirement almost only. This is inappropriate for pension funds that do not bear the risks alone (as mentioned above more than once). This subparagraph cannot be transferred to IORP II.</p> <p>2. Since ORSA is a time-consuming and resource-intensive process and the security mechanisms of IORPs very often consist in a variety of legal and contractual constructions ORSA should be divided in a full assessment, done on a 3-year-timeframe and a lighter assessment based on the more volatile aspects of security, e.g. liquidity calculations, done on yearly basis.</p>	
431.	AMICE	69.	As outlined in our introduction, we generally support the application of the principles of pillar 2 of Solvency II, with an appropriate division between level 1 and level 2 texts. We underline the importance of the principle of proportionality in all provisions on governance.	Noted.
432.	AMONIS OFP	69.	<p>Do you agree with EIOPA that ORSA is, in principle, suitable for IORPs? Please provide evidence/reasons supporting your view.</p> <p>AMONIS OFP is in favour of option 1 and believes it will be more efficient to focus on the risk management function which includes concepts included in the ORSA rather than pile up several requirements that have the same purpose. It will create an accumulation of legislation and requirement which is misleading and too burdensome.</p> <p>AMONIS OFP considers that ORSA as such is only suitable for IORPs bearing investment risk themselves.</p>	<p>Noted.</p> <p>EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.</p>

			<p>In other situations ORSA would actually have to address the pension scheme as a whole. This is coherent with the holistic balance sheet approach and raises the same questions of scope and level playing field.</p> <p>So if the sponsor is bearing the risk we do not see what ORSA would add to the risk management principles laid down in CFA 15.</p>	
433.	ANIA – Association of Italian Insurers	69.	<p>The ANIA fully agrees with EIOPA that ORSA is suitable for IORPs. Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All pension providers should be able to manage the risks, inherent to its business. However, how this ORSA should be applied in practice will depend on the approach followed as regards quantitative requirements. Less sophisticated approaches as regards capital requirements make it even more important that the ORSA process captures all risks in adequate risk-based economic manner.</p> <p>In addition, the ANIA suggest EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.</p>	Agreed.
434.	Association Française de la Gestion financière (AF)	69.	<p>We do not think an Own Risk and Solvency Assessment (ORSA) is suitable for second pillar pensions as there is an employer sponsor.</p>	<p>Noted. EIOPA clarified that the scope of ORSA</p>

				should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs..
435.	Association of British Insurers	69.	<p>The ABI does not agree that an ORSA is suitable for employer sponsored IORPs, this assumes that an employer-sponsored scheme is identical in nature to an insurance company.</p> <p>The ABI believes it is excessive to require such IORPs to conduct an ORSA as the sponsor bears the risk. In the UK, sponsors of UK DB funds are required to honour pension promises made to members and cannot walk away from those promises without providing sufficient capital to “buy out” the liabilities with an insurer. Therefore to require an employer sponsored IORP to conduct an ORSA is excessive.</p> <p>Further, the ABI does not see the point of schemes conducting an ORSA where the operation of the scheme is outsourced to professionals. In effect this would mean that the IORP is checking its outsourcing processes</p>	<p>Noted.</p> <p>EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.</p>
436.	Association of Consulting Actuaries (UK)	69.	<p>It is difficult to object to the underlying principles behind ORSA. Those responsible for running an IORP should be aware of the risks that would have a significant effect on the IORP, avoid risks in areas which would have a serious detrimental effect on the IORP, monitor and react to risks which cannot be avoided or are necessarily incurred as part of a risk-taking strategy that is expected to be beneficial to the IORP (e.g. equity investment).</p> <p>The problem with ORSA as laid out for Solvency II relates to</p>	<p>Partially agreed.</p> <p>ORSA is subject to proportionality principle. EIOPA clarified the text if the advice in this respect.</p>

			<p>the scale of typical IORPs. Many defined benefit IORPs, with assets that may be under Euro or GBP 100 million, simply do not have the resources to operate ORSA with continuous monitoring that Solvency II requires.</p> <p>For employer-sponsored IORPs, the risks may be small when compared to the size of the sponsoring employer. This is not intended as a rejection of the principles of ORSA in all circumstances. There are IORPs sponsored by a weak employer, where risk-taking by the IORP is not affordable. But our concern is that a blanket requirement to perform ORSA in all circumstances is inappropriate, will become a box-ticking exercise and a wasteful use of IORP resources for many.</p> <p>Our strong preference is for risk assessment to be a scheme-specific exercise, where the IORP, overseen by its national supervisor, undertakes risk assessment activity that is appropriate for the risks that the IORP faces. We certainly think it appropriate for supervisory bodies to give guidance on the scope of assessment, but a standard approach for all would be unnecessary.</p> <p>This may seem an odd comment coming from the Association of Consulting Actuaries, whose members stand to gain additional work in supporting ORSA. However, we believe that it is in the long-term interests of the pensions industry and, frankly, ourselves that IORPs should not be saddled with additional costs and take up management time and resources on activities that will be inappropriate for many.</p>	
437.	Association of French Insurers (FFSA)	69.	85. The FFSA fully agrees with EIOPA that ORSA is suitable for IORPs. Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including	Agreed.

			<p>ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All pension providers should be able to manage the risks, inherent to its business.</p> <p>In addition, the FFSA suggest EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.</p>	
438.	Association of Pensioner Trustees in Ireland	69.	See response to question 63.	Noted.
439.	Assoprevidenza – Italian Association for supplement	69.	We agree with the principle that IORPs have to face all risks and to protect themselves. ORSA can be a tool, but the same functions can be done by risk management and capital requirement if calculated taking in account long period trends. In any case ORSA should be applied proportionately to the nature, size and complexity of IORPs	Partially agreed. ORSA should be seen as supplement of RM.
440.	Assuralia	69.	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.	Agreed.
441.	Belgian Association of Pension Institutions (BVPI-	69.	<p>Do you agree with EIOPA that ORSA is, in principle, suitable for IORPs? Please provide evidence/reasons supporting your view.</p> <p>BVPI-ABIP is in favour of option 1 and believes it will be more efficient to focus on the risk management function which</p>	Noted. EIOPA clarified that the

			<p>includes concepts included in the ORSA rather than pile up several requirements that have the same purpose. It will create an accumulation of legislation and requirement which is misleading and too burdensome.</p> <p>BVPI-ABIP considers that ORSA as such is only suitable for IORPs bearing investment risk themselves.</p> <p>In other situations ORSA would actually have to address the pension scheme as a whole. This is coherent with the holistic approach and raises the same questions of scope and level playing field.</p> <p>So if the sponsor is bearing the risk we do not see what ORSA would add to the risk management principles laid down in CFA 15.</p>	<p>scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.</p>
442.	BNP Paribas Cardif	69.	<p>BNP Paribas Cardif fully agrees with EIOPA that ORSA is suitable for IORPs. Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All pension providers should be able to manage the risks, inherent to its business.</p> <p>In addition, BNP Paribas Cardif suggest EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.</p>	<p>Agreed.</p>

443.	Bosch Pensionsfonds AG	69.	We are strongly in favour of Option 1: do not include ORSA in the IORP Directive. Its aim can for IORPs - with a different risk structure than insurance companies - be more efficiently reached through risk management, rather than piling up several requirements with the same purpose. This would only increase cost and complexity with no added value for IORPs.	Noted. EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs. ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately.
444.	Bosch-Group	69.	We are strongly in favour of Option 1: do not include ORSA in the IORP Directive. Its aim can for IORPs - with a different risk structure than insurance companies - be more efficiently reached through risk management, rather than piling up several requirements with the same purpose. This would only increase cost and complexity with no added value for IORPs.	See 443.
445.	BT Pension Scheme Management Ltd	69.	We believe that the ORSA may offer a preferable alternative route to having an appropriate risk and security analysis of IORPs than the proposed hard quantitative proposals involved in the proposed balance sheet and solvency capital requirement. We believe that such internal models are more likely to be able to take account of the wide variation of pension schemes across Europe than the hard single approach	Noted. EIOPA agrees that ORSA needs to be applied proportionately. Comments on quantitative

			of the balance sheet. We would therefore welcome its being applied to IORPs, with the appropriate caveats around its proportional application, as indicated in EIOPA's comments.	requirements are addressed in CfA 5.
446.	CEA	69.	<p>The CEA fully agrees with EIOPA that ORSA is suitable for IORPs. Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All pension providers should be able to manage the risks, inherent to its business. However, how this ORSA should be applied in practice will depend on the approach followed as regards quantitative requirements. Less sophisticated approaches as regards capital requirements make it even more important that the ORSA process captures all risks in adequate risk-based economic manner.</p> <p>In addition, the CEA suggest EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.</p>	Agreed. However, differences of occupational pensions must be taken into account.
447.	Charles CRONIN	69.	I agree in principle that Own Risk and Solvency Assessment (ORSA) process is suitable for IORPs. I believe that many IORPs go through a simple process as a matter of best practice; therefore making it an industry standard should be welcomed.	Agreed.
448.	Chris Barnard	69.	I agree that ORSA is, in principle, suitable for IORPs. In particular, ORSA should also consider:	Agreed.

			<ul style="list-style-type: none"> <li>- discretionary benefits, and communications and expectations thereon;</li> <li>- the holistic balance sheet, especially expectations of sponsor support.</li> </ul> <p>Such an assessment would be useful in order to better manage the expectations of members and beneficiaries, the IORP, its sponsor and also supervisors in these regards. ORSA is also more consistent with Solvency II methodology.</p> <p>I would recommend a broad application of the proportionality principle regarding the ORSA, which should be consistent with risk management (please see my response to question 68).</p>	
449.	CMHF (Centrale van Middelbare en Hogere Functionar	69.	<p>Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.</p>	Agreed.
450.	De Unie (Vakorganisatie voor werk, inkomen en loop	69.	<p>Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which</p>	Agreed.

			appropriately fits with the long term character of IORPs.	
451.	Direction Générale du Trésor, Ministère des financ	69.	We think that an ORSA is suitable for IORPS since its function is to give a comprehensive view on the risk borne by the entity which is not limited to the time horizon used for the capital requirement definition.	Agreed.
452.	Ecie vie	69.	We do agree : ORSA is suitable to IORPs as it helps the management body to understand and manage the risk.	Agreed.
453.	European Federation for Retirement Provision (EFRP	69.	<p>The EFRP is in favor of option 1 and believes it will be more efficient to focus on the risk management function which includes concepts included in the ORSA rather than pile up several requirements that have the same purpose. It will create an accumulation of legislation and requirement which is misleading and too burdensome.</p> <p>The qualitative (intangible risk such as environmental, political and regulatory changes) and long term considerations about risk should be included in the risk assessment as it is proposed in the point 20.2.8 of the Call for Advice 15 on risk management.</p>	<p>Noted.</p> <p>ORSA is extension of RM and integral part of IORP's business strategy. It needs to be applied proportionately.</p>
454.	European Fund and Asset Management Association (EF	69.	We do not think an Own Risk and Solvency Assessment (ORSA) is suitable for second pillar pensions as there is an employer sponsor.	Noted. The textof advice has been clarified.
455.	Federation of the Dutch Pension Funds	69.	Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes	Agreed.

			are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.	
456.	Financial Reporting Council	69.	We consider that in principle requiring IORPs to monitor their own risks and to have a practice of forward looking solvency assessment is appropriate. However the detailed requirements need to be proportionate. We consider that the ORSA process in Solvency II is excessive for most IORPs. Principles based regulation would support different approaches for IORPs with different circumstances and needs. However, there is a danger that new requirements could result in considerable extra costs for IORPs. The administrative impact of introducing the ORSA needs to be considered in conjunction with the administrative impact of other provisions. We would therefore suggest that the general objective of the ORSA can be achieved by proper and appropriate risk management.	Noted. EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms. According to EIOPA, ORSA needs to be applied proportionately.
457.	FNV Bondgenoten	69.	Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.	Agreed.
458.	Generali vie	69.	We do agree : ORSA is suitable to IORPs as it helps the management body to understand and manage the risk.	Agreed.

459.	Groupe Consultatif Actuariel Européen.	69.	<p>1. We support the requirement for an ORSA, provided that there is flexibility for components/requirements appropriate to individual Member States.</p> <p>2. The support stems from the fact that the ORSA should instil discipline on the IORP trustees/management board to take more of a holistic view, pulling together issues that might otherwise be considered in isolation (for example, where these have been considered by different sets of appointed advisers and possibly different committees of trustees/the board). Issues of proportionality could be addressed in appropriate streamlining to assist compliance by smaller IORPs.</p> <p>The ORSA could also encourage more regular (possibly even ongoing) assessment, as opposed to the snapshot position that might be considered within the HBS and give opportunity for the management of the IORP to show how they had balanced all the moving pieces in a risk management context.</p>	Agreed.
460.	Groupement Français des Bancassureurs	69.	<p>FBIA fully agrees with EIOPA that ORSA is suitable for IORPs. Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All pension providers should be able to manage the risks, inherent to its business.</p> <p>In addition, the suggests EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.</p>	Agreed.

461.	PMT-PME-Mn Services	69.	Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.	Agreed.
462.	HM Treasury/Department for Work and Pensions	69.	UK concurs with the view that the purpose of ORSA is adequately covered by scheme funding requirements. In terms of UK institutions, it is not clear what value is added by requiring institutions to calculating discretionary benefits, which are after all discretionary.	Noted. ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately.
463.	IMA (Investment Management Association)	69.	We are not persuaded that the ORSA is suitable for IORPs since once again, it assumes that an employer-sponsored scheme is somehow comparable in nature to an insurance company. It follows from our comments about the role of the employer covenant in DB schemes that application of the ORSA should be approached with great care.	Noted. EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.
464.	Institute and Faculty of Actuaries (UK)	69.	We favour the application of Enterprise Risk Management techniques to IORPs. We therefore agree that ORSA is, in principle, suitable for IORPs but in practice we doubt that such	Noted. EIOPA clarified that

			a requirement can be transcribed to IORPs in a proportionate way unless it is cast in terms wide enough to allow a purely qualitative approach where appropriate.	the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.
465.	KPMG LLP (UK)	69.	<p>No. We struggle to see what extra value would be added, over and above the present annual reviews of funding which are carried out for defined benefit IORPs with sponsor support, for entities which have such long-term time horizons. Ever-more frequent assessments could lead to behaviour which could be damagingly pro-cyclical. If any form of ORSA is to be mandated, it should be subject firstly to a proper impact assessment and cost-benefit analysis.</p> <p>We would also point out that many IORPs, unlike insurance companies, do not have full-time professional managers or staff, making continuous assessment of any kind a practical impossibility.</p>	<p>Noted.</p> <p>EIOPA agrees with the need for a thorough impact assessment. ORSA will be subject to proportionality principle.</p>
466.	Le cercle des épargnants	69.	We do agree : ORSA is suitable to IORPs as it helps the management body to understand and manage the risk.	Agreed.
467.	Mercer	69.	Our view is that the requirement for risk management policies, the framework underlying the holistic balance sheet including the need to establish how an IORP's measurements of a scheme's technical provisions relate to the different forms of security, including financial assets and employer covenant, should be sufficient. Overlaying an additional process for IORPs seems unlikely to add additional value.	<p>Noted.</p> <p>EIOPA concurs that ORSA must be applied proportionately to the nature, size and complexity of</p>

			<p>ORSAs might be valuable in an insurance company context, since it encourages company management to consider how the risk management and other regulatory processes imposed by Solvency II affect their ability to attract new business and shareholder capital. The ORSA can be used to establish a position that marks a company as different from its competitors but, because it is part of the regulatory process, it enables supervisory authorities to monitor how companies ORSAs relate to other aspects of Solvency II's capital and governance requirements.</p> <p>However, these tools do not seem useful to IORPs, which do not have to satisfy the same market disciplines. The risk management and financial measures imposed via the supervisory regime ought to be adequate to achieve the objectives set out by EIOPA in Chapter 21 of its consultation, for an IORP's ORSA.</p>	<p>IORPs. Since the discretionary benefits are not included in funding calculations they can only be captured by ORSA. We consider ORSA an useful supplement of RM.</p>
468.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	69.	<p>Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.</p>	<p>Agreed.</p>
470.	National Association of	69.	<p>OWN RISK AND SOLVENCY ASSESSMENT</p>	<p>Agreed.</p>

	Pension Funds (NAPF)		<p>Do you agree with EIOPA that ORSA is, in principle, suitable for IORPs? Please provide evidence/reasons supporting your view.</p> <p>The ORSA could provide a useful tool for conducting a qualitative assessment of governance standards and procedures in IORPs.</p> <p>However, the ORSA should be seen as an alternative to the holistic balance sheet, not as a complement or addition to it.</p> <p>The ORSA should take full account of the IORP's existing internal controls and should not be overly prescriptive.</p>	
473.	Pensioenfond Zorg en Welzijn (PFZW)	69.	Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.	Agreed.
474.	Predica	69.	Predica fully agrees with EIOPA that ORSA is suitable for	Agreed.

			<p>IORPs. Indeed as EIOPA correctly indicates, there are arguments against but the arguments in favour of including ORSA into the revised IORP Directive are much stronger. Not only should ORSA help the management body to understand the sources of risk – resulting in informed decision. But also, it is a self-evaluating tool, helping to assess whether the objectives are met. All pension providers should be able to manage the risks, inherent to its business.</p> <p>In addition, Predica suggests EIOPA to keep a reference to article 45 of the solvency II Directive to at least use it as a basis for defining level 1 measures in the revised IORP Directive.</p>	
475.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	69.	<p>Yes, we agree that ORSA is suitable for IORP's. We offer the following reasons:</p> <p>22. The ORSA is not intended to compute capital requirements, but it must be an integral part of the business strategy and must be taken into account on an ongoing basis in the strategic decisions of the insurer. ORSA may also serve as a useful tool for pension funds as it will strengthen the understanding of risk sources, encourages a professional risk management culture and creates confidence amongst all stakeholders in the viability of the pension funds financial policy. As ORSA is a dynamic forward-looking risk management tool, it naturally connects to the profile of pension funds.</p>	Agreed.
476.	PTK (Sweden)	69.	<p>PTK is in favor of option 1 and believes it will be more efficient to focus on the risk management function which includes concepts included in the ORSA rather than pile up several requirements that have the same purpose. It will create an accumulation of legislation and requirement which is</p>	<p>Noted.</p> <p>EIOPA clarified that the scope of ORSA should be commensurate</p>

			<p>misleading and too burdensome.</p> <p>The qualitative (intangible risk such as environmental, political and regulatory changes) and long term considerations about risk should be included in the risk assessment as it is proposed in the point 20.2.8 of the Call for Advice 15 on risk management.</p>	<p>with different risk sharing mechanisms, hence useful to all types of IORPs. ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately</p>
477.	Railways Pension Trustee Company Limited ("RPTCL	69.	<p>RPTCL doubts that ORSA could be applied in a proportionate way to IORPs. However, we support the use of appropriate risk management tools such as a regularly maintained risk register.</p>	<p>ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately</p>
478.	Standard Life Plc	69.	<p>The UK has very specific requirements for an employer in relation to DB pension schemes which result in a much lesser case for the need for an ORSA. The use of appropriately knowledgeable and skilled trustees and their regulatory requirements to act on behalf of the members of the schemes is a sensible and practical approach to the operation of a pension scheme.</p>	<p>EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.</p>
479.	TCO	69.	<p>TCO is in favor of option 1 and believes it will be more efficient to focus on the risk management function which includes concepts included in the ORSA rather than pile up several requirements that have the same purpose. It will create an accumulation of legislation and requirement which is</p>	<p>Noted.</p> <p>ORSA is extension of RM and integral part of business strategy. It needs</p>

			<p>misleading and too burdensome.</p> <p>The qualitative (intangible risk such as environmental, political and regulatory changes) and long term considerations about risk should be included in the risk assessment as it is proposed in the point 20.2.8 of the Call for Advice 15 on risk management.</p>	<p>to be applied proportionately</p>
480.	The Association of Pension Foundations (Finland)	69.	<p>As EIOPA already estimates, suitability of ORSA for IORP's can be questioned with several arguments. It is not desirable to turn small IORP's into large pension insurance nor it is desirable to apply rules made for large-scale insurance purposes to be applied to IORP's with simpler and smaller function and guaranteed by sponsor only to its own personnel without business activity.</p> <p>New rules which generate either little value or possibly no added value at all, inevitably contribute the willingness of sponsors to carry on current pension provision but also to their willingness to start a new one. We fear that principle of proportionality is not capable of taking into account in adequate proportion. Therefore we prefer the option 1.</p>	<p>Disagreed.</p> <p>It is not intention of EIOPA to turn small IORPs into large pension insurance. EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.</p>
481.	The Association of the Luxembourg Fund Industry (A	69.	<p>The Respondents are in favour of option 1 and believes it will be more efficient to focus on the risk management function which includes concepts included in the ORSA rather than pile up several requirements that have the same purpose. It will create an accumulation of legislation and requirement which is misleading and too burdensome.</p>	<p>Noted.</p> <p>ORSA is extension of RM and integral part of business strategy. EIOPA emphasised in its advice that RM and ORSA should</p>

				supplement each other, not overlap.
482.	THE SOCIETY OF PENSION CONSULTANTS	69.	<p>No. We do not believe that there should be prescribed requirements as to financial assessments by schemes over and above periodic funding assessments. Funding assessments are quantitative and currently relatively straightforward for employers and schemes to perform, usually employing an external actuary. By comparison, a prescribed ORSA would in our view be onerous for employers and schemes. It would extend to the wider, longer-term projected position, including an assessment of the value of the sponsoring employer's covenant and probably including a stress-testing approach, taking into account possible scenarios for changes in investment strategy and general financial conditions. Inevitably, such an approach would involve approximations and a degree of qualitative assessment. In principle, pension schemes should carry out this type of assessment as part of the scheme's ongoing risk management processes but the form and content should not be prescribed.</p> <p>The assessments need to reflect the circumstances of the scheme. A flexible risk-based approach, as referred to in question 69, should be allowed to continue.</p>	<p>Noted.</p> <p>ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately</p>
483.	UK Association of Pension Lawyers	69.	<p>CfA 16 (Own risk and solvency assessment): Do you agree with EIOPA that ORSA is, in principle, suitable for IORPs? Please provide evidence / reasons supporting your view.</p> <p>We do not agree that the ORSA is in principle suitable for IORPs. It is our view that the potential complexities of IORPs regularly conducting an ORSA outweigh any potential benefits.</p>	<p>Noted.</p> <p>ORSA is extension of RM and integral part of business strategy. EIOPA considers it a</p>

			History in the conduct of the operation and administration of IORPs in the UK does not indicate any need for such a step at all. There is no requirement needing to be fulfilled in this respect.	useful tool for encouraging a professional risk management culture and creating confidence amongst all stakeholders in the viability of the pension funds financial policy.
484.	Universities Superannuation Scheme (USS),	69.	OWN RISK AND SOLVENCY ASSESSMENT  Do you agree with EIOPA that ORSA is, in principle, suitable for IORPs? Please provide evidence/reasons supporting your view.	Noted.
485.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	69.	Yes, we agree with EIOPA that an ORSA is in principle suitable for IORPs. We think the ORSA is a good instrument for IORPs to show that the risks and solvency position is fully understood by the Board of Trustees, and that risk management processes are an integral part of all day to day managerial processes. The funding calculations do not cover in our view all aspects of this assessment. We agree with EIOPA that funding calculations and capital requirements are only quantitative and snapshot, while an ORSA is also qualitative and long term, which appropriately fits with the long term character of IORPs.	Agreed.
486.	Whitbread Group PLC	69.	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. EIOPA considers

				<p>ORSA as a useful tool for encouraging a professional risk management culture and creating confidence amongst all stakeholders in the viability of the pension funds financial policy. EIOPA stresses that ORSA needs to be applied proportionately.</p>
487.	Zusatzversorgungskasse des Baugewerbes AG	69.	<p>We agree with the principle that IORPs have to face all risks and to protect themselves. ORSA can be a tool to get that overview. But the same function provides a proper risk management process taking into account long period trends. In any case ORSA should be applied proportionately to the nature, size and complexity of IORPs.</p> <p>Especially the prospective nature of ORSA seems to make it an useful part of pillar 2. But there are two aspects that we like to stress concerning ORSA:</p> <ol style="list-style-type: none"> <li>1. Art. 45 (1) deals with capital requirement almost only. This is inappropriate for pension funds that do not bear the risks alone (as mentioned above more than once). This subparagraph cannot be transferred to IORP II.</li> <li>2. Since ORSA is a time-consuming and resource-intensive process and the security mechanisms of IORPs very often</li> </ol>	<p>Partially agreed. The text of advice was amended.</p>

			<p>consist in a variety of legal and contractual constructions ORSA should be divided in a full assessment, done maybe on a 3-year-timeframe and a lighter assessment based on the more volatile aspects of security, e.g. liquidity calculations, done on a yearly basis.</p>	
488.	Towers Watson	69.	<p>70. CfA 16 Own risk and solvency assessment</p> <p>Do you agree with EIOPA that ORSA is, in principle, suitable for IORPs? Please provide evidence/reasons supporting your view</p> <p>No. In principle it might be suitable, but we are not convinced that it can be implemented in a suitably proportionate way. In particular, we do not believe that there should be prescribed requirements as to financial assessments by schemes over and above periodic funding assessments.</p> <p>A prescribed ORSA has the potential to be onerous for employers and IORPs. It would extend to the wider, longer-term projected position, including an assessment of the value of the sponsoring employer's covenant and probably including a stress-testing approach, taking into account possible scenarios for changes in investment strategy and general financial conditions. Inevitably, such an approach would involve approximations and a degree of qualitative assessment.</p>	<p>Noted.</p> <p>EIOPA put a strong emphasize in its advice on the need to apply ORSA proportionately to nature, scale and complexity of IORPs. EIOPA clarified that the scope of ORSA should be commensurate with different risk sharing mechanisms, hence useful to all types of IORPs.</p>
489.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	70.	<p>We believe that the scope of the ORSA should be flexible enough to consider the differences in the IORP's business models – especially in the case where members bear all the risks. In accordance with proposed principles for risk management, we believe that ORSA should also be considered from the perspective of members and beneficiaries based on the rules laid down in the agreement between IORP and employer/employee.</p>	<p>Agreed.</p>

			While ORSA may further improve risk-based governance of IORPs and strengthen the dialogue between IORPs and supervisory authorities, the OPSG would nevertheless back EIOPA's concerns on the costs of implementing ORSA.	
490.	AbA Arbeitsgemeinschaft für betriebliche Altersver	70.	The revised IORP Directive should not include ORSA. Its aim will be sufficiently achieved by risk management and security mechanisms.	See response to AbA (427)
491.	ABVAKABO FNV	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
492.	AEIP	70.	Based on the conditions as laid down within answer 69 the scope should be the same. The impact will be additional costs. Charging IORPs of costs that are not useful without any real return in terms of security and efficiency must be avoided. Therefore the proportionality principle must be applied appropriately.	Agreed. EIOPA puts a strong emphasis on proportionality principle.
494.	AMONIS OFF	70.	What should be the scope of ORSA for IORPs where members bear all the risks? How do you assess the impact of introducing ORSA?  If the sponsor is bearing the risk we do not see what ORSA would add to the risk management principles laid down in CFA 15.	Noted.  EIOPA explained in the advice that for this type of schemes ORSA should cover

				operational risk and it could help to consider whether the defined investment and risk objectives are met. Furthermore it can help to ensure that IORP makes a comprehensive assessment of its risk profile and risk management in view of its business strategy.
495.	ANIA – Association of Italian Insurers	70.	<p>Firstly, since the ORSA is the undertakings own analysis, maximum flexibility should be allowed in their assessment.</p> <p>In addition, the ANIA highlights that the main purpose of the ORSA is not to monitor the compliance with regulatory capital requirements or to quantify the solvency needs. The ORSA has to ensure a comprehensive assessment of the undertaking’s risk profile and risk management in view of its business strategy. Hence, the ORSA could also be suitable or IORP’s where members bear all risk. All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.</p>	Agree.
496.	Association of British Insurers	70.	The ABI does not believe an ORSA is appropriate for IORPs where the member bears all the risk. It is not clear how an ORSA would be constructed for such IORPs as some of the	See response to Amonis OFP (No 494).

			<p>solvency issues that might be relevant for an insurance company should not arise.</p>	
497.	Association of Consulting Actuaries (UK)	70.	<p>There are a number of risks, other than operational risks, that are specific to IORPs where members bear all the risks. We suspect that ORSA will not give these the prominence that they deserve.</p> <p>For defined contribution schemes, on top of operational risks such as delivering the investment returns intended, these include:</p> <p>Benefits being inadequate for the member's objectives, either because of inadequate contributions or inappropriate investment</p> <p>Members being unaware of investment risks and making inappropriate investment choices</p> <p>Members making inappropriate decisions when converting their fund to a retirement pension, typically via an annuity purchase</p> <p>Other scheme designs will have other risks specific to their design. For example, the managers of Collective Defined Contribution schemes in the Netherlands, which share pension risks between different generations of members, are likely to want to set a limit on the extent to which risks are transferred in this way. Any risk assessment needs to focus on these kinds of risks that are relevant to the members of the IORP.</p>	<p>Noted. See response to Amonis OFP (No 494).</p>
498.	Association of French Insurers (FFSA)	70.	<p>86. The main purpose of the ORSA is to ensure a comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy. Hence, the ORSA could also be suitable for IORPs where members bear all risk.</p>	<p>Agreed.</p>

			All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.	
499.	Association of Pensioner Trustees in Ireland	70.	See response to question 63.	Noted.
500.	Assoprevidenza – Italian Association for supplement	70.	First part of the question: see 69. The impact will be additional costs. Charging IORPs of costs that are not useful without any real return in terms of security and efficiency must be avoided. Therefore the proportionality principle must be applied appropriately.	Partially Agree. See response to No 439. EIOPA agrees that ORSA needs to be applied proportionately.
501.	Assuralia	70.	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.	Agreed.
502.	Belgian Association of Pension Institutions (BVPI-	70.	What should be the scope of ORSA for IORPs where members bear all the risks? How do you assess the impact of introducing ORSA? If the sponsor is bearing the risk we do not see what ORSA would add to the risk management principles laid down in CFA 15.	See response to Amonis OFP (No 494).
503.	BNP Paribas Cardif	70.	The main purpose of the ORSA is to ensure a comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy. Hence, the ORSA	Agreed.

			<p>could also be suitable for IORPs where members bear all risk.</p> <p>All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.</p>	
504.	BT Pension Scheme Management Ltd	70.	We agree with the implications of the proposal, that in effect the ORSA would be of only limited relevance to DC structures.	Agreed.
505.	CEA	70.	<p>Firstly, since the ORSA is the undertakings own analysis, maximum flexibility should be allowed in their assessment.</p> <p>In addition, the CEA highlights that the main purpose of the ORSA is not to monitor the compliance with regulatory capital requirements or to quantify the solvency needs. The ORSA has to ensure a comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy. Hence, the ORSA could also be suitable or IORP's where members bear all risk. All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.</p>	Agreed.
506.	Charles CRONIN	70.	The scope of the ORSA for IORPs where the members bear all the risks should be relatively limited. Risk assessment would include the IORP's operational risk. Where the IORP is offering (pre-selecting) investment products for members, the IORP should conduct a suitability and lifetime cost (refer to my answer to question 4, where members leave the employer and suddenly face a material increase in investment costs) competitiveness assessments in the selection of those products. It should then monitor the performance of those	<p>Partially agreed.</p> <p>EIOPA explained in the advice that for this type of schemes ORSA should cover operational risk and it could help to consider whether</p>

			products against specification and continue to search for better alternatives. The latter point would not only benefit member interests but would also promote competition amongst product providers.	the defined investment and risk objectives are met
507.	Chris Barnard	70.	The scope of ORSA for IORPs where members bear all the risks should be quite limited. However it could cover the assessment of operational risk impacts as well as information on the objectives of the IORP and the strategic and market developments affecting the IORP.	Agreed.
508.	CMHF (Centrale van Middelbare en Hogere Functionar	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
509.	De Unie (Vakorganisatie voor werk, inkomen en loop	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
510.	Ecie vie	70.	ORSA apply to different risk (assets, guarantees, operational risk...), so it could be suitable for IORPs where members bear all risk.	Agreed.
511.	European Federation for	70.	The EFRP believes that, in principle, proper investment rules and efficient risk management are sufficient.	Noted. The ORSA has to ensure a

	Retirement Provision (EFRP)		ORSA could be seen as an interesting tool for assessing the strategy and internal risk at the IORP level. However, the introduction of ORSA will increase the administrative costs for IORPS, members and supervisory authorities. Therefore, it is very questionable whether an appropriate balance between potential benefits and costs of ORSA can be found.	comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy, therefore EIOPA finds it a useful tools. We emphasise to the Commission that it needs to be applied proportionately.
512.	Federation of the Dutch Pension Funds	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
513.	Financial Reporting Council	70.	As in our response to question 69 we consider that the objective of the ORSA can be achieved by proper and appropriate risk management.	Noted. ORSA is extension of RM and integral part of business strategy.
514.	FNV Bondgenoten	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this	Agreed.

			representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	
515.	Generali vie	70.	ORSA apply to different risk (assets, guarantees, operational risk...), so it could be suitable for IORPs where members bear all risk.	Noted.
516.	Groupe Consultatif Actuariel Européen.	70.	In principle, we support the proposal to require DC IORPs to undertake an ORSA, although the scope of this will be limited, particularly where functions and activities are outsourced.	Agreed.
517.	Groupement Français des Bancassureurs	70.	The main purpose of the ORSA is to ensure a comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy. Hence, the ORSA could also be suitable for IORPs where members bear all risk.  All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.	Agreed.
518.	PMT-PME-Mn Services	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
519.	IMA (Investment Management Association)	70.	Given the specific nature of a DC balance sheet where members bear all risks, it is not clear to us how an ORSA would be constructed since some of the solvency issues that might be	Noted. See response to Amonis OFP (No

			relevant for an insurance entity should not arise. Again, we would question the relevance of this approach for a DC pension environment.	494).
520.	Institute and Faculty of Actuaries (UK)	70.	<p>For IORPs where members bear all the risks, we consider that there should be a requirement to communicate to the members the full implications of their exposure in terms of the risk to benefits but that then an ORSA would not be appropriate for such IORPs.</p> <p>In particular we have a concern that requiring an ORSA for IORPs where members bear all the risks may create an unlevel playing field and that the number of such IORPs would fall substantially (because they would be converted into insurance contracts).</p>	
521.	Le cercle des épargnants	70.	ORSA apply to different risk (assets, guarantees, operational risk...), so it could be suitable for IORPs where members bear all risk.	Agreed.
522.	Mercer	70.	<p>Our answer to question 69 applies equally to IORPs where members bear all the risks. In both cases the only circumstance in which we can see value to IORPs carrying out an ORSA is where the regulatory regime does not enable them to manage their risk properly, or to establish sufficient financial or other assets to achieve adequate levels of member security. If the regulatory regime prevents that, then we view it as a failure of the regulatory regime, rather than a reason for IORPs to establish additional and different risk management techniques.</p> <p>However, it will be necessary to ensure that, as far as</p>	<p>Noted.</p> <p>See response to Amonis OFP (No 494).</p>

			necessary, the risk management and other aspects of the regulatory regime apply to defined contribution as well as defined benefit schemes.	
523.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
527.	Pensioenfonds Zorg en Welzijn (PFZW)	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
528.	Predica	70.	The main purpose of the ORSA is to ensure a comprehensive assessment of the undertaking's risk profile and risk management in view of its business strategy. Hence, the ORSA could also be suitable for IORPs where members bear all risk.  All pension providers should be able to understand the risks they face or could face in the short and long term and to assess the adequacy of the security mechanisms.	Agreed.
529.	prof.dr. A.A.J.	70.	Agree. One could add that the ORSA in this case should focus	Agreed.

	Pelsser HonFIA, Netspar & Maastric		on whether the risks taken by the pension fund are in line with the members' reasonable expectations.	
530.	PTK (Sweden)	70.	PTK strongly stress that proper investment rules and efficient risk management are sufficient. The introduction of ORSA will increase the administrative costs for IORPS, members and supervisory authorities.	Noted. ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately thus avoiding unfounded increase in costs.
531.	Railways Pension Trustee Company Limited ("RPTCL	70.	We do not consider ORSA to be appropriate for IORPs where members bear all the risk. Consequently, where members bear a significant proportion of the risk, we consider the ORSA requirements should be reduced on a proportionate basis.	Noted. See response to Amonis OFP (No 494).
532.	Standard Life Plc	70.	We do not believe an ORSA is appropriate for IORPs where the member bears all the risk. It is not clear how an ORSA would be constructed for such IORPs as some of the solvency issues that might be relevant for an insurance company should not arise.	Noted. See response to Amonis OFP (No 494).
533.	TCO	70.	TCO strongly stresses that proper investment rules and efficient risk management are sufficient. The introduction of ORSA will increase the administrative costs for IORPS, members and supervisory authorities.	Noted. See response to Amonis OFP (No 494).
534.	The Association of Pension Foundations	70.	As we are in favour of option 1, we see that an accumulation of legislation and requirements is building up too burdensome.	Noted. See response to No

	(Finland)			480.
535.	The Association of the Luxembourg Fund Industry (A	70.	The ORSA should not be applicable for IORPs where sponsors and/or members bear the risks. The Respondents stress that proper investment rules and risk management are sufficient. The introduction of ORSA will increase the administrative costs for IORPS, members and supervisory authorities. The added value of the initiative will be smaller than the costs.	Noted. ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately thus avoiding unfounded increase in costs
536.	THE SOCIETY OF PENSION CONSULTANTS	70.	It is not clear why question 69 was asked, if the answer is assumed to be yes.  Where, in a defined contributions arrangement, the risks are borne by members, we believe that legislation covering reporting and scheme governance is the appropriate method of assessing risks and we do not see that a separate requirement for an ORSA would add to members' protection.	Noted. ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately thus avoiding unfounded increase in costs. See also response to Amonis OFP (No 494).
537.	UK Association of Pension Lawyers	70.	CfA 16 (Own risk and solvency assessment): What should be the scope of ORSA for IORPs where members bear all the risks? How do you assess the impact of introducing ORSA?  There is no scope for introducing ORSA for IORPs at all. The cost of conducting an ORSA diverts funds that would otherwise be available for benefit provision.	Noted. See response to No 480.

538.	Universities Superannuation Scheme (USS),	70.	What should be the scope of ORSA for IORPs where members bear all the risks? How do you assess the impact of introducing ORSA?	
539.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	70.	In the Netherlands, the members bear part of the risk together with the sponsoring undertaking. The board of trustees is usually a representation of the stakeholders, through employee and employer associations. It is recommendable that this representation still understands the risks run within the IORP. We do not see major differences for this type of IORP. We can understand that for less complex IORPs such as in funded DC schemes, the scope of the ORSA could be smaller.	Agreed.
540.	Whitbread Group PLC	70.	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. See response to No 486.
541.	Zusatzversorgungskasse des Baugewerbes AG	70.	Based on the conditions as presented within answer 69 the scope should be the same. The impact will consist of additional costs. Charging IORPs of costs that are not useful without any real return in terms of security and efficiency must be avoided. Therefore the proportionality principle must be applied appropriately.	See response to Amonis OFP (No 494).
542.	Towers Watson	70.	71. What should be the scope of ORSA for IORPs where members bear all the risks? How do you assess the impact of introducing ORSA?  Where, in a defined contributions arrangement, the risks are borne by members, we believe that legislation covering reporting and scheme governance is the appropriate method of assessing risks and we do not see that a separate requirement for an ORSA would add to members' protection. There is, of	See response to Amonis OFP (No 494).

			course, a need to communicate with members – but this is dealt with in other areas of the consultation document.	
543.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	71.	<p>In the event that the holistic balance sheet approach is adopted, the OPSG believes that for both DB and DC schemes ORSA should not be performed, since funding calculations for solvency requirements are already covering this matter. Furthermore, the OPSG considers that ORSA should rather be considered together with the risk-based internal control management tools as a substitute for costly solvency capital requirements.</p> <p>Alternatively, if the holistic balance sheet approach is not adopted, ORSA should be performed exclusively for DB schemes.</p>	<p>Noted.</p> <p>ORSA is extension of RM and integral part of business strategy. It needs to be applied proportionately.</p> <p>See also response to Amonis OFP (No 494).</p>
544.	AbA Arbeitsgemeinschaft für betriebliche Altersver	71.	<p>The revised IORP Directive should not include ORSA. Its aim will be sufficiently achieved by risk management and security mechanisms.</p> <p>ORSA for insurers is a very time-consuming and costly process which should be avoided.</p>	<p>Noted.</p> <p>See response to AbA (427)</p>
545.	ABVAKABO FNV	71.	<p>If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.</p>	<p>Agreed.</p>
546.	AEIP	71.	<p>138. We refer to our answer on question 69.</p> <p>Concerning ORSA we cannot see any differences between a security regime that would be based on the holistic approach</p>	<p>Noted.</p>

			approach or one that is not based on that approach.	
548.	AMONIS OFP	71.	<p>What is the stakeholders' view of the necessity to perform ORSA in the event that the holistic balance sheet approach is adopted?</p> <p>ORSA can be seen as a qualitative development of the holistic balance assessment. However AMONIS OFP rejects as stated earlier the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule and the presentation of this in a holistic balance sheet.</p>	Noted.
549.	ANIA – Association of Italian Insurers	71.	<p>According to the ANIA, introducing ORSA will only provide its usefulness if Solvency II like quantitative capital requirements – risk based - are imposed to IORPs.</p> <p>The ANIA believes that there is a necessity to perform ORSA in the case such risk based capital requirements are imposed to check:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the objectives of the IORP are in line under different economic scenarios, even on a long term horizon</li> <li><input type="checkbox"/> Assess the adequacy of the security mechanisms</li> </ul> <p>As such, the ORSA is not only an approach for determining capital needs but has to form an integral part of the risk management process and decision taking framework of the undertaking. Therefore, the holistic balance sheet approach cannot be a substitute for the ORSA process. Off course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.</p>	Agreed.
550.	Association of British Insurers	71.	The ABI has no further comments to add beyond those made in Question 69 and Question 70.	Noted.

551.	Association of French Insurers (FFSA)	71.	<p>87. The Holistic balance sheet approach cannot be a substitute for the ORSA process as ORSA gives a dynamic and prospective view of the risks.</p> <p>But of course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.</p>	Agreed.
552.	Association of Pensioner Trustees in Ireland	71.	See response to question 63.	Noted.
553.	Assoprevidenza – Italian Association for supplement	71.	See 69. Concerning ORSA we cannot see any differences between a security regime that would be based on the holistic balance sheet approach or one that is not based on that approach.	Noted.
554.	Assuralia	71.	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.	Agreed. However, differences in risk sharing mechanisms in pension environment should be considered.
555.	Belgian Association of Pension Institutions (BVPI-	71.	<p>What is the stakeholders' view of the necessity to perform ORSA in the event that the holistic balance sheet approach is adopted?</p> <p>ORSA can be seen as a qualitative development of the holistic balance sheet. However BVPI-ABIP rejects as stated earlier the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule and the presentation of this in a holistic balance sheet.</p>	Noted.

556.	BNP Paribas Cardif	71.	<p>The Holistic balance sheet approach cannot be a substitute for the ORSA process as ORSA gives a dynamic and prospective view of the risks.</p> <p>But of course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.</p>	Agreed.
557.	BT Pension Scheme Management Ltd	71.	<p>As indicated above in response to Question 69, we believe that the ORSA should be required and the holistic balance sheet should not.</p>	Noted.
558.	CEA	71.	<p>According to the CEA, introducing ORSA will only provide its usefulness if Solvency II like quantitative capital requirements – risk based - are imposed to IORPs.</p> <p>The CEA believes that there is a necessity to perform ORSA in the case such risk based capital requirements are imposed to check:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the objectives of the IORP are in line under different economic scenarios, even on a long term horizon</li> <li><input type="checkbox"/> Assess the adequacy of the security mechanisms</li> </ul> <p>As such, the ORSA is not only an approach for determining capital needs but has to form an integral part of the risk management process and decision taking framework of the undertaking. Therefore, the holistic balance sheet approach cannot be a substitute for the ORSA process. Off course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.</p>	Noted.
559.	Charles CRONIN	71.	<p>If the HBS approach is adopted, much of the purpose of ORSA</p>	Noted.

			will be covered through its adoption. I would suggest that in the event that the HBS is adopted that those areas within ORSA not covered by the HBS are added as additional, but not separate, narrative reporting under the HBS mechanism. ORSA in conjunction with the risk-based internal controls should be viewed as a substitute for solvency capital requirements.	
560.	Chris Barnard	71.	It may still be useful to perform ORSA in conjunction with the holistic balance sheet approach in order to better manage the expectations of all the key actors regarding the potential amounts, timing and uncertainty of payments and funding, especially regarding discretionary benefits and sponsor support (please also see my response to question 69).	Agreed.
561.	CMHF (Centrale van Middelbare en Hogere Functionar	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.
562.	De Unie (Vakorganisatie voor werk, inkomen en loop	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.
563.	Ecie vie	71.	We consider ORSA should apply even in the event that the Holistic Balance Sheet approach is adopted.  The two approaches are different : ORSA gives a dynamic and	Agreed.

			propective view of the risks.	
564.	European Federation for Retirement Provision (EFRP)	71.	<p>The EFRP is not in favor of a holistic balance sheet approach. Nevertheless, if such an approach is adopted, the EFRP stresses that the funding calculations for solvency requirements already cover ORSA provisions.</p> <p>The EFRP acknowledges the fact that ORSA includes both qualitative and quantitative elements contrary to capital requirement. However qualitative elements are also included in the risk management function. Therefore, the introduction of ORSA will create an overlap of qualitative requirements which are too burdensome and confusing.</p>	Noted. EIOPA sees the ORSA as an extension of RM and integral part of business strategy.
565.	Federation of the Dutch Pension Funds	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.
566.	Financial Reporting Council	71.	We have not formed a view on this question as it is dependent on how the holistic balance sheet is operated.	Noted.
567.	FNV Bondgenoten	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.
568.	Generali vie	71.	We consider ORSA should apply even in the event that the	Agreed.

			<p>Holistic Balance Sheet approach is adopted.</p> <p>The two approaches are different : ORSA gives a dynamic and prospective view of the risks.</p>	
569.	Groupe Consultatif Actuariel Européen.	71.	<p>We consider that an ORSA should be required if the holistic balance sheet is introduced. The ORSA would consider issues not routinely picked up within the HBS, for example</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> where an IORP is using a standard model, the extent to which it is suitable for the IORP</li> <li><input type="checkbox"/> the possibility of granting discretionary benefits which have not been included in the HBS</li> <li><input type="checkbox"/> extraordinary matters such as the potential impact of the collapse of a national protection scheme</li> </ul> <p>The ORSA could also encourage more regular (possibly even ongoing) assessment, as opposed to the snapshot position considered within the HBS annually (or any other period) and give opportunity for the management of the IORP to show how they had balanced all the moving pieces in a risk management context.</p>	Agreed.
570.	Groupement Français des Bancassureurs	71.	<p>The Holistic balance sheet approach cannot be a substitute for the ORSA process as ORSA gives a dynamic and prospective view of the risks.</p> <p>But of course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.</p>	Agreed.
571.	PMT-PME-Mn Services	71.	<p>If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet</p>	Agreed.

			and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	
572.	Institute and Faculty of Actuaries (UK)	71.	We are not persuaded that it is necessary to perform ORSA in the event that the holistic balance sheet approach is adopted and we doubt that such a requirement can be transcribed to IORPs in a proportionate way. Nevertheless we believe that those running IORPs should be encouraged to embed risk management in their processes and that a demonstration of risk management to the supervisor that is proportionate to the risks the IORP is running in relation to the security of member benefits would be appropriate where such a requirement would also be proportionate.	Partially agreed.
573.	KPMG LLP (UK)	71.	Given the difficulties which we envisage with any quantitative measure of a holistic balance sheet (see Q12 and Q13), we do not view an ORSA which would include this to be practical.	Noted.
574.	Le cercle des épargnants	71.	We consider ORSA should apply even in the event that the Holistic Balance Sheet approach is adopted.  The two approaches are different : ORSA gives a dynamic and prospective view of the risks.	Agreed.
575.	Mercer	71.	As discussed previously, we consider there to be no need.	Noted.
576.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.

577.	National Association of Pension Funds (NAPF)	71.	What is the stakeholders' view of the necessity to perform ORSA in the event that the holistic balance sheet approach is adopted?	
578.	Pensioenfonds Zorg en Welzijn (PFZW)	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.
579.	Predica	71.	The Holistic balance sheet approach cannot be a substitute for the ORSA process as ORSA gives a dynamic and prospective view of the risks.  But of course ORSA should be applied proportionally to the nature, scale and complexity of IORPs.	Agreed.
580.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	71.	ORSA is an useful tool on top of the holistic balance sheet. The holistic b/s is calculated by identifying many option elements. The ORSA can shet further light on the model and calculation assumptions made for determining all these option elements.	Agreed.
581.	PTK (Sweden)	71.	PTK is not in favor of a holistic balance sheet approach. Nevertheless, if such an approach is adopted, PTK wish to stress that the funding calculations for solvency requirements already cover ORSA provisions.	Noted.  EIOPA sees ORSA as an extension of RM and integral part of business strategy.

			PTK strongly wants to acknowledge the fact that ORSA includes both qualitative and quantitative elements contrary to capital requirement. However qualitative elements are also included in the risk management function. Therefore, the introduction of ORSA will create an overlap of qualitative requirements which are too burdensome and confusing.	
582.	Railways Pension Trustee Company Limited ("RPTCL	71.	We have not considered this question.	Noted.
583.	TCO	71.	<p>TCO is not in favor of a holistic balance sheet approach. Nevertheless, if such an approach is adopted, TCO wishes to stress that the funding calculations for solvency requirements already cover ORSA provisions.</p> <p>TCO strongly wants to acknowledge the fact that ORSA includes both qualitative and quantitative elements contrary to capital requirement. However qualitative elements are also included in the risk management function. Therefore, the introduction of ORSA will create an overlap of qualitative requirements which are too burdensome and confusing.</p>	<p>Noted.</p> <p>EIOPA sees ORSA as an extension of RM and integral part of business strategy.</p>
584.	The Association of Pension Foundations (Finland)	71.	see above.	Noted.
585.	The Association of the Luxembourg	71.	The performing of own-risk and solvency assessment (ORSA) should not be necessary for IORP. Indeed, the funding	<p>Noted.</p> <p>EIOPA sees ORSA</p>

	Fund Industry (A		<p>calculations for solvency requirement are covering this matter. The Respondents are not in favour of a holistic balance sheet approach and thinks that ORSA is not appropriate.</p> <p>The Respondents acknowledge the fact that ORSA includes both qualitative and quantitative elements contrary to capital requirement. However qualitative elements are also included in the risk management function. Therefore, the introduction of ORSA will create an overlap of qualitative requirements which are too burdensome and misleading</p>	as an extension of RM and integral part of business strategy.
586.	THE SOCIETY OF PENSION CONSULTANTS	71.	An ORSA type of assessment would be consistent with a holistic balance sheet approach but, as explained in our answers to questions 69 and 70, we do not believe that a prescriptive ORSA style approach is appropriate. In brief, we resist the notion that the ORSA provisions of Solvency II have any benefit or relevance to IORPs.	Noted. EIOPA sees ORSA as an extension of RM and integral part of business strategy.
587.	UK Association of Pension Lawyers	71.	<p>CfA 16 (Own risk and solvency assessment): What is the stakeholders' view of the necessity to perform ORSA in the event that the holistic balance sheet approach is adopted?</p> <p>In the event that the holistic balance sheet approach is adopted, for the reasons given there should not be the necessity to perform ORSA.</p>	Noted. EIOPA sees ORSA as an extension of RM and integral part of business strategy.
588.	Universities Superannuation Scheme (USS),	71.	What is the stakeholders' view of the necessity to perform ORSA in the event that the holistic balance sheet approach is adopted?	

589.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	71.	If a holistic balance sheet approach were to be chosen by the EC, we still think that applying the concept of an ORSA is a good idea. Especially because the use of the holistic balance sheet introduces additional complexity on the balance sheet and the options that are explicitly communicated, the ORSA can add value to show that the people who effectively manage the fund understand all risks, positions and processes.	Agreed.
590.	Whitbread Group PLC	71.	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. EIOPA sees ORSA as an extension of RM and integral part of business strategy.
591.	Zusatzversorgungskasse des Baugewerbes AG	71.	100. We refer to our answer on question 69. Concerning ORSA we cannot see any differences between a security regime that would be based on the holistic approach or one that is not.	Noted.
592.	Towers Watson	71.	72. What is the stakeholders' view of the necessity to perform ORSA in the event that the holistic balance sheet approach is adopted?  An ORSA type of assessment would be consistent with a holistic balance sheet approach but, as explained in our answers to questions 69 and 70, we do not believe that a prescriptive ORSA style approach is appropriate.	Noted.
593.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	72.	The OPSG supports the view and principles proposed by EIOPA for an effective internal control system. In addition a regular assessment of compliance is an essential part of an internal control system.  However, we strongly advise against creating additional regulatory burdens for IORPs. The requirement of a separate	noted  Noted. The possibility to carry

			<p>compliance function may be too burdensome for small IORPs or IORPs of a simple nature or little complexity. It should be possible that the compliance function can be carried out within the risk management function. Against this background, it is essential to provide sufficient flexibility with respect to the definition of the compliance function.</p> <p>The primary responsibility of the compliance function should be to inform the top executive(s) of the IORP of any non-compliance and to assist the IORP in resolving those issues. We believe that as a general principle of the organisation structure, the staff of the IORP should report to the managing board and in turn the managing board should, where appropriate, report to its supervisory body. The OPSG supports the idea that the compliance function can inform the supervisory authority "on its own initiative", for non-compliance issues of material significance. However, some members of the OPSG felt that the compliance function should have an obligation to report to the supervisory authority in such cases, in line with existing legislation in some Member States.</p> <p>The OPSG agrees with EIOPA that the framework for internal control should include administrative and accounting procedures and reporting and compliance arrangements,</p>	<p>out the compliance function within the risk management function could be considered as an alternative measure meeting the general objectives of a compliance function (cf. 22.3.16.c)</p> <p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial</p>
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			outsourcing arrangements and appropriate controls for outsourcing.	action.  noted
594.	AbA Arbeitsgemeinschaft für betriebliche Altersver	72.	<p>In contrast to section 12.3.11 of the first consultation (possible for the compliance function “to inform the supervisory authority on its own initiative when necessary”), the current section 22.3.11 (and the EIOPA advice 22.5.5) proposes “an option for the Member States to introduce a whistle-blowing obligation for the compliance function”.</p> <p>The AbA rejects strongly the idea that the regulation should make it possible for the compliance function, should it exist, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.</p> <p>Therefore, an option for the Member States to introduce a whistle-blowing obligation may only be acceptable in exceptional particularly serious cases which should be defined on Member State level.</p>	Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
595.	ABVAKABO FNV	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
596.	AEIP	72.	139. AEIP is in favour to give the compliance function the right to act as whistle-blower. In that case appropriate protection must be provided.	noted

			<p>We do not think that whistle-blowing should be the duty of the compliance function, because this would create a potential conflict of interest and impede the advisory role the compliance function has towards the Board of the IORP.</p>	<p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
598.	AMONIS OFP	72.	<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>Compliance function should not have a whistleblowing function towards the supervisor.</p>	<p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable.</p>

				<p>However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
599.	ANIA – Association of Italian Insurers	72.	<p>EIOPA proposes that the supervisory authority should at all times have the power to require reports from the compliance function of the IORP. This recommendation conflicts with the allocation of rights and duties in the field of corporate law. The addressee of the compliance obligations is the board of management, which involves the compliance officer having to fulfill these obligations in the interest of the company. Therefore, the compliance officer is subject to information and reporting requirements only vis-à-vis “his principal”, i.e. the board of management. As such, it should be clarified that due to corporate law Supervisory authorities are only entitled to request reports from the board of management but not from the compliance function itself.</p> <p>As part of the “fit and proper” requirements, any person effectively managing the organisation or part of the key functions will be required to “go” to their superiors if policies are endangering the interests of the policyholders and the IORP does not want to adjust their policies accordingly.</p> <p>Finally, the ANIA objects a member state option to introduce a</p>	<p>Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.</p>

			whistle blowing function.	
600.	Association of British Insurers	72.	EIOPA recommends that the revised Directive should contain an option for Member States to introduce a whistle-blowing obligation for the compliance function; the ABI believes this is sensible.	noted
601.	Association of French Insurers (FFSA)	72.	88. The FFSA agrees the principle of Article 46 of Directive 2009/138/EC that IORPs should have an effective internal control system and that a regular assessment of compliance is part of this effective internal control system.  It should be clarified that due to corporate law that Supervisory authorities may be only entitled to request reports from the board of management but not from the compliance function itself.	noted  Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.
602.	Association of Pensioner Trustees in Ireland	72.	See response to question 63.	noted
603.	Assoprevidenza – Italian Association for supplement	72.	We agree.	noted
604.	Assuralia	72.	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	noted

			have been examined thoroughly. We see no reason why the same principles should not apply to IORPs.	
605.	Bayer AG	72.	<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>We are strongly opposed to the idea that the regulation should make it possible for the compliance function, should it come to existence, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.</p>	Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.
606.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	72.	<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>We are strongly opposed to the idea that the regulation should make it possible for the compliance function, should it come to existence, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.</p>	Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.
607.	Belgian Association of Pension	72.	What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the	Noted, paragraph 22.3.11. is

	Institutions (BVPI-		<p>compliance function?</p> <p>Compliance function should not have a whistleblowing function towards the supervisor.</p>	<p>adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistleblowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
608.	BNP Paribas Cardif	72.	<p>BNP Paribas Cardif agrees the principle of Article 46 of Directive 2009/138/EC that IORPs should have an effective internal control system and that a regular assessment of compliance is part of this effective internal control system.</p> <p>It should be clarified that due to corporate law that Supervisory authorities may be only entitled to request reports from the board of management but not from the compliance function itself.</p>	<p>Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.</p>

609.	Bosch Pensionsfonds AG	72.	<p>We are opposed to the introduction of a separate compliance function. Compliance is part of the risk management / internal control system of an IORP and should therefore be able to be covered as part of the risk management function.</p> <p>We strongly reject the introduction of an additional MS option. MS options should be avoided at all cost - they constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p> <p>We also reject the idea of a whistle blowing obligation of the compliance function. As a general principle, staff of an IORP is responsible to the managing board who in turn are responsible to the supervisory authority.</p>	<p>Noted. The possibility to carry out the compliance function within the risk management function could be considered as an alternative measure meeting the general objectives of a compliance function (cf. 22.3.16.c)</p> <p>Agreed. To meet this comment, paragraph 22.3.11. is adapted.</p> <p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should</p>
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				have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
610.	Bosch-Group	72.	<p>We are opposed to the introduction of a separate compliance function. Compliance is part of the risk management / internal control system of an IORP and should therefore be able to be covered as part of the risk management function.</p> <p>We strongly reject the introduction of an additional MS option. MS options should be avoided at all cost - they constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p> <p>We also reject the idea of a whistle blowing obligation of the compliance function. As a general principle, staff of an IORP is responsible to the managing board who in turn are responsible</p>	<p>Noted. The possibility to carry out the compliance function within the risk management function could be considered as an alternative measure meeting the general objectives of a compliance function (cf. 22.3.16.c)</p> <p>Agreed. To meet this comment, paragraph 22.3.11. is adapted.</p> <p>Noted, paragraph 22.3.11. is</p>

			to the supervisory authority.	adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
611.	BT Pension Scheme Management Ltd	72.	We suggest that any whistle-blowing standard is applied with a careful consciousness of the need for proportionality. It should be left in the hands of member state supervisory authorities to determine the applicability of any such standards.	Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-

				blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
612.	Bundesarbeitgeber verband Chemie e.V. (BAVC)	72.	We are strongly opposed to the idea that the regulation should make it possible for the compliance function, should it come to existence, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.	Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.
613.	CEA	72.	EIOPA proposes that the supervisory authority should at all times have the power to require reports from the compliance function of the IORP. This recommendation conflicts with the allocation of rights and duties in the field of corporate law. The addressee of the compliance obligations is the board of management, which involves the compliance officer having to fulfill these obligations in the interest of the company. Therefore, the compliance officer is subject to information and reporting requirements only vis-à-vis "his principal", i.e. the board of management. As such, it should be clarified that due to corporate law Supervisory authorities are only entitled to	Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the the

			<p>request reports from the board of management but not from the compliance function itself.</p> <p>As part of the “fit and proper” requirements, any person effectively managing the organisation or part of the key functions will be required to “go” to their superiors if policies are endangering the interests of the policyholders and the IORP does not want to adjust their policies accordingly.</p> <p>Finally, the CEA objects a member state option to introduce a whistle blowing function.</p>	<p>compliance function itself.</p>
614.	Chris Barnard	72.	<p>I agree with the analysis regarding the internal control system.</p> <p>Regarding the compliance function, its specific duties should include, but not be limited to:</p> <ul style="list-style-type: none"> <li>- reviewing and reporting to the board on the IORP’s compliance with relevant regulations, rules and principles (covered under Article (2) of the Solvency II Directive);</li> <li>- establishing procedures for the remediation of noncompliance issues;</li> <li>- identifying and reporting to the board any conflicts of interest that may arise;</li> <li>- establishing procedures for the resolution of such conflicts of interest.</li> </ul> <p>Please note that the last three points above are broadly covered in the Solvency II Directive, but bringing their responsibility within the compliance function will help to formalise governance and reporting thereon.</p> <p>It is important that job descriptions, rules, structures and procedures act to secure and maintain the compliance</p>	<p>These specifications should be elaborated in the level 2 implementing measures</p>

			<p>function's independence. For example the compliance function should have a single compliance role and no other competing role or responsibility that could create conflicts of interest or threaten its independence. Furthermore the remuneration of the compliance function should be specifically designed in such a way that avoids potential conflicts of interest with its compliance role.</p> <p>I strongly agree with the proposed new explanatory text on the whistle-blowing obligation of the compliance function. This should include safeguards and protections for whistleblowers. This would act to reinforce the integrity of the internal control system and should encourage entities to take preventative as well as corrective action.</p>	noted
615.	CMHF (Centrale van Middelbare en Hogere Functionar	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
616.	De Unie (Vakorganisatie voor werk, inkomen en loop)	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
617.	Ecie vie	72.	We consider Articles 46 of Solvency II should apply to IORPs.	noted
618.	European Federation for Retirement Provision (EFRP	72.	The EFRP agrees that Member States should have an option to introduce a whistle-blowing obligation of the compliance function.	noted
619.	Federation of the Dutch Pension Funds	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
620.	Financial Reporting	72.	We have not considered this question.	noted

	Council			
621.	FNV Bondgenoten	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
622.	Generali vie	72.	We consider Articles 46 of Solvency II should apply to IORPs.	noted
623.	GESAMTMETALL - Federation of German employer	72.	<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>We are strongly opposed to this idea. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that only the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.</p>	<p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
624.	Groupement Français des Bancassureurs	72.	<p>FBIA agrees the principle of Article 46 of Directive 2009/138/EC that IORPs should have an effective internal control system and that a regular assessment of compliance is part of this effective internal control system.</p> <p>It should be clarified that due to corporate law that Supervisory</p>	<p>noted</p> <p>Agreed, therefore</p>

			authorities may be only entitled to request reports from the board of management but not from the compliance function itself.	paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself
625.	PMT-PME-Mn Services	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
626.	HM Treasury/Department for Work and Pensions	72.	The UK already has extensive legislative requirements on whistle-blowing in the case of non-compliance with any enactment or rule of law, or where the failure to comply is likely to be of material significance to the Regulatory Authority in the exercise of any of its functions.	noted
627.	Institute and Faculty of Actuaries (UK)	72.	<p>Our view is that if a compliance function is required, a whistle-blowing duty is a necessary requirement if, as we prefer, a principles-based approach is adopted. It is not clear to us why the whistle-blowing obligation should be an option for Member States This may cause uncertainty and confusion in the case of cross-border IORPs, and could create scope for regulatory arbitrage.</p> <p>The whistle-blowing requirement would need to be sufficiently flexible to allow for all the forms of compliance function that may be reasonably be adopted by IORPs.</p> <p>The revised Directive would need to make clear that the</p>	Agreed. To meet this comment, paragraph 22.3.11. is adapted

			timescale for reporting should be appropriate to the risk to members benefits.	
628.	KPMG LLP (UK)	72.	Why is the proposal an optional one for member states, given the emphasis on harmonisation in other major parts of this consultation?	Agreed. To meet this comment, paragraph 22.3.11. is adapted
629.	Le cercle des épargnants	72.	We consider Articles 46 of Solvency II should apply to IORPs.	noted
630.	Mercer	72.	<p>Mercer agrees that IORPs should be required to establish internal controls and to monitor compliance with their regulatory and other responsibilities. Also, particularly because IORPs often rely on external advisers and outsourced investment management, administrative functions and other services, there need to be measures to ensure the compliance of these external providers. Establishing whistleblowing responsibilities on these other entities that are associated with the IORPs is a way of ensuring the supervisory regime is complied with at all levels. Not least, it creates a mechanism for self regulation, helping supervisory authorities to carry out their responsibilities.</p> <p>Consequently, we believe that mandating whistleblowing, rather than leaving it to member states to decide whether to provide for these obligations, would produce a more proportionate regime and result in a lesser regulatory burden over all.</p>	<p>noted</p> <p>Agreed. To meet this comment, paragraph 22.3.11. is adapted</p>
631.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
632.	National	72.	INTERNAL CONTROLS	

	Association of Pension Funds (NAPF)		<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>The NAPF agrees that Member States should have the option to introduce whistle-blowing obligations as part of the compliance regime. This principle is already enshrined in the UK's Pensions Act 1995.</p>	noted
633.	NORDMETALL, Verband der Metall- und Elektroindustr	72.	<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>We are strongly opposed to the idea that the regulation should make it possible for the compliance function, should it come to existence, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.</p>	Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.
634.	Pensioenfonds Zorg en Welzijn (PFZW)	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
635.	Predica	72.	Predica agrees the principle of Article 46 of Directive 2009/138/EC that IORPs should have an effective internal control system and that a regular assessment of compliance is part of this effective internal control system.	noted

			<p>It should be clarified that due to corporate law that Supervisory authorities may be only entitled to request reports from the board of management but not from the compliance function itself.</p>	<p>Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP on compliance</u>, and thus not directly from the compliance function itself.</p>
636.	PTK (Sweden)	72.	<p>PTK do not believe that the introduction of a whistle blowing obligation of the compliance function is in line with the rights and duties in the field of corporate law, where the main addressee of the compliance obligations is the board of the management. An alternative solution would be to give the compliance function a right but not an obligation to report to the supervisory authority.</p>	<p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory</p>

				authority if the IORP does not take appropriate and timely remedial action.
637.	Railways Pension Trustee Company Limited ("RPTCL	72.	We have not considered this question.	noted
638.	TCO	72.	TCO does not believe that the introduction of a whistle blowing obligation of the compliance function is in line with the rights and duties in the field of corporate law, where the main addressee of the compliance obligations is the board of the management. An alternative solution would be to give compliance function a right but not an obligation to report to the supervisory authority.	Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
639.	The Association of the Luxembourg	72.	The Respondents generally support EIOPA's proposition to introduce the same internal controls systems and compliance	noted

	Fund Industry (A)		<p>function.</p> <p>The Respondents fully adhere to the suggestion that the requirements for internal control systems and compliance function should take into account the proportionality principle and the differences between the different types of IORPs in Europe, the nature, scale and complexity of their operations as well as their operational structures.</p> <p>In case of important activities outsourced, the IORP should be required to perform due diligence in order to determine whether the third party has a well-adapted and effective internal control system in place.</p> <p>In regards to the point 12.3.7 the Respondents do not necessarily share the EIOPA view that there is no major difference in the internal control system between IORPs that manage DC schemes and those that manage DB schemes. We support the view that the internal control system should take into account the specific risks that are attached to DB and DC schemes.</p>	<p>noted</p> <p>noted (cf. paragraph 22.3.4.)</p> <p>Agreed, therefore paragraph 12.3.7. states explicitly that there is no major difference between IORPs that manage DC schemes and those that manage DB schemes <u>relating to the obligation to implement an internal control system; both two types of IORPs should have such a system.</u> It is inevitable that the implementation of that system will be</p>
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			<p>The compliance function may be assigned to a member of the Board of Directors. For certain types of IORPs it is important to leave the possibility for IORPs to outsource the compliance function.</p> <p>On the grounds of proportionality, the IORPs should be allowed to implement alternative measures meeting the general objectives of a compliance function, an example of alternative measure could be that the compliance function is carried out by the management of the IORP, which for instance discuss the subject at least one a year with a reference in the minutes of the meeting. The supervisory authorities should have the possibility to review the proposed alternative measures.</p> <p>The Respondents fully share the view that in any case the principle of proportionality should fully apply to the compliance function to prevent overly burdensome and additional costs that would undermine the supply of occupational pensions.</p>	<p>different.</p> <p>noted</p> <p>noted</p> <p>noted</p>
640.	THE SOCIETY OF PENSION CONSULTANTS	72.	<p>If there is to be a requirement that IORPs must have a compliance function to assess the effectiveness of their internal control system, it is very important that IORPs should have maximum freedom as to how they achieve this (e.g. by assigning the function to a member of staff, a member of the board of directors/trustees or outsourcing it). Any whistle-blowing obligation, which is imposed, must also be sufficiently adaptable to remain appropriate to the different ways of delivering the compliance function. Without this flexibility there would be a significant risk that this requirement could place an excessive burden upon some IORPs given their diversity of</p>	<p>noted</p>

			form.	
641.	Transport for London / TfL Pension Fund	72.	In many IORPs such as ours, the representation of scheme members on the Trustee Board provides an additional check on ensuring compliance.	noted
642.	UK Association of Pension Lawyers	72.	<p>CfA 17: (Internal Control System): what is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>In principle we see no difficulty with the compliance function having a whistle-blowing obligation. However, as with this entire topic, the whistle-blowing obligation would need to recognise the flexibility that an IORP must have with regard to implementing a compliance function that is proportionate to the IORP's status (see our general comments in response to question 73 below). Within the UK domestic pensions legislation there are already various requirements on an IORP's internal supervisory body to report certain matters to the Pensions Regulator or to the IORP's membership. Care would need to be taken to ensure that no requirements are duplicated as a result of any new whistle-blowing obligation.</p>	noted
643.	Universities Superannuation Scheme (USS),	72.	<p>INTERNAL CONTROLS</p> <p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>USS agrees that Member States should have the option to introduce whistle-blowing obligations as part of the compliance regime. This principle is already enshrined in the UK's Pensions Act 1995.</p>	noted

644.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	72.	<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>We are strongly opposed to the idea that the regulation should make it possible for the compliance function, should it come to existence, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance functions.</p>	<p>Agreed, therefore paragraph 22.3.11. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on compliance, and thus not directly from the compliance function itself.</p>
645.	Verbond van Verzekeraars	72.	<p>There would be no need for the whistle blowing obligation if the Fit and Proper requirements of the Solvency II Directive will be introduced in the IORP directive. As part of the Fit and Proper requirements, any person effectively managing the organisation, or part of the key functions, will be required to report to their Director or Board if policies are endangering the interests of the policyholders. Then the IORP should adjust its policy accordingly.</p>	<p>Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and</p>

				timely remedial action.
646.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	72.	We agree that Member States should have an option to introduce a whistle blowing right of the compliance function.	noted
647.	Whitbread Group PLC	72.	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
648.	Zusatzversorgungskasse des Baugewerbes AG	72.	We reject the idea of a whistle blowing duty of the compliance function, because this would create a potential conflict of interest and impede the advisory role the compliance function has towards the Board of the IORP.	Noted, paragraph 22.3.11. is adapted to clarify that the internal reporting obligation of the compliance function is incontestable. However, the compliance function should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
649.	Towers Watson	72.	73. CfA 17 Internal control system	

			<p>What is the view of the stakeholders on the proposed new explanatory text on the whistle-blowing obligation of the compliance function?</p> <p>If there is to be a requirement that IORPs must have a compliance function to assess the effectiveness of their internal control system, it is very important that IORPs should have maximum freedom as to how they achieve this (e.g. by assigning the function to a member of staff, a member of the board of directors/trustees or outsourcing it). Any whistle-blowing obligation which is imposed must also be sufficiently adaptable to remain appropriate to the different ways of delivering the compliance function. Without this flexibility there would be a significant risk that this requirement could place an excessive burden upon some IORPs given their diversity of form.</p> <p>It needs to be clear that the timescale for reporting should to be appropriate to the risk to members' benefits and that individual whistle-blowers should be legally protected provided their whistle-blowing is "in good faith".</p> <p>It is not clear to us why the whistle-blowing obligation should be an option for Member States This may cause uncertainty and confusion in the case of cross-border IORPs.</p>	<p>noted</p> <p>Agreed. To meet these comments, paragraph 22.3.11. is adapted</p>
650.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	73.	See question 72	
651.	AbA Arbeitsgemeinschaft für betriebliche	73.	In contrast to section 12.3.12. of the first consultation, the current section 22.3.11. replaces "all legislation relative to the operations of the IORP" with "all legislation with an impact on	

	Altersver		<p>the operations of the IORP”.</p> <p>The AbA agrees that the compliance function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could include “reporting and recommending to the administrative, management or supervisory body of the IORP on compliance with the laws, regulations and administrative provisions with an impact on the operations of the IORP” (i.e. including Social and Labour law).</p>	noted
652.	ABVAKABO FNV	73.	<p>We refer to our answer 15. to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.</p>	noted
653.	AEIP	73.	<p>AEIP agrees that the compliance function should include all legislation relevant for IORP’s.</p>	noted
655.	AMONIS OFP	73.	<p>What is the view of the stakeholders on the proposed new explanatory text on the scope (the fact that the compliance function should include all legislation with an impact on the operations of an IORP)?</p> <p>Yes, the compliance function should include all legislation relevant for IORP’s.</p>	noted
656.	ANIA – Association of Italian Insurers	73.	<p>EIOPA ´s change is an improvement, but could cause confusion in relation to the exact content of “all legislation”. We suggest that it is made clear that SLL is not included in the scope but</p>	Noted. The primary objective of IORPs is to serve as a

			that a possible way out could be to introduce an obligation for the financial supervisory authority and the relevant authority in the field of SLL to cooperate. As such the ANIA suggest using the wording "all regulatory legislation relative to the operations of the IORP".	secure source of funds for retirement benefits. Therefore, the IORP has to take into account all the legislation concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members.
657.	Association Française de la Gestion financière (AF)	73.	Compliance responsibilities need to be proportional to the size/type of IORP/Pension Scheme. If the requirements are disproportionate there is a danger that the costs become prohibitive and impact the level of support that a sponsor provides for a scheme.	Noted, that's why the application of the proportionality principle is important (cf. 22.3.2.)
658.	Association of British Insurers	73.	The ABI believes that the compliance responsibilities need to be proportionate to the size and type of the IORP. If the requirements are disproportionate, there is a danger that the costs become prohibitive and impact on the level of support that a sponsor provides for a scheme, which would not be beneficial for members.	Noted, that's why the application of the proportionality principle is important (cf. 22.3.2.)

659.	Association of French Insurers (FFSA)	73.	The fact that the compliance function should include all regulatory legislation relative to the operations of the IORP would be a real improvement.	noted
660.	Association of Pensioner Trustees in Ireland	73.	See response to question 63.	
661.	Assoprevidenza – Italian Association for supplement	73.	We agree that the compliance function should include all legislation relevant for IORP's.	noted
662.	Assuralia	73.	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
663.	Belgian Association of Pension Institutions (BVPI-	73.	What is the view of the stakeholders on the proposed new explanatory text on the scope (the fact that the compliance function should include all legislation with an impact on the operations of an IORP)?  Yes, the compliance function should include all legislation relevant for IORP's.	noted
664.	BNP Paribas Cardif	73.	The fact that the compliance function should include all regulatory legislation relative to the operations of the IORP would be a real improvement.	noted
665.	BT Pension Scheme Management Ltd	73.	This proposes an extremely broad scope, which may or may not be appropriate to the nature and scale of the IORP, and the varying nature of IORPs across the EU. We would therefore suggest that the scope of the internal control role needs to be determined by member state supervisory authorities.	Noted. The primary objective of IORPs is to serve as a secure source of funds for retirement

				<p>benefits. Therefore, the IORP has to take into account all the legislation concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members.</p>
666.	BVI Bundesverband Investment und Asset Management	73.	<p>Compliance responsibilities need to be proportional to the size/type of IORP. If the requirements are disproportionate there is a danger that the costs become prohibitive and impact the level of support that a sponsor provides for a scheme.</p> <p>Furthermore, it must be borne in mind that questions of social and labour law need specialised expertise. A compliance officer cannot be expected to have this holistic view.</p>	<p>Noted, that's why the application of the proportionality principle is important (cf. 22.3.2.)</p> <p>Noted. The primary objective of IORPs is to serve as a secure source of funds for retirement benefits. Therefore, the IORP has to take into account all the legislation</p>

				concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members.
667.	CEA	73.	EIOPA 's change is an improvement, but could cause confusion in relation to the exact content of "all legislation". We suggest that it is made clear that SLL is not included in the scope but that a possible way out could be to introduce an obligation for the financial supervisory authority and the relevant authority in the field of SLL to cooperate. As such the CEA suggest using the wording "all regulatory legislation relative to the operations of the IORP".	Noted. The primary objective of IORPs is to serve as a secure source of funds for retirement benefits. Therefore, the IORP has to take into account all the legislation concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members.
668.	Charles CRONIN	73.	In principle I support the internal control proposal, however I	proportionality

			am concerned that for smaller IORPs the internal control function would be a heavy burden for scheme M & B.	principle
669.	Chris Barnard	73.	I support the new explanatory text on scope; clearly the compliance function should include all legislation with an impact on the operations of an IORP. This is more complete.	noted
670.	CMHF (Centrale van Middelbare en Hogere Functionar	73.	<p>We refer to our answer 15 of the Federation of Dutch Pension Funds* to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.</p> <p>*[answer 15 of the first consultation of the Federation of Dutch Pension Funds :</p> <p>Our evaluation of the impacts is the following:</p> <p>With respect to internal control, a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution.</p> <p>In the current IORP directive nothing is laid down about a compliance function. Article 46 of the Solvency II Directive provides for a general formula and the line of thoughts can also be seen as a good add-on to the IORP Directive, but we underline the relevance of the principle of proportionality, as EIOPA itself also does.</p>	noted

			<p>Conclusion: A a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution. Here we refer again to our general remarks, whereas proportionality should be defined and be an important part of Level 1 regulations (Lamfalussy process). All decisions with regard to pensions have therefore to be taken at level 1. Further harmonization at level 2 seems to be difficult and we would rather like to see the integration of all relevant actors in the legislative process. Therefore, <u>quantitative impact studies</u> and proper assessments should be an integral part of the whole process of revising the Directive at all stages in order to oversee all the (indirect) consequences.]</p>	
671.	De Unie (Vakorganisatie voor werk, inkomen en loop	73.	<p>We refer to our answer 15 of the Federation of Dutch Pension Funds* to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.</p> <p>*[answer 15 of the first consultation of the Federation of Dutch Pension Funds :</p> <p>Our evaluation of the impacts is the following:</p> <p>With respect to internal control, a one one-size-fits-all solution</p>	noted

			<p>must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution.</p> <p>In the current IORP directive nothing is laid down about a compliance function. Article 46 of the Solvency II Directive provides for a general formula and the line of thoughts can also be seen as a good add-on to the IORP Directive, but we underline the relevance of the principle of proportionality, as EIOPA itself also does.</p> <p>Conclusion: A a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution. Here we refer again to our general remarks, whereas proportionality should be defined and be an important part of Level 1 regulations (Lamfalussy process). All decisions with regard to pensions have therefore to be taken at level 1. Further harmonization at level 2 seems to be difficult and we would rather like to see the integration of all relevant actors in the legislative process. Therefore, quantitative impact studies and proper assessments should be an integral part of the whole process of revising the Directive at all stages in order to oversee all the (indirect) consequences.]</p>	
672.	ECIIA	73.	<p>Yes, should include all legislation and it must also cover the risk associated to outsourced activities.</p> <p>Furthermore ECIIA would like to suggest a more broad view of the internal control as recognized internationally and defined in the COSO framework. The proposal is really focused on compliance function and the documentation of . It will be more relevant to state the different components of sound IC (risk based and control environment). For example the control</p>	noted



			<p>This has real potential to damage the interests of savers. Asset managers are frequently part of larger financial conglomerates with significant conflicts of interest in relation to investee companies, for example because the company is a client of their investment banking arm, or because they have an interest in acquiring business from the company's own pension fund. Moreover, asset managers generally do not regard themselves as having fiduciary duties to avoid or manage these conflicts of interest, and the regulatory rules governing management of conflicts under MiFID are less stringent. Our own research suggests that asset managers may not always have robust policies in place to ensure that conflicts of interest are resolved in the interests of clients (see <a href="http://www.fairpensions.org.uk/research#stewardship">http://www.fairpensions.org.uk/research#stewardship</a>). It is therefore vital that IORPs oversee this aspect of internal control.</p>	
676.	Federation of the Dutch Pension Funds	73.	<p>We refer to our answer 15. to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.</p>	noted
677.	Financial Reporting Council	73.	<p>We consider that the proposals for a compliance function are likely to increase costs but it is not clear that there will be sufficient benefit to members to justify this increase. Furthermore an IORPS unlike an insurance company is not a</p>	In some countries, IORP are separate legal bodies

			<p>business entity in its own right. We consider that other safeguards such as having an internal control process will be sufficient.</p> <p>If Solvency II is adopted as the model for IORPs regulation then there will be a substantial increase in the compliance burden even if it is implemented proportionately.</p>	noted
678.	FNV Bondgenoten	73.	<p>We refer to our answer 15. to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.</p>	noted
679.	Groupement Français des Bancassureurs	73.	<p>The fact that the compliance function should include all regulatory legislation relative to the operations of the IORP would be a real improvement.</p>	noted
680.	PMT-PME-Mn Services	73.	<p>We refer to our answer 15. to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree</p>	noted

			with EIOPA that it should include all legislation with an impact on the operations of an IORP.	
681.	HM Treasury/Department for Work and Pensions	73.	As noted in the response to question 16, the heterogeneous nature of the IORP sector requires a proportionate internal control system that should be proportionate to the nature, scale and complexity of the IORP. It is axiomatic that an IORP should comply with all relevant legislation, but we consider that a requirement at EU level should be restricted to those schemes operating across borders.	The primary objective of IORPs is to serve as a secure source of funds for retirement benefits. Therefore, the IORP has to take into account all the legislation concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members
682.	Institute and Faculty of Actuaries (UK)	73.	Our view is that if a compliance function is required, its scope should include all legislation to which the operations of the IORP are subject.	noted
683.	KPMG LLP (UK)	73.	This seems sensible. We very much agree with the need for IORPs to have flexibility as to how the compliance function is assigned and carried out, for the reasons given in the consultation paper.	noted

684.	Mercer	73.	<p>Whilst we agree that IORPs need to monitor their compliance with all the legislation that applies to them, in most cases this will not be a negligible task. Therefore, the Directive should not be prescriptive about how this is achieved.</p>	<p>The primary objective of IORPs is to serve as a secure source of funds for retirement benefits. Therefore, the IORP has to take into account all the legislation concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members</p>
685.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	73.	<p>We refer to our answer 15 of the Federation of Dutch Pension Funds* to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on</p>	noted

			<p>the operations of an IORP.</p> <p>*[answer 15 of the first consultation of the Federation of Dutch Pension Funds :</p> <p>Our evaluation of the impacts is the following:</p> <p>With respect to internal control, a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution.</p> <p>In the current IORP directive nothing is laid down about a compliance function. Article 46 of the Solvency II Directive provides for a general formula and the line of thoughts can also be seen as a good add-on to the IORP Directive, but we underline the relevance of the principle of proportionality, as EIOPA itself also does.</p> <p>Conclusion: A a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution. Here we refer again to our general remarks, whereas proportionality should be defined and be an important part of Level 1 regulations (Lamfalussy process). All decisions with regard to pensions have therefore to be taken at level 1. Further harmonization at level 2 seems to be difficult and we would rather like to see the integration of all relevant actors in the legislative process. Therefore, quantitative impact studies and proper assessments should be an integral part of the whole process of revising the Directive at all stages in order to oversee all the (indirect) consequences.]</p>	
686.	National	73.	What is the view of the stakeholders on the proposed new	

	Association of Pension Funds (NAPF)		explanatory text on the scope (the fact that the compliance function should include all legislation with an impact on the operations of an IORP)?	
687.	Pensioenfonds Zorg en Welzijn (PFZW)	73.	We refer to our answer 15. to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.	noted
688.	Predica	73.	The fact that the compliance function should include all regulatory legislation relative to the operations of the IORP would be a real improvement.	noted
689.	PTK (Sweden)	73.	PTK is of the opinion a one-size fits all solution must be prevented across Europe for IORP's with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be one of the options to be considered, but not without a proper impact assessment of the consequences if such a function were to be introduced. If such a function is introduced PTK agrees with EIOPA that it should include all legislation with an impact on the operations of an IORP.	noted
690.	Railways Pension Trustee Company Limited ("RPTCL	73.	We have not considered this question.	noted

691.	TCO	73.	TCO is of the opinion a one-size fits all solution must be prevented across Europe for IORP's with regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be one of the options to be considered, but not without a proper impact assessment of the consequences if such a function were to be introduced. If such a function is introduced TCO agrees with EIOPA that it should include all legislation with an impact on the operations of an IORP.	noted
692.	The Association of Pension Foundations (Finland)	73.	Compliance function should be left to the discretion of IORP.	noted, cf. 22.3.15.
693.	The Association of the Luxembourg Fund Industry (A	73.	See 72	
694.	THE SOCIETY OF PENSION CONSULTANTS	73.	If there is to be a requirement that IORPs have a compliance function it would be reasonable that its scope should extend to all legislation with an impact on the operations of the IORP.	noted
695.	UK Association of Pension Lawyers	73.	CfA 17: (Internal Control System): What is the view of the stakeholders on the proposed new explanatory text on the scope (the fact that the compliance function should include all legislation with an impact on the operations of an IORP)?  As a general comment, we would repeat the comments we made as part of our response to the first consultation: that we support the proportionate approach being suggested by EIOPA to the matter of internal controls. Unless the approach taken to the compliance function is a proportionate one, it seems highly likely that such a requirement would simply be a costly	

			<p>regulatory burden that would do nothing for the advancement of good governance.</p> <p>In response to the specifics of question 73, if the compliance function is required to confirm that all legislation with an impact on the operations of the IORP has been complied with, this is likely to be an onerous task that would inevitably lead to increased costs and complexity for IORPs. The vast majority of pension scheme trustee boards that operate within the UK would not be able to provide such an unqualified confirmation themselves and it seems highly unlikely that they would be able to obtain such confirmation from one external adviser without incurring significant costs. For example, the legal advisers to the IORP would not ordinarily be able to provide this confirmation without undertaking significant extra work because they are not generally involved in the day to day operation of the IORP. At the same time, an administrator or auditor is unlikely to be able to provide this confirmation because it relates to legal compliance issues. Again, with a view to putting in place a proportionate compliance requirement, we suggest this confirmation is restricted so that the compliance function confirms that, after having taken such steps as are proportionate and appropriate to the status of the IORP, it is reasonable to conclude that all relevant legislation has been complied with.</p>	<p>The primary objective of IORPs is to serve as a secure source of funds for retirement benefits.</p> <p>Therefore, the IORP has to take into account all the legislation concerning occupational pensions, since this legislation can influence the functioning of the IORP, the operations and the benefits of the members</p>
696.	Universities Superannuation Scheme (USS),	73.	What is the view of the stakeholders on the proposed new explanatory text on the scope (the fact that the compliance function should include all legislation with an impact on the operations of an IORP)?	
697.	VHP2 (Vakorganisatie voor middelbaar en	73.	We refer to our answer 15 of the Federation of Dutch Pension Funds* to the first consultation of the EIOPA. A one-size fits all solution must be prevented across Europe for IORPs with	

	hoger pers	<p>regard to the compliance function. The introduction of an independent and qualitative compliance function should be left to the discretion of the IORP itself. The general formula used in the Solvency II Directive could be a possibility to be considered, but a proper assessment needs to be made what the impact would be for the IORPs when such a function is introduced. If such a function is introduced we agree with EIOPA that it should include all legislation with an impact on the operations of an IORP.</p> <p>*[answer 15 of the first consultation of the Federation of Dutch Pension Funds :</p> <p>Our evaluation of the impacts is the following:</p> <p>With respect to internal control, a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution.</p> <p>In the current IORP directive nothing is laid down about a compliance function. Article 46 of the Solvency II Directive provides for a general formula and the line of thoughts can also be seen as a good add-on to the IORP Directive, but we underline the relevance of the principle of proportionality, as EIOPA itself also does.</p> <p>Conclusion: A a one one-size-fits-all solution must be prevented. As long as the independence and quality of these functions is guaranteed, the exact specificities should be left to the discretion of the institution. Here we refer again to our general remarks, whereas proportionality should be defined and be an important part of Level 1 regulations (Lamfalussy process). All decisions with regard to pensions have therefore to be taken at level 1. Further harmonization at level 2 seems to be difficult and we would rather like to see the integration of</p>	noted
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			all relevant actors in the legislative process. Therefore, quantitative impact studies and proper assessments should be an integral part of the whole process of revising the Directive at all stages in order to oversee all the (indirect) consequences.]	
698.	Whitbread Group PLC	73.	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
699.	Zusatzversorgungskasse des Baugewerbes AG	73.	We agree that the compliance function should include all legislation relevant for IORP's.	noted
700.	Towers Watson	73.	74. What is the view of the stakeholders on the proposed new explanatory text on the scope (the fact that the compliance function should include all legislation with an impact on the operations of an IORP)?  If there is to be a requirement that IORPs have a compliance function it would be reasonable that its scope should extend to all legislation with an impact on the operations of the IORP.	noted
701.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	74.	The OPSG supports EIOPA's proposition to introduce an internal audit function on the basis of Article 47 of the Solvency II Directive. As proposed by EIOPA an internal audit function should be effective, objective and independent from operational functions.  OPSG also agrees with EIOPA that the requirements of internal audit should take into account the heterogeneous nature of the IORP sector (23.3.5). Furthermore the principles of internal audit must be implemented in a reasonable and proportionate manner (23.3.5).	noted  noted

			<p>Additionally, we believe that the requirements should be flexible enough to make sure that internal audit function can as well be fulfilled by means of or as a part of outsourcing (23.3.7; II).</p> <p>Furthermore, as pointed out by EIOPA, carrying out an internal audit will inevitably result in additional costs for IORPs. This will particularly be the case where it is necessary to appoint external auditors.</p> <p>Consequently, the requirement of an internal audit function may be too burdensome for small IORPs or IORPs with small complexity. Therefore, it is of the utmost importance that alternative measures can be allowed (re EIOPA response draft 23.3.7, III) and an impact assessment be made before any decision is taken to introduce an internal audit function, and that the proportionality principle is defined as a part of Level 1 regulations.</p> <p>In line with our response to Q. 73, OPSG believes that the primary responsibility of the internal audit function should be to inform the top executive(s) of the IORP of any arising issues and to assist the IORP in resolving those issues. We believe that as a general principle of the organisation structure, the staff of the IORP as well as the outsourced functions should report to the managing board and in turn the managing board should, where appropriate, report to its supervisory body.</p>	<p>noted</p> <p>For this reason, the application of the proportionality principle is important (cf. 23.3.5.)</p> <p>Agreed, therefore paragraph 23.3.15. states that the supervisory authority should have the power to require reports <u>from the IORP</u> on internal audit, and thus not directly from the internal audit function itself</p>
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			The OPSG also supports the idea that the internal audit function can inform the supervisory authority “on its own initiative”, for arising issues of material significance.	noted
702.	AbA Arbeitsgemeinschaft für betriebliche Altersver	74.	The AbA agrees with the recommendation of EIOPA to introduce an internal audit function. We agree with EIOPA that all principles of good governance (including internal audit) must be implemented in a reasonable and proportionate manner (section 23.3.5). The internal audit function should report the “findings and recommendations to the competent administrative, management or supervisory body of the IORP” (see section 23.3.12).	noted
703.	ABVAKABO FNV	74.	In principle we agree with the introduction of an internal audit function, that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
704.	AEIP	74.	140. Internal Audit Requirements could be applied to IORP’s, respecting the proportionality principle and with an appropriate period of transition.  141. The level 2 implementing measures should take the International Standards for the Professional Practice of Internal Auditing provided by the Institute of Internal Auditors (IIA)	noted

			<p>into account.</p> <p>142. We think that it should also be possible to have the internal audit function outsourced. As far as the independence and quality of the control are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the IORP.</p> <p>The requirement of an internal audit function may be too burdensome for small IORPs or IORPs with little complexity. Therefore we advice to provide for sufficient flexibility in the performance of the internal audit function.</p>	<p>noted</p> <p>noted (cf. 23.3.6.)</p> <p>noted (cf.23.3.7.)</p>
706.	AMICE	74.	<p>As outlined in our introduction, we generally support the application of the principles of pillar 2 of Solvency II, with an appropriate division between level 1 and level 2 texts. We underline the importance of the principle of proportionality in all provisions on governance.</p>	<p>noted</p>
707.	AMONIS OFP	74.	<p>Do stakeholders agree that the material requirements of internal audit in respect of insurers should also apply to IORPs, subject to proportionality and other changes?</p> <p>Yes, subject to proportionality, material requirements of internal audit in respect of insurers should also apply to IORP's</p>	<p>noted</p>
708.	ANIA – Association of Italian Insurers	74.	<p>The ANIA believes that an internal audit function should include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance of the IORP as indicated in Article 47 of the Solvency II Framework Directive. As such, the ANIA can fully support EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Framework Directive and that the implementation should be proportionate.</p>	<p>noted</p>

709.	Association Française de la Gestion financière (AF)	74.	As per 73.	
710.	Association of British Insurers	74.	The ABI agrees that introduction of an internal audit function would be beneficial. We are pleased to see that EIOPA recommend that the principles of internal audit must be implemented in a reasonable and proportionate manner. If the requirements are disproportionate, there is a danger that the costs become prohibitive and impact on the level of support that a sponsor provides for a scheme, which would not be beneficial for members. We also welcome the proposal to allow IORPs to outsource the internal audit function.	noted
711.	Association of French Insurers (FFSA)	74.	The FFSA supports EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Directive. The implementation should be proportionate.	noted
712.	Association of Pensioner Trustees in Ireland	74.	See response to question 63.	
713.	Assoprevidenza – Italian Association for supplement	74.	We agree, Internal Audit Requirements could be applied to pension funds, respecting the proportionality principle and with an <u>appropriate period of transition</u> .  The requirement of an internal audit function may be too burdensome for small IORPs or IORPs with little complexity. Therefore we advice to provide for sufficient flexibility in the performance of the internal audit function.	noted  noted
714.	Assuralia	74.	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
715.	Belgian Association of Pension Institutions (BVPI-	74.	Do stakeholders agree that the material requirements of internal audit in respect of insurers should also apply to IORPs, subject to proportionality and other changes?  Yes, subject to proportionality, material requirements of internal audit in respect of insurers should also apply to IORP's	noted
716.	BNP Paribas Cardif	74.	BNP Paribas Cardif supports EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Directive. The implementation should be proportionate	noted
717.	Bosch Pensionsfonds AG	74.	See under "General comment": "Sui generis" supervisory system for IORPs.	noted
718.	Bosch-Group	74.	See under "General comment": "Sui generis" supervisory system for IORPs.	noted
719.	BT Pension Scheme Management Ltd	74.	We would be content to see the standards on internal audit carried over to IORPs, subject as EIOPA suggests to very specific proportionality requirements.	noted
720.	BVI Bundesverband Investment und Asset Management	74.	As per 73.	noted
721.	CEA	74.	The CEA believes that an internal audit function should include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance of the IORP as indicated in Article 47 of the Solvency II Framework Directive. As such, the CEA can fully	

			support EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Framework Directive and that the implementation should be proportionate.	noted
722.	Charles CRONIN	74.	In principle I support the internal audit proposal, however I am concerned that for smaller IORPs the internal audit function would be a heavy burden for scheme M & B.	For this reason, the EIOPA's advice provides for IORPs of simple nature, scale and complexity of the operations the possibility to implement alternative measures meeting the general objectives of an internal audit function cf. 23.3.7.(iii)
723.	Chris Barnard	74.	I agree that the material requirements of internal audit in respect of insurers should also apply to IORPs, subject to proportionality and other changes. My comments on question 72 above on avoiding conflicts of interest and maintaining independence are relevant here.	noted
724.	CMHF (Centrale van Middelbare en Hogere Functionar	74.	In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this	noted (cf. 23.3.6.)

			can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	
725.	De Unie (Vakorganisatie voor werk, inkomen en loop	74.	In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
726.	DIIR – Deutsches Institut fuer Interne Revision e.	74.	DIIR strongly believes that the material requirements of Internal Audit in respect of insurers should also apply to IORPs. Internal Audit is key to an effective system of governance. We would like to elaborate a bit more on this point.  Internal Audit represents the so called “third line of defense” for any entity. The “Three lines of Defence-Model” is considered a valid conceptual delineation of control levels :  <input type="checkbox"/> First line: line controls, controls operated by line management  <input type="checkbox"/> Second line: in an insurance or reinsurance undertaking consists of activities covered by several components (compliance, risk management, actuarial function)  <input type="checkbox"/> Third line: an independent internal audit function providing assurance on internal control and risk management systems.	noted

			<p>As stated, in this context Internal Audit represents the so called "Third Line of Defense" for any entity. It is a highly structured profession working under rigorous international professional standards (issued by the Institute of Internal Auditors, global body of the profession ) with quality assurance rules that include an external assessment at least every five years. On the basis of its role, and if properly structured, it provides a global assurance to the management, administrative or supervisory board on the reliability of the enterprise's risk management and internal control systems. In this context, assurance is independent evaluation provided to interested parties (stakeholders) to ensure proper decision making and to assist in executing responsibilities over supervising, monitoring or overseeing corporate governance.</p> <p>The following three points illustrate why the presence of Internal Audit should be considered a mandatory component of the corporate governance structure of an entity.</p> <p>The Internal Audit function performs a wide scope of examination of processes which provide assurance to the management, administrative or supervisory board of the reliability of internal communication and information. This information is typically pervasive and formulates the basis for strategic and operational decisions of management at all levels up to the board. Assurance can include:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Budgetary management reporting</li> <li><input type="checkbox"/> Risk reporting</li> <li><input type="checkbox"/> Operational performance reporting</li> <li><input type="checkbox"/> Accounting processes and interrelationships with operations</li> </ul>	
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			<p><input type="checkbox"/> IT processes which, in complex environments, must ensure proper integration of diverse databases and systems.</p> <p>The second line of controls in an insurance or reinsurance undertaking consists of activities covered by several components of internal governance (compliance, risk management, actuarial function) while the third line independent assurance must be guaranteed by an independent Internal Audit function covering all components of the governance. Efficient and effective interaction between these components is also essential for a truly effective internal control system, as it impacts significantly the overall control environment as well as the essential element of proper and efficient communication and information flowing through the organization.</p> <p>Means for providing “assurance” (“third line of defense”) over the internal control and risk management systems is based on the activity of independent functions that are capable of identifying misalignments between the design and effective functioning of the internal control system with respect to the enterprise risk management objectives. Internal Audit, by its independence, nature and mission, is an activity intended to provide assurance over the overall adequacy of the internal governance system. The independence of Internal Audit is also a cornerstone to guarantee credibility and avoid potential conflicts of interest and inefficiencies between line and second line control functions.</p> <p>While the added value derived from Internal Audit may not be entirely quantifiable, the activity of Internal Audit results in systematic improvements to the internal governance (risk management and internal controls) of the organisation which can be measured for example through:</p>	
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			<ul style="list-style-type: none"> <li><input type="checkbox"/> Number and significance of audit recommendations</li> <li><input type="checkbox"/> Percentage of audit recommendations implemented within an acceptable time frame</li> <li><input type="checkbox"/> Significance of risks mitigated through the implementation of audit recommendations.</li> </ul> <p>The positive value of Internal Audit depends of course on its own quality structure and performance. Criteria applicable to this includes:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The effective independence of the Internal Audit function</li> <li><input type="checkbox"/> The clarity of the mandate of Internal Audit approved by the Board</li> <li><input type="checkbox"/> The management of the Internal Audit function in accordance with IIA Standards</li> <li><input type="checkbox"/> The implementation and results of the quality assurance review process required by the International Standards (IPPF), including the external assessment at least every five years by qualified assessors. The competency of the chief audit executive (“fit and proper”), requiring strong leadership capability in addition to technical and communication skills</li> <li><input type="checkbox"/> The adequacy of resources, both human and technical, including for example appropriate certifications by members of the Internal Audit department as issued by the Institute of Internal Auditors (such as CIA-Certified Internal Auditor, CIIA-Chartered Internal Auditor, CFSA-Certified Financial Services Auditor, CGAP-Certified Government Auditor, CCSA-Certification in Control Self Assessment and CRMA-Certification in Risk Management Assurance).</li> </ul>	
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		<p>Therefore we very much appreciate the requests on independence and objectivity of Internal Audit as stated in the Call for Advice. They are fully in line with the requests defined by the IPPF. We would like to recommend embedding three more core principles of the work of Internal Audit.</p> <p>The work of Internal Audit has to be risk-oriented. This means especially the development of a risk-oriented audit plan on a yearly basis ensuring that the high risk areas of the undertaking are covered in an appropriate way. An audit report has to be delivered after each assignment with findings and recommendations delivered to the relevant management, administrative or supervisory body. The adequate documentation and communication of all audit results to stakeholders is key for the effectiveness of Internal Audit. By addressing weaknesses in the internal control system or the risk management system and developing recommendations how to improve the systems Internal Audit adds significant value to an organization. The establishment of a follow-up process to monitor and ensure that management actions have been effectively implemented should also be considered as a minimum requirement towards the Internal Audit function. Without a stringent follow-up process it can not be ensured that actions to improve the internal control or risk management system are implemented and the overall control environment including the system of governance effectively improves.</p> <p>The IPPF cover these aspects and define other standards, which an Internal Audit function has to fulfill. The IPPF is funded on good practices of Internal Audit functions worldwide and can be seen as the standard followed by the global Internal Audit community. We recommend to have a link to the IPPF in the foreseen directive or any additional guidance. With</p>	<p>noted</p> <p>level 2</p>
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			<p>this link all requirements towards an efficient and effective Internal Audit function could be covered without giving too much detail in the directive or guidance itself.</p> <p>In conclusion, the Three Lines of Defense model is a truly powerful model that, if correctly applied, will certainly improve the governance of entities. In such a model, Internal Audit assumes the third level of global assurance. Internal Audit thus will provide added value, if properly structured, and should be considered essential for all entities. The management, administrative or supervisory board can rely on this independent function as a significant tool to its oversight over internal control and risk management, integrating it with further information and analyses obtained from risk committees, the statutory auditor, primary “second level” control functions, the entity-level control culture and the organization. Finally, the work of the statutory auditor is facilitated both by the model and by efficient dialogue with the Internal Auditor, promoted by the model itself. The needed integration of assurance over financial and internal reporting is also ensured.</p>	
727.	Direction Générale du Trésor, Ministère des financ	74.	Yes, we agree that the material elements of internal audit in respect of insurance undertakings should also apply to IORPs subject to proportionality.	noted
728.	Ecie vie	74.	We consider Articles 47 of Solvency II should apply to IORPs.	noted
729.	ECIIA	74.	<p>ECIIA strongly believes that the material requirements of Internal Audit in respect of insurers should also apply to IORPs. Internal Audit is key to an effective system of governance. We would like to elaborate a bit more on this point.</p> <p>Internal Auditing is an essential part of Corporate Control and</p>	noted

			<p>Governance. Important in this view is the fact, that Internal Auditing serves as an integral part of the organization and is thus involved in regular communication processes as an insider. Internal Auditing has more knowledge about the processes and control requirements for the company than any other internal or external function. It provides a global assurance to the management, administrative or supervisory board on the reliability of the enterprise's risk management and internal control systems. It does not happen by chance that Internal Auditing is a standard element in the context of the Audit Committee concept. Assurance can include:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Budgetary management reporting</li> <li><input type="checkbox"/> Risk reporting</li> <li><input type="checkbox"/> Operational performance reporting</li> <li><input type="checkbox"/> Accounting processes and interrelationships with operations</li> <li><input type="checkbox"/> IT processes which, in complex environments, must ensure proper integration of diverse databases and systems</li> </ul> <p>Internal Audit represents the so called "third line of defense" for any entity. The "Three lines of Defence-Model" is considered a valid conceptual delineation of control levels :</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> First line : line controls, controls operated by line management</li> <li><input type="checkbox"/> Second line : in an insurance or reinsurance undertaking consists of activities covered by several components (compliance, risk management, actuarial function)</li> <li><input type="checkbox"/> Third line: an independent internal audit function providing assurance on internal control and risk management systems. <input type="checkbox"/></li> </ul>	
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			<p>Efficient and effective interaction between these components is essential for a truly effective corporate governance</p> <p>Internal Auditing departments worldwide use a common basis for their work: the International Standards for the Professional Practice of Internal Auditing (Standards) and the International Professional Practices Framework (<a href="http://www.theiia.org/guidance/standards-and-guidance/interactive-ippf/">http://www.theiia.org/guidance/standards-and-guidance/interactive-ippf/</a>) defined by the Institute of Internal Auditors (IIA) make up a series of detailed strongly recommended or mandatory guidance for all internal auditors worldwide. Thus, Internal Auditors in all parts of the world can rely on a common basis for their work. Guidance for internal auditors includes specifically: characteristics of organizations and parties performing internal audit activities.</p> <p>As stated in the international definition, internal audit activity must evaluate and contribute to the improvement of internal control and risk management systems. These evaluations are valuably based on the use of internationally recognized frameworks such as COSO I and COSO ERM framework.</p> <p>The positive value of Internal Audit depends of course on its own quality structure and performance. Criteria applicable to this includes:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The effective independence of the internal audit function; organizational independence is effectively achieved when the chief audit executive reports to the highest level within the organization, has direct and unrestricted access to senior management and the board.</li> <li><input type="checkbox"/> The clarity of the mandate of Internal Audit approved by the Board</li> <li><input type="checkbox"/> The closed relationship with governance bodies on</li> </ul>	
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		<p>material subjects (follow up, planning and resources),</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The management of the internal audit function in accordance with the Standards</li> <li><input type="checkbox"/> The implementation and results of the quality assurance review process required by the Standards, including the external assessment every five years by qualified assessors. The competency of the chief audit executive ("fit and proper"), requiring strong leadership capability in addition to technical and communication skills</li> <li><input type="checkbox"/> The adequacy of resources, both human and technical, including for example appropriate certifications by members of the Internal Audit department as issued by the Institute of Internal Auditors.</li> </ul> <p>Therefore we very much appreciate the requests on independence and objectivity of Internal Audit as stated in the Call for advice. They are fully in line with the requests defined by our Standards. We would like to recommend embedding <u>three more core principles of the work of Internal Audit.</u></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The work of Internal Audit has to be <u>risk-oriented</u>. Risk orientation means especially the development of a risk-oriented audit plan on a yearly basis ensuring that the high risk areas of the undertaking are covered in an appropriate way.</li> <li><input type="checkbox"/> An audit <u>report</u> has to be delivered after each assignment with findings and recommendations delivered to the relevant management, administrative or supervisory body. The adequate documentation and communication of all audit results to the stakeholders are key for the effectiveness of Internal Audit. By addressing weaknesses in the internal control system or the risk management system and making recommendations how to improve the systems Internal Audit</li> </ul>	<p>noted</p> <p>level 2</p>
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		<p>adds significant value to an organization.</p> <p><input type="checkbox"/> The establishment of a <u>follow-up process</u> to monitor and ensure that management actions have been effectively implemented should also be considered as a minimum requirement towards the internal audit function. Without a stringent follow-up process it can not be ensured that actions to improve the internal control or risk management system are implemented and the overall control environment including the system of governance improves.</p> <p>The Standards cover this aspects and define more requirements, which an internal audit function has to fulfill. The Standards base on good practices of internal audit functions worldwide and can be seen as the standard followed by the global internal audit community. We recommend to have a link to the Standards in the foreseen directive or any additional guidance. With this link all requirements towards an efficient and effective internal audit function could be covered without giving to much detail in the directive or guidance itself.</p> <p>Although internal audit function must evaluate the potential for occurrence of fraud and how the organization manages fraud risk, it is not intended to focus on deterring and investigating fraud.</p> <p>The decision of outsourcing IA must be taken by the governance bodies after taking into account the risks associated to such an option. For example, in the consultative paper of the Basel committee "The internal audit function in banks" states that "Internal audit activities should normally be conducted by the bank's own internal audit staff. While internal audit activities may be partially or fully outsourced, the board of directors remains responsible for these activities and for maintaining an internal audit function within the bank (§ 42.)"</p>	
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730.	European Federation for Retirement Provision (EFRP)	74.	<p>In principle the EFRP agrees with the introduction of an internal audit function, which should be effective, objective and independent from operational functions. But we underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the Member States.</p> <p>The EFRP welcomes EIOPA's advice that the proportionality principle should be respected.</p>	<p>noted (cf. 23.3.6.)</p> <p>noted</p>
731.	European Fund and Asset Management Association (EF)	74.	As per 73.	noted
732.	Federation of the Dutch Pension Funds	74.	<p>In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.</p>	noted (cf. 23.3.6.)
733.	Financial Reporting Council	74.	<p>It is proposed that IORPs are required to have an internal audit function. While on the face of it the proposals appear to be reasonable, it would appear likely that it will lead to additional costs in the administration of smaller IORPs. It would be usual</p>	For this reason,

			for any internal audit needs to be covered by the internal audit team of the sponsoring employer. Many smaller employers might only have limited internal audit resources or rely on external audit for this purpose. It is not clear to us what evidence there is that the introduction of a specific internal audit function in addition to other governance requirements would be of benefit to members of IORPS.	the application of the proportionality principle is important (cf. 23.3.5.)
734.	FNV Bondgenoten	74.	In principle we agree with the introduction of an internal audit function, that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
735.	Generali vie	74.	We consider Articles 47 of Solvency II should apply to IORPs.	noted
736.	Groupe Consultatif Actuariel Européen.	74.	<p>We would repeat our comments in relation to other governance requirements that there are three key reasons why it may be necessary to depart from the way in which Solvency II is applied to insurance undertakings (see answer to Q63).</p> <p>We note the comment in 23.4 that EIOPA that “the introduction of an internal audit function could have the potential to be overly burdensome without a corresponding increase in benefits on the IORP, with potential adverse cost impacts for members if the principle of proportionality (cf. the above remarks) is not taken into account”.</p> <p>We would share this concern.</p> <p>We recommend that an impact assessment be undertaken before any decision is taken to introduce an internal audit</p>	For this reason, the application of the proportionality principle is important (cf. 23.3.5.)

			function, and that proportionality must be taken into account appropriately.	
737.	Groupement Français des Bancassureurs	74.	FBIA supports EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Directive. The implementation should be proportionate.	noted
738.	PMT-PME-Mn Services	74.	In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
739.	HM Treasury/Department for Work and Pensions	74.	The UK Government agrees that at their broadest, the general requirements in the Solvency II Directive could be applied to IORPs.	noted
740.	Institute and Faculty of Actuaries (UK)	74.	For the material requirements of internal audit in respect of insurers to also apply to IORPs, they need to be subject to proportionality and other changes. In particular we consider that a principles-based approach is required and that proportionality should be judged by reference to the benefit to IORP members and beneficiaries. Subject to these provisos internal audit could add to the running of the IORP.	noted
741.	KPMG LLP (UK)	74.	"that the internal audit function requires the appointment of an internal auditor could be overelaborate for some IORPs" is in our view an understatement – it could be the case for many IORPs who already have suitable arrangements in place,	For this reason, the application of the proportionality principle is

			particularly with outsourced functions, and external audit.	important (cf. 23.3.5.)
742.	Le cercle des épargnants	74.	We consider Articles 47 of Solvency II should apply to IORPs.	noted
743.	Mercer	74.	We agree that there is likely to be value to IORPs establishing an internal audit function, but consider that the Directive should not be prescriptive about how it is achieved.	noted
744.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	74.	In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
745.	National Association of Pension Funds (NAPF)	74.	<p>INTERNAL AUDIT</p> <p>Do stakeholders agree that the material requirements of internal audit in respect of insurers should also apply to IORPs, subject to proportionality and other changes?</p> <p>The NAPF disagrees with EIOPA that the introduction of an internal audit function in the revised IORP Directive would be beneficial and would advise against transposing Art. 43 of Directive 2009/138 into IORP II.</p> <p>The requirement to set up and run an internal audit function would significantly increase costs without a corresponding increase in the security for scheme members.</p> <p>IORPs are already subject (article 10 of the IORP Directive) to the requirement to have their annual accounts and annual</p>	<p>noted</p> <p>The tasks and duties of the internal audit</p>

			<p>reports approved by authorised persons (ie, an external auditor).</p> <p>An external auditor performs his/her task impartially and objectively and he/she is also not involved in the management of the IORP. An external auditor has the right to express his/her findings and recommendations freely. External audit reports can be accessed by the supervisory authorities who can check how the recommendations of the external auditor are addressed by the IORP.</p> <p>EIOPA should also take account of proportionality; small IORPs would need to be exempt from any new requirement in the area of internal audit.</p>	<p>function and the external auditor are completely different: the scope of the internal audit includes the whole organisation of the IORP and is therefore broader than the task of the external auditor, which is to check the annual accounts and annuals reports</p> <p>For this reason, the application of the proportionality principle is important (cf. 23.3.5.). Paragraph 23.3.7.(iii) leaves the possibility for IORPs of simple nature, scale and complexity of the operations, to implement alternative</p>
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				measures meeting the general objectives of an internal audit function.
746.	Pensioenfonds Zorg en Welzijn (PFZW)	74.	In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
747.	Predica	74.	Predica supports EIOPAs views on the introduction of the internal audit, using the material elements of article 47 of the Solvency II Directive. The implementation should be proportionate	noted
748.	PTK (Sweden)	74.	In principle PTK agrees with the introduction of an internal audit function, which should be effective, objective and independent from operational functions.  PTK welcomes EIOPA's advice that the proportionality principle should be respected.	noted
749.	Railways Pension Trustee Company Limited ("RPTCL	74.	We have not considered this question.	noted
751.	TCO	74.	In principle TCO agrees with the introduction of an internal audit function, which should be effective, objective and	

			<p>independent from operational functions.</p> <p>TCO welcomes EIOPA's advice that the proportionality principle should be respected.</p>	noted
752.	Tesco PLC	74.	<p>Do stakeholders agree that the material requirements of internal audit in respect of insurers should also apply to IORPS, subject to proportionality and other changes?</p> <p>IORPS are already subject to the requirement to have annual audits by an external auditor. Using an external third party for this ensures impartiality in the work carried out and views expressed.</p> <p>The requirement to set up an internal audit would increase the costs of running the scheme and potentially duplicate work carried out already – it also loses the benefits of independence.</p> <p>Therefore we believe that no extra internal audit should be required.</p>	<p>The tasks and duties of the internal audit function and the external auditor are completely different: the scope of the internal audit includes the whole organisation of the IORP and is therefore broader than the task of the external auditor, which is to check the annual accounts and annual reports</p>
753.	The Association of the Luxembourg Fund Industry (A	74.	<p>The Respondents generally support EIOPA's proposition to introduce internal audit requirements for IORPs.</p> <ol style="list-style-type: none"> <li>1. The internal audit function should include an evaluation of the adequacy of the internal control systems and the governance system of the IORP, including the outsourced activities.</li> <li>2. The Respondents fully adhere to the suggestion that the</li> </ol>	<p>noted</p> <p>noted</p>

			<p>principles of internal audit must be implemented in a reasonable and proportionate manner and that it is the responsibility of the IORP to define an adequate and consistent way of performing the internal audit.</p> <p>3. The internal auditor must be independent and cannot be involved in the management of the IORP. The IORP should also be allowed to outsource the internal audit function. Or employ alternative measures to carry out the function that could be reviewed by the supervisory authorities.</p> <p>The Respondents fully share the view that the introduction of an internal audit function could be overly burdensome without a corresponding increase in benefits on some scheme, with potential adverse costs impacts for members if the principle of proportionality is not taken into account.</p>	<p>noted</p> <p>noted</p> <p>noted (cf. 23.4.)</p>
754.	THE SOCIETY OF PENSION CONSULTANTS	74.	The wide range of IORPs in terms of form and size means that any requirement for the internal audit of the systems of internal controls and governance of an IORP must be proportionate, providing IORPs with maximum flexibility as to how they deliver the internal audit function.	Agreed, cf. 23.3.5., 23.3.6. and 23.3.7.
755.	Transport for London / TfL Pension Fund	74.	The introduction of an internal audit function for IORPs, as currently applies to insurers, would significantly increase costs and without, in our view, adding any equivalent member security.	For this reason, the application of the proportionality principle is important (cf. 23.3.5.)
756.	UK Association of Pension Lawyers	74.	CfA 18 (Internal audit): Do stakeholders agree that the material requirements of internal audit in respect of insurers	

		<p>should also apply to IORPs subject to proportionality and other changes?</p> <p>We do not consider that the introduction of an internal audit function in the UK will have a sufficiently positive impact upon members/beneficiaries of UK IORPs to support Option 2, to adopt the material elements of Article 47. We therefore support Option 1.</p> <p>UK legislation already requires trustees and managers of most UK IORPs to put in place:</p> <ul style="list-style-type: none"> <li>(a) arrangements and procedures to be followed in the administration and management of the scheme,</li> <li>(b) systems and arrangements for monitoring that administration and management, and</li> <li>(c) arrangements and procedures to be followed for the safe custody and security of the assets of the scheme</li> </ul> <p>which are adequate for the purpose of securing that the UK IORP is administered and managed in accordance with its own rules and other legal requirements. The UK supervisory authority has issued a Code of Practice which encourages trustees and managers to consider the effectiveness of those arrangements, procedures and systems. It is not clear to us that a separate internal audit function in addition to the existing UK requirements would offer additional benefits to members/beneficiaries of IORPs in the UK.</p> <p>However, if Option 2 is adopted we agree that the principles must be implemented in a reasonable and proportionate manner. In particular, we welcome the principle that it would be the responsibility of each IORP to define its own approach to the internal audit function. This is essential because the size and complexity of IORPs in the UK varies so widely that we do</p>	<p>The internal audit function should not necessarily come in addition to the existing UK requirements. Maybe the existing UK requirements can become part of the internal audit.</p> <p style="text-align: center;">noted</p>
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			<p>not consider it would be possible to define an internal audit function that would be appropriate for all IORPs.</p> <p>We also welcome the principle that the internal audit function could be assigned to an internal member of staff. However, in the UK, this is likely to benefit only the biggest IORPs who have the capacity to carry out the administration and management of the IORP in-house rather than outsource these functions, to a third party administrator for example. The vast majority of IORPs in the UK are operated under trust with only a limited number of individuals appointed as trustees. It is unlikely that these IORPs will have an internal member of staff available to carry out the internal audit function. This would mean appointing an independent third party to carry out that function.</p> <p>Carrying out an internal audit will inevitably result in additional costs for IORPs. This will particularly be the case where it is necessary to appoint external auditors to carry out the function. As noted above, this will be the case for the vast majority of UK IORPs. However, even where an internal member of staff can be identified to carry out the audit function, there will be an additional cost associated with increased management time. Although we agree that costs are likely to be borne by sponsoring employers (particularly of DB schemes), those funds are being diverted away from providing members' benefits. This risk is greater in relation to DC schemes where, for example, the costs associated with the internal audit function could be included in an annual management charge levied on members' accounts.</p>	<p>noted</p> <p>For this reason, the application of the proportionality principle is important (cf. 23.3.5.)</p>
757.	Universities Superannuation Scheme (USS),	74.	<p>INTERNAL AUDIT</p> <p>Do stakeholders agree that the material requirements of internal audit in respect of insurers should also apply to IORPs,</p>	

			subject to proportionality and other changes?	
758.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	74.	In principle we agree with the introduction of an internal audit function that is effective, objective and independent from operational functions. But we would underline that there should not be too strict requirements in order to make sure that this can as well be fulfilled by means of or as part of outsourcing. As long as the independence and quality of the control, compliance and audit function are guaranteed, the exact specificities of such an internal audit function should be left to the discretion of the institution.	noted (cf. 23.3.6.)
759.	Whitbread Group PLC	74.	An occupational pension scheme is not operated like a business. Its aims are simply to pay members benefits and it is run by a Trustee. There is no need to add a costly requirement for internal audit, which will not improve member security.	For this reason, the application of the proportionality principle is important (cf. 23.3.5.)
760.	Zusatzversorgungs kasse des Baugewerbes AG	74.	Internal Audit Requirements could be applied to IORP's, respecting the proportionality principle and with an appropriate period of transition.  The level 2 implementing measures should take the International Standards for the Professional Practice of Internal Auditing provided by the Institute of Internal Auditors (IIA) into account.	noted
761.	Towers Watson	74.	75. CfA 18 Internal audit  Do stakeholders agree that the material requirements of internal audit in respect of insurers should also apply to IORPs, subject to proportionality and other changes?	The application of the proportionality principle is important. For this

			<p>Again, in the UK, this should represent little change, beyond formalising what is already good practice, at least for larger pension schemes.</p> <p>The wide range of IORPs in terms of form and size means that any requirement for the internal audit of the systems of internal controls and governance of an IORP must be proportionate, providing IORPs with maximum flexibility as to how they deliver the internal audit function. This should extend to the point that for some IORPs an 'internal audit' function is not appropriate. The principle should be that the requirement for an internal audit should be determined by reference to the cost of such a function versus the benefit that it delivers to members and beneficiaries.</p>	<p>reason, the EIOPA's advice provides for IORPs of simple nature, scale and complexity of the operations the possibility to implement alternative measures meeting the general objectives of an internal audit function. cf. 23.3.7.(iii)</p>
762.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	75.	See question 74	noted
763.	AbA Arbeitsgemeinschaft für betriebliche Altersver	75.	<p>No, we do not agree with EIOPA that the revised directive should contain such an option for Member States (see section 23.5.7). Internal audit is an internal function!</p> <p>We refer to our comments on question 72. The AbA rejects strongly the idea that the regulation should make it possible for the internal audit function, to also inform the supervisory authority. We believe that as a general principle staff of an IORP is responsible to the managing board of the IORP and that the managing board of the IORP is responsible to the supervisory authority. This applies for all required governance</p>	<p>Paragraph 23.3.15. states that the supervisory authority should have the power to require reports <u>from the IORP on compliance</u>, and</p>

			<p>functions.</p> <p>Therefore, a whistle-blowing obligation may only be acceptable in particularly serious cases which should be defined on Member State level.</p>	<p>thus not directly from the compliance function itself.</p> <p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
764.	ABVAKABO FNV	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
765.	AEIP	75.	143. AEIP is in favour of giving the internal auditor the right	Agreed, to meet

			<p>to act as whistle-blower. In that case appropriate protection must be provided.</p> <p>We do not think that whistle-blowing should be the duty of the internal auditor, because this would create a potential conflict of interest and impede the advisory role the compliance function has towards the Board of the IORP.</p>	<p>this comment, paragraph 23.3.15. is adapted</p> <p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
767.	AMONIS OFP	75.	<p>What is the view of stakeholders on the proposed whistle-blowing obligation of the internal audit function?</p> <p>Internal audit function should not have a whistleblowing function towards the supervisor</p>	<p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the</p>

				<p>internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
768.	ANIA – Association of Italian Insurers	75.	<p>The ANIA is not supportive of any whistle blowing functions at all. However, ANIA believes that if any rules on whistle-blowing are to be introduced they rightly belong within the scope of the compliance function and should not be mandatory.</p>	<p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the</p>

				IORP does not take appropriate and timely remedial action.
769.	Association of British Insurers	75.	EIOPA recommend that the revised Directive should contain an option for Member States to introduce a whistle-blowing obligation for the internal function, the ABI believes this is sensible.	noted
770.	Association of French Insurers (FFSA)	75.	Internal audit function should apply the same way for insurers and IORPs.	noted
771.	Association of Pensioner Trustees in Ireland	75.	See response to question 63.	noted
772.	Assoprevidenza – Italian Association for supplement	75.	We agree	noted
773.	Assuralia	75.	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
774.	Belgian Association of Pension Institutions (BVPI-	75.	What is the view of stakeholders on the proposed whistle-blowing obligation of the internal audit function?  Internal audit function should not have a whistleblowing function towards the supervisor	Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the

				internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
775.	BNP Paribas Cardif	75.	Internal audit function should apply the same way for insurers and IORPs.	noted
776.	Bosch Pensionsfonds AG	75.	<p>We strongly reject the introduction of an additional MS option. MS options should be avoided at all cost - they constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p> <p>We also reject the idea of a whistle blowing obligation of the internal audit function. As a general principle, staff of an IORP is responsible to the managing board who in turn are responsible to the supervisory authority.</p>	<p>Agreed. To meet this comment, paragraph 23.3.15. is adapted</p> <p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable.</p>

				<p>However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p>
777.	Bosch-Group	75.	<p>We strongly reject the introduction of an additional MS option. MS options should be avoided at all cost - they constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p> <p>We also reject the idea of a whistle blowing obligation of the internal audit function. As a general principle, staff of an IORP is responsible to the managing board who in turn are responsible to the supervisory authority.</p>	<p>Agreed. To meet this comment, paragraph 23.3.15. is adapted</p> <p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to</p>

				inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
778.	BT Pension Scheme Management Ltd	75.	We suggest that any whistle-blowing standard is applied with a careful consciousness of the need for proportionality. It should be left in the hands of member state supervisory authorities to determine the applicability of any such standards.	Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
779.	CEA	75.	The CEA is not supportive of any whistle blowing functions at all. However; CEA believes that if any rules on whistle-blowing are to be introduced they rightly belong within the scope of the compliance function and should not be mandatory.	Noted, paragraph 23.3.15. is adapted to clarify that the internal

				reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
780.	Chris Barnard	75.	I strongly support the proposed whistle-blowing obligation of the internal audit function. This should include safeguards and protections for whistleblowers. This would act to reinforce the integrity of the internal control system and should encourage entities to take preventative as well as corrective action.	Agreed. To meet this comment, paragraph 23.3.15. is adapted
781.	CMHF (Centrale van Middelbare en Hogere Functionar	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
782.	De Unie (Vakorganisatie voor werk, inkomen en loop	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
783.	DIIR – Deutsches	75.	Regarding the proposed whistle-blowing obligation DIIR do not	Noted, paragraph

	<p>Institut fuer Interne Revision e.</p>		<p>think such an obligation would be beneficial for Internal Audit and its effectiveness in the system of governance. Internal Audit is solely an internal function. It is responsible only towards the management, administrative or supervisory board and supports this function by overlooking the activities of the entity, especially the risk management, internal control system and the system of governance. Its independence and objectivity towards other functions is key for its success. But a good relationship towards the respective board is also key for the success of Internal Audit. It has to be founded on mutual trust and reliability. This is the precondition for open communication between the relevant body and Internal Audit. Without open communication Internal Audit will have difficulties to obtain the information needed to evaluate the risk situation of the undertaking in an appropriate way.</p> <p>Furthermore notwithstanding its independence in the organization Internal Audit is a function of the undertaking. Internal Auditors are employed by the undertaking and they are responsible towards it. Thus they are not entitled to act against the interests of the undertaking. If they act against the interests of the undertaking, this can lead to severe personal consequences for the employee.</p> <p>The results of Internal Audit should be fully transparent towards the supervisory authority and it should be entitled to receive all Internal Audit reports. But this should happen via an official reporting line including the management, administrative or supervisory board.</p>	<p>23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p> <p>Agreed, therefore paragraph 23.3.15. states that the supervisory authority should have the power to require reports from the IORP on</p>
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				internal audit, and thus not directly from the internal audit function itself
784.	Ecie vie	75.	Regarding Audit : the same principle should apply for insurance contracts and IORPs.	noted
785.	ECIIA	75.	<p>Regarding the proposed whistle-blowing obligation ECIIA do not think such an obligation would be beneficial for the effectiveness of the internal audit function in the system of governance. Internal Audit is an internal function of an undertaking. It is responsible only towards the management, administrative or supervisory board and supports this function by overlooking the activities of the entity, especially the risk management, internal control system and the system of governance. Its independence and objectivity towards other functions is key for its success. But a good relationship towards the respective board is also key for the success of Internal Audit. It has to be founded on mutual trust and reliability. This is the precondition for open communication between the relevant body and Internal Audit. Without open communication Internal Audit will have difficulties to obtain the information needed to evaluate the risk situation of the undertaking in an appropriate way. Any type of external whistleblowing would be in contradiction with current internal audit status within the organization.</p> <p>The results of Internal Audit should be fully transparent towards the supervisory authority and it should be entitled to receive all internal audit reports. But this should happen via an official reporting line including the management, administrative or supervisory board.</p>	<p>Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.</p> <p>Agreed, therefore paragraph 23.3.15. states that the</p>

				supervisory authority should have the power to require reports <u>from the IORP</u> on internal audit, and thus not directly from the internal audit function itself
786.	European Federation for Retirement Provision (EFRP)	75.	The EFRP agrees that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing obligation in case a Member State so chooses.	noted
787.	Federation of the Dutch Pension Funds	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
788.	Financial Reporting Council	75.	We have not formed a view on this question.	noted
789.	FNV Bondgenoten	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
790.	Generali vie	75.	Regarding Audit : the same principle should apply for insurance contracts and IORPs.	noted
791.	Groupement Français des Bancassureurs	75.	Internal audit function should apply the same way for insurers and IORPs.	noted
792.	PMT-PME-Mn	75.	We agree that the internal audit function, if introduced after a	

	Services		proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
793.	Institute and Faculty of Actuaries (UK)	75.	We consider that a whistle-blowing requirement for the internal audit function is a necessary requirement if, as we prefer, a principles-based approach is adopted. However the whistle-blowing requirement would need to be sufficiently flexible to allow for all the forms of internal audit function that may be reasonably be adopted by IORPs.	noted
794.	Le cercle des épargnants	75.	Regarding Audit : the same principle should apply for insurance contracts and IORPs.	noted
795.	Mercer	75.	We consider that whistleblowing responsibilities should be applied to all bodies and individuals with responsibilities towards the IORP.	noted
796.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
797.	National Association of Pension Funds (NAPF)	75.	What is the view of stakeholders on the proposed whistle-blowing obligation of the internal audit function?  23. The NAPF's view is that EIOPA have not justified the case for a new whistle-blowing obligation as part of the internal audit function. The case should be made first.	noted
798.	Pensioenfonds Zorg en Welzijn (PFZW)	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
799.	Predica	75.	Internal audit function should apply the same way for insurers and IORPs.	noted

800.	PTK (Sweden)	75.	PTK believes that if any whistle-blowing obligation is introduced they rightly should belong within the scope of the compliance function.	noted
801.	Railways Pension Trustee Company Limited ("RPTCL	75.	We have not considered this question.	noted
802.	TCO	75.	TCO believes that if any whistle-blowing obligation is introduced they rightly should belong within the scope of the compliance function.	noted
803.	The Association of the Luxembourg Fund Industry (A	75.	See74	
804.	THE SOCIETY OF PENSION CONSULTANTS	75.	Any whistle-blowing requirement should also be very flexible, allowing for the different, proportionate ways of delivering the internal audit function.	noted
805.	UK Association of Pension Lawyers	75.	<p>CfA 18 (Internal audit): What is the view of stakeholders on the proposed whistle-blowing obligation of the internal audit function?</p> <p>Please refer to our comments under Question 74 above regarding whether or not an internal audit function should be introduced.</p> <p>If Option 2 is adopted, UK legislation already requires breaches of the law to be reported in writing to the UK supervisory authority where there is reasonable cause to believe that a duty has not been complied with that is likely to be of material significance to the UK supervisory authority in the exercise of any of its functions. This reporting requirement falls on the following individuals in relation to IORPS in the UK:</p>	noted. The whistle-blowing possibility of the internal audit function should not necessarily come in addition to the existing UK requirements.

			<p>(a) trustees or managers;</p> <p>(b) a person otherwise involved in the administration;</p> <p>(c) the employer;</p> <p>(d) a professional adviser; and</p> <p>(e) a person otherwise involved in advising the trustees or managers.</p> <p>The UK supervisory authority has issued a Code of Practice which sets out the expectations on such individuals to meet their reporting requirements. It is not clear to us that a separate whistleblowing option in addition to the existing UK requirements would offer additional benefits to members/beneficiaries of IORPs in the UK.</p>	Maybe the existing UK requirements can become part of the internal audit requirements.
806.	Universities Superannuation Scheme (USS),	75.	What is the view of stakeholders on the proposed whistleblowing obligation of the internal audit function?	
807.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	75.	We agree that the internal audit function, if introduced after a proper assessment of the costs and effectiveness of such a function within an IORP, could have a whistle-blowing right in case Member States choose for such an option.	noted
808.	Whitbread Group PLC	75.	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
809.	Zusatzversorgungskasse des Baugewerbes AG	75.	We do not think that whistle-blowing should be the duty of the internal auditor, because this would create a potential conflict of interest and impede the advisory role the internal auditor has towards the Executive Board of the IORP.	Noted, paragraph 23.3.15. is adapted to clarify that the internal reporting obligation of the

				internal audit function is incontestable. However, the internal audit should have a whistle-blowing obligation to inform the supervisory authority if the IORP does not take appropriate and timely remedial action.
810.	Towers Watson	75.	76. What is the view of stakeholders on the proposed whistle-blowing obligation of the internal audit function?  Any whistle-blowing requirement should also be very flexible, allowing for the different, proportionate ways of delivering the internal audit function.	noted
811.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	76.	The OPSG basically agree with the analysis of EIOPA. In particular:  <input type="checkbox"/> the "actuarial function" should perform the role currently undertaken for IORPs by the actuary referenced in Articles 9 and 15 of the IORP Directive i.e. compute and certify the technical provisions  <input type="checkbox"/> on grounds of cost, the Directive should not require an IORP to have two separate functions to compute and to certify the technical provisions (although member States could impose	noted

			<p>this additional requirement)</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the actuarial function can be an internal or an external (out-sourced) appointment</li> <li><input type="checkbox"/> the definition of the actuarial function should be sufficiently flexible to deal with the wide variety of IORPs in Member States</li> <li><input type="checkbox"/> an actuarial function should be required for all IORPs which bear biometric or investment risk i.e. all but "pure DC" schemes, although actuaries can perform other tasks in such schemes e.g. advice on investment options, member communications</li> </ul> <p>Similar to our response to Q. 73, the OPSG is of the opinion that the primary responsibility of the actuarial function should be to inform the top executive(s) of the IORP of any materially significant issues as set out in paragraph 24.3.17(b) and to assist the IORP in resolving those issues. We believe that as a general principle of the organisation structure, the staff of the IORP as well as the outsourced functions should report to the managing board and in turn the managing board should, where appropriate, report to its supervisory body. The OPSG supports the idea that the actuarial function can inform the supervisory authority "on its own initiative", for issues of</p>	<p>agreed, text revised to make clearer that actuarial skills could be relevant to the projection of future events under pure DC schemes, notably in relation to the projection of assets, risks and expected outcomes, member communications,</p> <p>...</p> <p>noted</p>
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			material significance. However, some members of the OPSG felt that the actuarial function should have an obligation to report to the supervisory authority in such cases, in line with existing legislation in some Member States.	
812.	AbA Arbeitsgemeinschaft für betriebliche Altersver	76.	<p>The AbA acknowledges the importance of actuaries (or similar qualified specialist) and the fact that their advice is necessary. On grounds of cost, the Directive should not require an IORP to have two separate functions to compute and to certify the technical provisions. The actuarial function shall inform the managing board of the IORP and the managing board of the IORP is responsible to the supervisory authority. Therefore, we do not agree with EIOPA that the "reporting obligation should be extended also vis-à-vis the supervisory authority" (see section 24.3.17). Therefore a whistle-blowing responsibility may only be acceptable in exceptional particularly serious cases which should be defined on Member State level.</p> <p>We are in favor of defining the scope, tasks and qualifications of the actuarial function more precisely. However the definition of the actuarial function should be sufficiently flexible to deal with the wide variety of IORPs in Member States. We reject to risk-based capital requirements which are not appropriate for IORPs. Therefore the reference in the adapted wording of article 48 (1) (see section 24.5.5) to Chapter VI, Sections 4 and 5 should be deleted.</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate remedial action</p> <p>noted, depends on whether or not new risk based capital requirements will be introduced</p>
813.	ABVAKABO FNV	76.	We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would become required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial	noted, text revised to make clearer that the internal reporting obligation is incontestable.

			function should in this role solely have to report to the supervisory body, the administrative or the management body of the IORP.	However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
814.	AEIP	76.	We agree with the analysis of EIOPA, especially with 24.5.4. AEIP has no objections or comments regarding the application of art. 48 of Directive 2009/138/EC, although not all of the tasks are applicable to IORPs.	noted
816.	AMICE	76.	As outlined in our introduction, we generally support the application of the principles of pillar 2 of Solvency II, with an appropriate division between level 1 and level 2 texts. We underline the importance of the principle of proportionality in all provisions on governance.	noted
817.	AMONIS OFP	76.	<p>What is the view of the stakeholders on the role and duties of the actuarial function of IORPs?</p> <p>A distinction should be made between the functions of actuary of the scheme and actuary of the IORP. The actuary of the scheme should advise on the contributions, funding level, actuarial assumptions, irrespective of the funding vehicle(s), IORP, insurance company, a combination of both or other. That mission is long term oriented (long term equilibrium of the scheme) and the stakeholders are the social partners (sponsor and representatives of the members).</p> <p>The actuary of the IORP should oversee the calculation of</p>	agreed, text revised by adding a general comment on the duties of the actuarial function regarding the pension

			technical provisions (on a short term basis), advise on mortality tables, reinsurance, etc. and the way operations are run within the IORP	scheme.
818.	ANIA – Association of Italian Insurers	76.	<p>In general the ANIA believes that there is no reason why the material elements for Art. 48 should be removed or amended. Specific tasks in the context of IORPs could be specified when specific tasks from insurance undertakings cannot be transferred to IORPs. However the general system of governance including the actuarial function should be implemented in the same way. Only proportionality should be used to scale the requirements for IORPs.</p> <p>In general, the ANIA agrees on EIOPAs suggestions. However, the ANIA does not support on changing the word 'ensuring' by assessing in 24.3.14. The ANIA believes that the task of the actuary should be to ensure that the calculation of the technical provision is correct. This does not remove any decision making powers from the board/trustees. Moreover, it only makes that calculation of the technical provision is a correct representation of the reality and this should be the actuary main task.</p>	<p>noted</p> <p>not agreed. As it is the board of the IORP/its trustees who is/are ultimately responsible for the decision-making, the advice of the actuarial function cannot be binding on the board/trustees, the wording "ensure" is to strong.</p> <p>noted, text revised to make clearer</p>

			<p>Finally, the ANIA is not supportive of any whistle blowing functions at all. However; ANIA believes that if any rules on whistle-blowing are to be introduced they rightly belong within the scope of the compliance function and should not be mandatory.</p>	<p>that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
819.	Association of British Insurers	76.	<p>The ABI agrees with EIOPA that there is a need to clarify the scope of the actuarial function in the revised Directive.</p> <p>We are pleased that EIOPA recognises that there are a wide variety of pensions schemes exist in Member States and therefore the role of the actuarial function must be formulated with sufficient flexibility in the revised Directive so as to take account of these differences.</p> <p>The ABI agrees that the cost would outweigh the benefit of requiring verification of actuarial statements and accompanying reports by another actuary, and therefore should not be compulsory, rather an option should Member States chose to do so</p>	noted
820.	Association of Consulting Actuaries (UK)	76.	<p>EIOPA rightly recognises that that it is the board or trustees of the IORP who are ultimately responsible for making decisions relating to the funding of a pension scheme. It is therefore</p>	noted

			<p>essential that any amendments to the IORP directive in respect of the actuarial function recognise that the role of the actuary is limited to providing calculations and advice to the board/trustees.</p> <p>We also agree with EIOPA's conclusion that there should be no requirement for pure DC schemes to have an actuarial function. However, actuarial skills are relevant to the projection of future events under such pure DC schemes, notably in relation to the projection of assets, risks and expected outcomes.</p> <p>It should be noted that the role and duties of the actuarial function may currently arise from a number of different sources, both technical and professional. For example, in the UK, actuaries must abide by:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> UK legislation which requires certain work to be carried out by actuaries (including the valuation of pension schemes in a number of different contexts and the calculation of the debt incurred by an exiting employer) and which requires actuaries to blow the whistle in certain situations;</li> <li><input type="checkbox"/> Codes of practice and guidance from the Pensions Regulator as to the carrying out of the roles prescribed in legislation;</li> <li><input type="checkbox"/> Technical standards prescribed by the Board for</li> </ul>	<p>agreed, text revised to make clearer that actuarial skills could be relevant to the projection of future events under pure DC schemes, notably in relation to the projection of assets, risks and expected outcomes, member communications, ... noted</p>
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			<p>Actuarial Standards;</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Professional conduct standards ('The Actuaries' Code') prescribed by the Actuarial Profession (the Institute and Faculty of Actuaries) and other guidance on professionalism issues, such as whistle-blowing;</li> <li><input type="checkbox"/> Any requirements specified in the deed and rules governing the specific IORP: for example, some scheme rules require certain activities (such as calculating transfer values) to be carried out by actuaries where there is no legislative requirement for this.</li> </ul> <p>Although all of these items cover aspects of the role and duties of the actuarial function, we do not believe that the revised text of the IORP directive should cover all these requirements. In particular, it is not necessary that the professional responsibilities of the actuarial function should fall within the scope of the IORP directive.</p>	noted
821.	Association of French Insurers (FFSA)	76.	The FFSA fully supports EIOPAs views on the role and duties of the actuarial function, using article 48 of the Solvency II Framework Directive and that the implementation should be proportionate.	noted
822.	Association of Pensioner Trustees in Ireland	76.	See response to question 63.	
823.	Assoprevidenza – Italian Association for supplement	76.	We agree with the analysis of EIOPA, especially with 24.5.4	noted
824.	Assuralia	76.	The rules of Solvency II with regard to governance and other qualitative requirements ultimately serve to protect the	noted

			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.	
825.	Belgian Association of Pension Institutions (BVPI-	76.	<p>What is the view of the stakeholders on the role and duties of the actuarial function of IORPs?</p> <p>A distinction should be made between the functions of actuary of the scheme and actuary of the IORP. The actuary of the scheme should advise on the contributions, funding level, actuarial assumptions, irrespective of the funding vehicle(s), IORP, insurance company, a combination of both or other. That mission is long term oriented (long term equilibrium of the scheme) and the stakeholders are the social partners (sponsor and representatives of the members).</p> <p>The actuary of the IORP should oversee the calculation of technical provisions (on a short term basis), advise on mortality tables, reinsurance, etc. and the way operations are run within the IORP</p>	agreed, text revised by adding a general comment on the duties of the actuarial function regarding the pension scheme.
826.	BNP Paribas Cardif	76.	BNP Paribas Cardif fully support EIOPAs views on the role and duties of the actuarial function, using article 48 of the Solvency II Framework Directive and that the implementation should be proportionate.	noted
827.	Bosch Pensionsfonds AG	76.	It is indispensable that the "actuary" referred to in the IORP Directive and the "actuarial function" are considered to be the same, albeit with a more detailed scope of responsibilities. In member states like Germany provisions on the scope, tasks, responsibilities and qualifications of the actuary ("Verantwortlicher Aktuar") are already in place and are very much in line with the description of the actuarial function. It must be avoided that two actuaries become necessary (actuary	noted

			and actuarial function) which would lead to additional and unnecessary administrative burden without adding value.	
828.	Bosch-Group	76.	It is indispensable that the “actuary” referred to in the IORP Directive and the “actuarial function” are considered to be the same, albeit with a more detailed scope of responsibilities. In member states like Germany provisions on the scope, tasks, responsibilities and qualifications of the actuary (“Verantwortlicher Aktuar”) are already in place and are very much in line with the description of the actuarial function. It must be avoided that two actuaries become necessary (actuary and actuarial function) which would lead to additional and unnecessary administrative burden without adding value.	noted
829.	BT Pension Scheme Management Ltd	76.	We note EIOPA’s clear view that the board of the IORP retains responsibility for any decision-making in relation to actuarial issues. We therefore believe that while EIOPA might encourage the use of actuarial advice it is only appropriate to leave the decision-making about how that independent advice is sought and used in the hands of the IORP boards.	noted
830.	CEA	76.	<p>In general the CEA believes that there is no reason why the material elements for Art. 48 should be removed or amended. Specific tasks in the context of IORPs could be specified when specific tasks from insurance undertakings cannot be transferred to IORPs. However the general system of governance including the actuarial function should be implemented in the same way. Only proportionality should be used to scale the requirements for IORPs.</p> <p>In general, the CEA agrees on EIOPAs suggestions. However, the CEA does not support on changing the word ‘ensuring’ by assessing in 24.3.14. The CEA believes that the task of the actuary should be to ensure that the calculation of the technical provision is correct. This does not remove any</p>	<p>noted</p> <p>not agreed. As it is the board of the IORP/its trustees who is/are ultimately responsible for the</p>

			<p>decision making powers from the board/trustees. Moreover, it only makes that calculation of the technical provision is a correct representation of the reality and this should be the actuary main task.</p> <p>Finally, the CEA is not supportive of any whistle blowing functions at all. However; CEA believes that if any rules on whistle-blowing are to be introduced they rightly belong within the scope of the compliance function and should not be mandatory.</p>	<p>decision-making, the advice of the actuarial function cannot be binding on the board/trustees, the wording "ensure" is too strong.</p> <p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
831.	Charles CRONIN	76.	<p>I support EIOPA's analysis of the actuarial function for IORPs. It is a key function for calculating technical provisions. It is a highly technical skill, requiring independence and integrity. The resource can either be internal or outsourced. The amount of work required will depend heavily on the complexity of the scheme. I note EIOPA's observation that pure DC schemes do</p>	<p>agreed, text revised to make clearer that actuarial skills could be relevant to the projection of</p>

			not require an actuarial function because there is no investment guarantees and no biometric risks to consider, but do not support the conclusion that no actuarial function is required. As EIOPA will recognise in many Member States the level of contributions into DC schemes is well below what would be required to provide an adequate retirement (replacement rates). Hence I believe there is a role for actuarial input to provide general advice on the required level of contribution to deliver a certain level of pension. This advice will help employees, who are increasingly taking responsibility for their retirement, to make better provision for that retirement.	future events under pure DC schemes, notably in relation to the projection of assets, risks and expected outcomes, member communications, ...
832.	Chris Barnard	76.	The proposed role and duties of the actuarial function are broadly okay. The actuarial function should also provide commentary on: the funding objectives; the scheme of contributions required in the future to maintain solvency and / or to make good any deficit (shortfall) in funding; the risk that the sponsor may not be able to continue to pay contributions or make good any deficit in the future; and the scope (and / or costing) for paying any discretionary benefits. Please note that the role and duties of the actuarial function could be broader if a Solvency II-like, market-consistent approach to valuation and solvency was not adopted (for example there may need to be commentary on the consistency of the valuation of assets and liabilities, the level of prudence of the valuation and risks thereunder, solvency expectations, the change in funding and contribution scheme to changes in key assumptions including investment returns and asset values etc).	agreed, text revised by adding a general comment on the duties of the actuarial function regarding the pension scheme
833.	CMHF (Centrale van Middelbare en Hogere Functionar	76.	We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this	partially agreed, text revised to make clearer that the internal reporting

			responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body of the IORP.	obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
834.	De Unie (Vakorganisatie voor werk, inkomen en loop	76.	We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body of the IORP.	noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
835.	Ecie vie	76.	We consider Articles 48 of Solvency II should apply to IORPs.	noted

836.	European Federation for Retirement Provision (EFRP)	76.	<p>The EFRP acknowledges the importance of actuaries and the fact that their advice is necessary. Concerning the reporting obligation, the EFRP regrets its extension to the supervisory authority. This responsibility should only be internal and the actuarial function should not be obligated to inform the supervisory authority.</p> <p>Concerning the whistle-blowing responsibility, the EFRP stresses that whistle-blowing requirements should apply in cases such as fraud but it should be left to Member States to decide on implementation. Moreover, legal protections should be in place for the whistle-blower.</p> <p>The whistle-blowing responsibility should be internal only. The actuarial function would solely have to report to the supervisory body, the administrative or the management body of the IORP.</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
837.	Federation of the Dutch Pension Funds	76.	<p>We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body of the IORP.</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely</p>

				remedial action
838.	Financial Reporting Council	76.	<p>We consider that the actuarial function has a key role in performing calculations and advising governing bodies on a wide range of matters including assumptions, risk and uncertainty. The list of roles for the actuarial function proposed in section 24.5 is based on the roles specified in the Solvency II Directive with minor amendments to reflect IORPs. The role of the actuary with respect to an IORPs is different from the insurance actuary. In particular, much of the work of the risk function in an IORP will be performed by the actuarial function. This reflects the limited nature of the risks of IORPs compared to insurers. We suggest that EIOPA perform further work to define the role of the actuarial function more completely.</p> <p>In particular, EIOPA should reconsider the proportionality of its apparent assumption that the actuarial function needs to be performed by a natural person, as suggested in 24.3.4, rather than by a firm. There is no corresponding requirement for auditors to be natural persons, and indeed firms of actuaries may be better able to secure safeguards on the independence and quality control of the actuarial function.</p>	<p>noted</p> <p>agreed, text revised by adding that the actuarial function can also be performed by a firm. In that case, the requirements have to be fulfilled by the firm's representatives that are actually responsible for the activities carried out for the IORP.</p>
839.	FNV Bondgenoten	76.	<p>We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA.</p>	<p>noted, text revised to make clearer that the internal</p>

			However, if the whistle-blowing responsibility would become required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the supervisory body, the administrative or the management body of the IORP.	reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
840.	Generali vie	76.	We consider Articles 48 of Solvency II should apply to IORPs.	noted
841.	Groupe Consultatif Actuariel Européen.	76.	<p>We agree with the analysis as set out in 24.3.1 to 24.3.28 as far as it goes. In particular:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the “actuarial function” should perform the role currently undertaken for IORPs by the actuary (or similar qualified specialist) referenced in Articles 9 and 15 of the IORP Directive i.e. execute and certify calculation of the technical provisions</li> <li><input type="checkbox"/> We would support the view that executing and certifying the technical provisions should ideally be two independent functions. On grounds of cost we agree that these functions can be performed by one function if sufficient measures are in place as to ensure independent review</li> <li><input type="checkbox"/> the actuarial function can be an internal or an external (out-sourced) appointment</li> </ul>	noted

			<p><input type="checkbox"/> the definition of the actuarial function should be sufficiently flexible to deal with the wide variety of IORPs in Member States</p> <p>An actuarial function should, as a minimum, be required for all IORPs which bear biometric or investment risk i.e. all but “pure DC” IORPs (and perhaps for all IORPs given other types of risk that actuaries typically consider in an insurance context), although actuaries can perform other tasks in such IORPs e.g. advice on investment options, member communications, risk management.</p> <p>We would prefer to see a more comprehensive role for the actuarial function, as is already the case in a number of Member States with large numbers of IORPs. This would include providing a professional judgement on the financial position of the IORP, the consistency and sufficiency of financing, the execution of the prudent person principle, the adequacy of governance of the IORP and the adequacy of the information provided to beneficiaries.</p>	<p>partially agreed, text revised to make clearer that actuarial skills could be relevant to the projection of future events under pure DC schemes, notably in relation to the projection of assets, risks and expected outcomes, member communications, ...</p>
842.	Groupement Français des Bancassureurs	76.	<p>FBIA fully supports EIOPAs views on the role and duties of the actuarial function, using article 48 of the Solvency II Framework Directive and that the implementation should be proportionate.</p>	<p>noted</p>
843.	PMT-PME-Mn Services	76.	<p>We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function</p>

			of the IORP.	should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
844.	Institute and Faculty of Actuaries (UK)	76.	We approve of the suggested adaptations of article 48(1) and 48(2).	noted
845.	KPMG LLP (UK)	76.	Our only comment on the role and duties of the actuarial function is, in paragraph 24.5.6, to replace the suggested word "assess" in relation to the appropriateness of methodologies and underlying models with "advise upon". This more properly reflects the relationship between the actuarial function and an IORP.	noted. As it is the board of the IORP/its trustees who is/are ultimately responsible for the decision-making, the advice of the actuarial function cannot be binding on the board/trustees, Eiopa suggested already to replace the strong wording "ensure" by "asses".
846.	Le cercle des épargnants	76.	We consider Articles 48 of Solvency II should apply to IORPs.	noted

848.	Mercer	76.	<p>The actuarial function as currently described in the IORP Directive is limited relative to those in Solvency II. The requirements in Solvency II add some context and also impose additional responsibilities, including responsibility for judging whether the approach adopted by the IORP is compliant (currently, the requirement is solely for advice to be provided, rather than for opinion to be stated). In most EU countries, actuaries are likely to be regulated by local professional institutions, so this additional layer of compliance should give additional reassurance to the supervisory authority, similar to an audit function.</p> <p>Ultimately it must be the IORP that is responsible for taking decisions with regard to the operation and risk management of the scheme: requiring the adviser to comment on how effectively IORPs have carried out their duties in relation to the technical provisions calculation could introduce conflict into the client relationship if the knowledge, understanding and behavioural skills of the IORP's decision making representatives are not fully proficient. However, overall, we agree that the requirements are likely to make the application of the regulatory regime more rigorous.</p> <p>Regardless of how the requirements for an actuarial function are implemented, we consider that member states should be given flexibility over how they implement this principle (subject to ensuring that the skills and experience of the person carrying out the function meet certain minimum standards).</p>	<p>noted</p> <p>noted</p> <p>noted</p>
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849.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	76.	<p>We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body of the IORP.</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
850.	National Association of Pension Funds (NAPF)	76.	<p>ACTUARIAL FUNCTION</p> <p>24. What is the view of the stakeholders on the role and duties of the actuarial function of IORPs?</p> <p>25.</p> <p>26. As EIOPA recognises, the ultimate responsibility for making funding decisions in a pension scheme rests with the trustees or managers, and not with the actuary. It is important that the definition of actuarial function should recognise this fact.</p> <p>We also agree with EIOPA there should be no requirement for DC schemes to have an actuarial function.</p>	<p>noted</p> <p>noted</p>

852.	Pan-European Insurance Forum (PEIF)	76.	<p>We agree that there is a need to define the scope of the actuarial function more precisely in IORP II than in the current IORP Directive. Here there is scope for alignment towards the Solvency II Framework Directive. We also agree that the general system of governance including the actuarial function should be implemented in the same way as under Solvency II. The principle of proportionality should be used to scale the requirements for IORPs.</p> <p>The actuarial function should not include a responsibility for investment rules/principles. Instead there should be a parallel but separate 'investment function'.</p>	<p>noted</p> <p>noted, a regular assessment of the investments is part of an effective risk management</p>
853.	Pensioenfonds Zorg en Welzijn (PFZW)	76.	<p>We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body of the IORP.</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
854.	Predica	76.	<p>Predica fully supports EIOPAs views on the role and duties of the actuarial function, using article 48 of the Solvency II</p>	<p>noted</p>

			Framework Directive and that the implementation should be proportionate.	
855.	PTK (Sweden)	76.	PTK wish to acknowledge the importance of actuaries and the fact that their advice is necessary.	noted
856.	Railways Pension Trustee Company Limited ("RPTCL	76.	Further considerations needs to be given to the operation of the 'actuarial function' for IORPs. In the context of the pension schemes operated by RPTCL, our subsidiary RPMI carries out some of the roles covered by the definition of 'actuarial function' within the Solvency II Framework Directive, although they do not carry out the statutory role of Scheme Actuary. The Scheme Actuary is an appointed individual from an independent firm.	noted
857.	TCO	76.	TCO wishes to acknowledge the importance of actuaries and the fact that their advice is necessary.	noted
858.	The Association of Pension Foundations (Finland)	76.	Actuarial function should not be obligated to inform the supervisory authority.	noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action

859.	The Association of the Luxembourg Fund Industry (A	76.	The Respondents would like to emphasize that in the Luxemburg environment; the actuary (liability manager) already has the obligation to report to supervisory authorities, and has a whistle-blowing function in the case of ASSEP-SEPCAV. Since this works well in our country, we are in favour of the introduction of these responsibilities for the actuarial function.	noted
860.	The Society of Actuaries in Ireland	76.	<p>We agree with the analysis as set out in 24.3.1 to 24.3.28. In particular:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the “actuarial function” should perform the role currently undertaken for IORPs by the actuary (or similar qualified specialist) referenced in Articles 9 and 15 of the IORP Directive i.e. compute and certify the technical provisions</li> <li><input type="checkbox"/> on grounds of cost, the Directive should not require an IORP to have two separate functions to compute and to certify the technical provisions (although member States could impose this additional requirement)</li> <li><input type="checkbox"/> the actuarial function can be an internal or an external (out-sourced) appointment</li> <li><input type="checkbox"/> the definition of the actuarial function should be sufficiently flexible to deal with the wide variety of IORPs in Member States</li> <li><input type="checkbox"/> an actuarial function should be required for all IORPs</li> </ul>	<p>noted</p> <p>agreed, text revised to make clearer that</p>

			which bear biometric or investment risk i.e. all but “pure DC” schemes, although actuaries can perform other tasks in such schemes e.g. advice on investment options, member communications	actuarial skills could be relevant to the projection of future events under pure DC schemes, notably in relation to the projection of assets, risks and expected outcomes, member communications, ...
861.	THE SOCIETY OF PENSION CONSULTANTS	76.	It should be for legislation at member state level, in conjunction with national professional bodies for the actuarial profession and IORPs themselves to define the role and duties of the actuarial function of IORPs.	noted
862.	UK Association of Pension Lawyers	76.	CfA 19 (Actuarial function): What is the view of the stakeholders on the role and duties of the actuarial function of IORPs?  The roles and duties of the actuarial function in the majority of IORPs are different from those in the insurance companies. In IORPs, actuarial functions are performed by advisors who only act as advisors (the board of the IORP/ its trustees are decision makers) whilst in the insurance companies, those performing actuarial functions act as both advisors and decision makers.	noted
863.	Universities Superannuation	76.	ACTUARIAL FUNCTION	

	Scheme (USS),		What is the view of the stakeholders on the role and duties of the actuarial function of IORPs?	
864.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	76.	We acknowledge the importance of actuaries and the fact that their advices are necessary. We also agree with the role and duties of the actuarial function of IORPs as stated by EIOPA. However, if the whistle-blowing responsibility would be required, it should be clearly written in the final text that this responsibility would only have to be internal. The actuarial function should in this role solely have to report to the internal supervisory body, the administrative or the management body of the IORP.	noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
865.	Whitbread Group PLC	76.	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
866.	Zusatzversorgungs kasse des Baugewerbes AG	76.	We agree with the analysis of EIOPA, especially with 24.5.4. We have no objections or comments regarding the application of art. 48 of Directive 2009/138/EC, although not all of the tasks are applicable to IORPs.	noted
867.	Towers Watson	76.	77. CfA 19 Actuarial function	

			<p>What is the view of the stakeholders on the role and duties of the actuarial function of IORPs?.</p> <p>We approve of the suggested adaptations of article 48(1) and 48(2).</p>	noted
868.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	77.	Generally the OPSG believes that the current IORP Directive should be the starting point, although there was also the view that the requirements of Art. 48 (1) of Solvency II Directive suitably amended for IORPs would be appropriate.	noted
869.	AbA Arbeitsgemeinschaft für betriebliche Altersver	77.	We agree that the requirements of Solvency II could be the starting point for the actuarial function. Particularly against the background of the differences between insurance companies and IORPs (in particular the governance structure and aim of the profit maximization) we cannot understand why the requirements for IORPs (even whistle-blowing responsibility and requirement of independence of the actuarial function) should be higher than for insurance companies.	noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
870.	ABVAKABO FNV	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
871.	AEIP	77.	We agree with the importance of independence of the actuarial	noted

			function.	
873.	AMONIS OFP	77.	<p>Are the requirements of solvency II the correct starting point for the actuarial function?</p> <p>The requirements should be flexible and proportional enough to meet a broad scope of situations.</p>	noted
874.	ANIA – Association of Italian Insurers	77.	The ANIA agrees that Solvency II is a correct starting point for the actuarial function. Moreover, the ANIA can agree on the suggested changes.	noted
875.	Association of British Insurers	77.	The ABI believes this is a sensible starting point.	noted
876.	Association of Consulting Actuaries (UK)	77.	<p>The role of the actuary in insurance undertakings and IORPS are very different and we question the extent to which it is practical to use Solvency II as a starting point. If it is so used, we believe further amendment is required to that proposed in EIOPA’s draft advice.</p> <p>As noted below, the text of Solvency II incorporates some elements which are currently prescribed through Technical Actuarial Standards rather than by legislation, and would therefore be redundant in the UK at least. We note, however, that other Member States may not currently have a framework equivalent to our Technical Actuarial Standards and therefore that the specification in a revised IORP directive may have greater impact on other jurisdictions.</p> <p>In particular, looking at the paragraphs in Article 48 of the Solvency II Framework Directive:</p> <p>(a) we have no objection to this wording per se, although</p>	noted, text revised by adding a general comment that the tasks of the actuarial function could be further analyzed in level 2 implementing measures

			<p>we do not see what is wrong with the wording 'computed and certified by an actuary' in Article 9 of the current IORP directive;</p> <p>(b) we agree that the change from 'ensure' to 'assess' is required to reflect the fact that actuaries are not responsible for setting the assumptions for calculating technical provisions; however, should there also be a requirement for them to 'advise the IORP' on the appropriateness of the method and assumptions? (unless that is intended to be covered under (e));</p> <p>(c) we agree that assessing the sufficiency and quality of the data used is a key actuarial duty; we note, however, that in the UK this is achieved by means of the Technical Actuarial Standards governing actuarial work rather than by prescribed legislative requirements;</p> <p>(d) we have no objection to the principle of comparing the assumptions used at previous valuations with experience; however, we note that that the precise wording of this sub-paragraph would depend on the decisions taken about valuations and best estimates elsewhere in the revised IORP directive;</p> <p>(e) we are not sure whether this sub-paragraph is intended solely to cover whistle-blowing to the supervisor (or also to cover reporting to the board/trustees of the IORP); further redrafting may therefore be required;</p>	<p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
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			<p>(f) this sub-paragraph (on overseeing the calculation of technical provisions in the event that approximations have to be made) seems unobjectionable;</p> <p>(g) this seems irrelevant in an IORP context (at least in the UK), and it is not clear why it should be retained; however, the wording 'where applicable' is adequate;</p> <p>(h) seems appropriate;</p> <p>(i) in the event that such a risk-management system is applied to IORPs (which we discuss elsewhere in our response), we believe that this does fall within the specification of the actuarial function. However, the actuary is unlikely to have any direct role in the 'effective implementation' of the risk management system and so we would expect that some amendment of this sub-paragraph may be necessary.</p>	
877.	Association of French Insurers (FFSA)	77.	The FFSA agrees that Solvency II is a correct starting point for the actuarial function.	noted
878.	Association of Pensioner Trustees in Ireland	77.	See response to question 63.	
879.	Assoprevidenza – Italian Association for supplement	77.	Yes	noted

880.	Assuralia	77.	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
881.	Belgian Association of Pension Institutions (BVPI-	77.	Are the requirements of solvency II the correct starting point for the actuarial function?  The requirements should be flexible and proportional enough to meet a broad scope of situations.	noted
882.	BNP Paribas Cardif	77.	BNP Paribas Cardif agrees that Solvency II is a correct starting point for the actuarial function.	noted
883.	Bosch Pensionsfonds AG	77.	See under "General comment": "Sui generis" supervisory system for IORPs.	
884.	Bosch-Group	77.	See under "General comment": "Sui generis" supervisory system for IORPs.	
885.	BT Pension Scheme Management Ltd	77.	The Solvency II requirements seem an appropriate starting point.	noted
886.	Bundesarbeitgeber verband Chemie e.V. (BAVC)	77.	No, we believe that the current IORP Directive should be the starting point.	note
887.	CEA	77.	The CEA agrees that Solvency II is a correct starting point for the actuarial function. Moreover, the CEA can agree on the suggested changes.	noted
888.	Charles CRONIN	77.	I cautiously agree with EIOPA that Article 48 of the Solvency II Directive is a good starting point for regulation of the actuarial function. However I note the remarks in para. 24.3.5, which	noted

			recognises the variety of IORPs and the need to incorporate sufficient flexibility into the text describing the actuarial function.	
889.	Chris Barnard	77.	I agree that the requirements of Solvency II are a good starting point for the actuarial function.	noted
890.	CMHF (Centrale van Middelbare en Hogere Functionar	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
891.	De Unie (Vakorganisatie voor werk, inkomen en loop	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
892.	Direction Générale du Trésor, Ministère des financ	77.	Yes, we agree that the requirements of Solvency 2 are the correct starting point for the actuarial function.	noted
893.	Ecie vie	77.	Regarding actuarial function : the same principle should apply for insurance contracts and IORPs.	noted
894.	European Federation for Retirement Provision (EFRP	77.	No, the current IORP Directive should be the starting point.	not agreed, the tasks of the actuary are not very clear in the current directive. EIOPA acknowledges the need to define the scope of the actuarial function more precisely in order to

				strengthen the existing requirements and to address the risk that the IORP does not have an accurate, consistent and independent view of its liabilities
895.	Federation of the Dutch Pension Funds	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
896.	Financial Reporting Council	77.	We do not consider that the requirements of Solvency II are the correct starting point for defining the role of the IORPs actuary as it is significantly different from that of the insurance actuary. We consider that the actuarial function has a key role in providing advice to the IORP's governing body on the risks it faces.	noted
897.	FNV Bondgenoten	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
898.	Generali vie	77.	Regarding actuarial function : the same principle should apply for insurance contracts and IORPs.	noted
899.	Groupe Consultatif Actuariel Européen.	77.	The list set out in Article 48(1) is appropriate with the amendments suggested in relation to <input type="checkbox"/> underwriting policy <input type="checkbox"/> reinsurance as these issues may not arise in many IORPs.	noted

			<p>We agree that the actuarial function should have whistle-blowing responsibility to the Board of the IORP and to the supervisory body.</p> <p>We strongly support the inclusion of the reference as in Article 48(1)(j) in relation to contributing to the risk management function.</p> <p>We agree with the comment in 24.3.16 that the actuarial function should be required to advise on the adequacy of future expected contributions to meet the benefits to be provided for future service, or where the IORP is established on a “balance of cost” basis, to recommend contribution rates to support the future accrual of benefits.</p>	
900.	Groupement Français des Bancassureurs	77.	FBIA agrees that Solvency II is a correct starting point for the actuarial function.	noted
901.	PMT-PME-Mn Services	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
902.	HM Treasury/Department for Work and Pensions	77.	We consider that the current IORP Directive is sufficient,	<p>not agreed, the tasks of the actuary are not very clear in the current directive.</p> <p>EIOPA acknowledges the need to define the scope of the actuarial function more precisely in order to strengthen the</p>

				existing requirements and to address the risk that the IORP does not have an accurate, consistent and independent view of its liabilities
903.	Institute and Faculty of Actuaries (UK)	77.	Subject to the amendments proposed by EIOPA, we agree the requirements look sensible.	noted
904.	KPMG LLP (UK)	77.	We agree with the analysis of the Solvency II actuarial requirements and how they can be adapted for IORPs.	noted
905.	Le cercle des épargnants	77.	Regarding actuarial function : the same principle should apply for insurance contracts and IORPs.	noted
906.	Macfarlanes LLP	77.	95. (CfA 19 Actuarial function) Are the requirements of solvency II the correct starting point for the actuarial function? 96. No. The purpose of the actuary in relation to company pension schemes is to ensure that a level of funding is maintained which is adequate within a prudent framework to provide the benefits as they fall due.	noted
908.	Mercer	77.	We believe so, with the suggested amendments in relation to underwriting policy and reinsurance.  We agree that the actuarial function should have whistle-blowing responsibility to the Board of the IORP and to the supervisory body.  We also agree that actuaries should be able to make a strong contribution to the risk management function.	noted

909.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
910.	National Association of Pension Funds (NAPF)	77.	<p>27. Are the requirements of Solvency II the correct starting point for the actuarial function?</p> <p>It is not clear that the definition of actuarial function within the IORP Directive is inadequate, and therefore that the case for change has been made. It is worth noting that actuaries are already covered by professional standards in many Member States in addition to legislative requirements, and that these standards cover a number of the areas contained within the Solvency II definition (e.g. assessing the sufficiency and quality of data).</p> <p>However, the requirements in the Solvency II definition of actuarial function seem largely unobjectionable (although some are less likely to be relevant in an IORP context).</p>	noted
912.	Pan-European Insurance Forum (PEIF)	77.	Yes.	noted
913.	Pensioenfonds Zorg en Welzijn (PFZW)	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
914.	Predica	77.	Predica agrees that Solvency II is a correct starting point for the actuarial function.	noted
915.	PTK (Sweden)	77.	No, the current IORP Directive should be the starting point.	not agreed, the tasks of the

				<p>actuary are not very clear in the current directive. EIOPA acknowledges the need to define the scope of the actuarial function more precisely in order to strengthen the existing requirements and to address the risk that the IORP does not have an accurate, consistent and independent view of its liabilities</p>
916.	Railways Pension Trustee Company Limited ("RPTCL	77.	Please see our response to Q76 above.	noted
917.	TCO	77.	No, the current IORP Directive should be the starting point.	<p>not agreed, the tasks of the actuary are not very clear in the current directive. EIOPA acknowledges the need to define the scope of the</p>

				actuarial function more precisely in order to strengthen the existing requirements and to address the risk that the IORP does not have an accurate, consistent and independent view of its liabilities
918.	The Association of Pension Foundations (Finland)	77.	We see that current IORP Directive should be the starting point.	not agreed, the tasks of the actuary are not very clear in the current directive. EIOPA acknowledges the need to define the scope of the actuarial function more precisely in order to strengthen the existing requirements and to address the risk that the IORP does not have an accurate,

				consistent and independent view of its liabilities
919.	The Association of the Luxembourg Fund Industry (A	77.	No, the current IORP Directive should be the starting point.	not agreed, the tasks of the actuary are not very clear in the current directive. Eiopa acknowledges the need to define the scope of the actuarial function more precisely in order to strengthen the existing requirements and to address the risk that the IORP does not have an accurate, consistent and independent view of its liabilities
920.	The Society of Actuaries in Ireland	77.	The list set out in Article 48(1) is appropriate with the amendments suggested in relation to <input type="checkbox"/> underwriting policy <input type="checkbox"/> reinsurance as these issues may not arise in many IORPs.	noted

			<p>We agree that the actuarial function should have whistle-blowing responsibility within appropriately defined parameters to the Board of the IORP and to the supervisory body.</p> <p>We strongly support the inclusion of the reference as in Article 48(1)(j) in relation to contributing to the risk management function.</p> <p>We agree with the comment in 24.3.16 that the actuarial function should be required to advise on the adequacy of future expected contributions to meet the benefits to be provided for future service, or where the IORP is established on a “balance of cost” basis, to recommend contribution rates to support the future accrual of benefits.</p>	
921.	THE SOCIETY OF PENSION CONSULTANTS	77.	<p>No, the requirements of Solvency II are not the correct starting point for the actuarial function. There is huge variety in the form of IORPs and they are materially different institutions from insurance and reinsurance undertakings. Any requirements regarding the actuarial function need to cater for the diversity of IORPs and should be developed as described under 76.</p>	<p>noted, the tasks of the actuary are not very clear in the current directive.</p> <p>EIOPA acknowledges the need to define the scope of the actuarial function more precisely in order to strengthen the existing requirements and to address the risk that the IORP does not have an accurate, consistent and</p>

				independent view of its liabilities
922.	UK Association of Pension Lawyers	77.	<p>CfA 19 (Actuarial function): Are the requirement of solvency II the correct starting point for the actuarial function?</p> <p>As noted in the answer to question 76, we do not agree that the roles and duties of the actuarial function in relation to IORPs are the same as those of insurance companies. Accordingly, no change to the existing IORP Directive should be made. However, if the requirements of Solvency II were to be used as the starting point for the actuarial function, adaptation will be required to address the specific position of IORPs. The adaptations in 25.5.5 – 24.5.9 of the draft advice are necessary. In addition, as the board of the IORP/ its trustees have the role of project management, the requirement of Article 48 1(a) of the Solvency II framework directives should be adapted to “advising on the calculation of technical provisions” instead of “co-ordinating the calculation of technical provisions”.</p>	noted
923.	Universities Superannuation Scheme (USS),	77.	Are the requirements of Solvency II the correct starting point for the actuarial function?	
924.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	77.	We agree that the requirements of Solvency II could be a starting point for the actuarial function.	noted
925.	Whitbread Group PLC	77.	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
926.	Zusatzversorgungs kasse des	77.	We agree with the importance of independence of the actuarial function.	noted

	Baugewerbes AG			
927.	Towers Watson	77.	<p>78. Are the requirements of solvency II the correct starting point for the actuarial function?</p> <p>Subject to the amendments proposed by EIOPA, the requirements look sensible.</p>	noted
928.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	78.	<p>We strongly support the view set out in 24.3.24 that the actuarial function should provide competent, appropriate and independent advice to the IORP.</p> <p>We agree that the actuarial function should have “operational independence”. Conflicts of interests must be avoided because they diminishing the members/beneficiaries’ level of protection and increase operational risks.</p>	noted
929.	AbA Arbeitsgemeinschaft für betriebliche Altersver	78.	<p>The Aba agrees with the importance of the independence of the actuarial function. Nevertheless, the directive should provide that the actuarial function could be carried out by a member of the staff or the administrative, management or supervisory body of the IORP, too. The independence of the actuarial function should be clearly defined in order to avoid any misunderstanding. We agree that the actuarial function should have “operational independence” (see section 24.3.24).</p>	noted
930.	ABVAKABO FNV	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries’ level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a</p>	<p>noted</p> <p>partially agreed, EIOPA is not in</p>

			certification by an external actuary or auditor.	favour of an obligation of a certification by the actuarial function, but the directive should not restrict the possibility for Member States to require such certification
931.	AEIP	78.	<p>144. AEIP recognises the importance of an actuarial function, certainly for IORPs managing defined benefit schemes. The need for an actuarial function might be of less importance if the IORP manages only DC type schemes, and bears no biometrical risk. AEIP recognises also the importance of the independence of the actuarial function. Conflicts of interests must be avoided in order to have high standards on protection level and of avoidance of operational risk. Therefore the independence of the actuarial function must be clearly defined. The competence to guarantee the operational independence can be left to the member states.</p> <p>If article 48 of Directive 2009/138/EC would be the basis, it needs to be amended accordingly to be applicable for pension funds (e.g. no choice of customers).</p>	noted
933.	AMONIS OFP	78.	<p>Do you agree with the importance of independence of the actuarial function? What do stakeholders perceive as the necessary criteria for the independence of the actuarial function?</p> <p>AMONIS OFP is of the opinion that the function may be performed by a member of the staff, provided he has the necessary qualifications, his duties are clear and his</p>	noted

			independence is guaranteed. Since the appointment (renewal) of the actuary and the endorsement of his recommendations depends on a good working relationship with the stakeholders, the system relies more on common understanding and arms-length relationship than on independence.	
934.	ANIA – Association of Italian Insurers	78.	<p>The ANIA fully agrees that independence is necessary for the actuarial function. The ANIA believes that retaining “ensuring” in 24.3.14 is a minimum to obtain independence rather than assessing the calculation of the technical provisions. The ANIA believes that the task of the actuary should be to ensure that the calculation of the technical provision is correct. This does not remove any decision making powers from the board/trustees. Moreover, it only makes that calculation of the technical provision is a correct representation of the reality and this should be the actuary main task.</p> <p>Furthermore, the ANIA considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.</p>	noted, as it is the board of the IORP/its trustees who is/are ultimately responsible for the decision-making, the advice of the actuarial function cannot be binding on the board/trustees, the wording "ensure" is to strong.
935.	Association of British Insurers	78.	<p>Yes, the ABI agrees it is important that the actuarial function be independent.</p> <p>The actuarial function must avoid conflicts of interest, so as not to be influenced, it will also be important to consider segregation of duties and reporting lines of the actuarial function</p>	noted
936.	Association of Consulting Actuaries (UK)	78.	We agree in the independence of the actuarial function from the IORP, although noted that this should not preclude the actuary being an employee of the IORP or its sponsoring employer. We note however that this is often achieved by	noted

			means of actuaries being required to adhere to professional conduct standards, which may prescribe rules in respect of conflicts of interest, and therefore question whether any further requirement is needed under the IORP directive.	
937.	Association of French Insurers (FFSA)	78.	Independence is necessary for the actuarial function. Furthermore, the FFSA considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.	noted
938.	Association of Pensioner Trustees in Ireland	78.	See response to question 63.	noted
939.	Assoprevidenza – Italian Association for supplement	78.	Yes. The best should be external actuary, almost once a 3 years	noted
940.	Assuralia	78.	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
941.	Belgian Association of Pension Institutions (BVPI-	78.	Do you agree with the importance of independence of the actuarial function? What do stakeholders perceive as the necessary criteria for the independence of the actuarial function?  ABIP-BVPI is of the opinion that the function may be performed by a member of the staff, provided he has the necessary qualifications, his duties are clear and his independence is guaranteed. Since the appointment (renewal) of the actuary and the endorsement of his recommendations depends on a good working relationship with the stakeholders, the system relies more on common understanding and arm-length relationship than on independence.	noted

942.	BNP Paribas Cardif	78.	Independence is necessary for the actuarial function. Furthermore, BNP Paribas Cardif considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.	noted
943.	Bosch Pensionsfonds AG	78.	The actuarial function should have operational independence. However it should be possible, that the actuarial function can belong to a provider of other services (e.g. administration, management) if sufficient measures are in place to guarantee his / her independence.	noted
944.	Bosch-Group	78.	The actuarial function should have operational independence. However it should be possible, that the actuarial function can belong to a provider of other services (e.g. administration, management) if sufficient measures are in place to guarantee his / her independence.	noted
945.	BT Pension Scheme Management Ltd	78.	It is clearly important that the actuarial function provides independent advice; this is much more significant than that the function actually be independent. This means that conflicts need to be managed effectively and transparently. Boards, which need to take the ultimate decisions on these issues, as EIOPA notes, will best be served by seeking independent advice and may be the best arbiters of the relevant standards to ask their actuaries to abide by.	noted
946.	CEA	78.	The CEA fully agrees that independence is necessary for the actuarial function. The CEA believes that retaining "ensuring" in 24.3.14 is a minimum to obtain independence rather than assessing the calculation of the technical provisions. The CEA believes that the task of the actuary should be to ensure that the calculation of the technical provision is correct. This does not remove any decision making powers from the board/trustees. Moreover, it only makes that calculation of the	noted, as it is the board of the IORP/its trustees who is/are ultimately responsible for the decision-making, the advice of the

			<p>technical provision is a correct representation of the reality and this should be the actuary main task.</p> <p>Furthermore, the CEA considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.</p>	<p>actuarial function cannot be binding on the board/trustees, the wording "ensure" is to strong.</p>
947.	Charles CRONIN	78.	<p>I strongly support the view set out by EIOPA in paragraph 24.3.24, that the actuary should provide competent, appropriate and independent advice. Conflict of interest must be avoided, rather than managed, which would suggest that further investigation is required on whether the actuary can provide ancillary services and maintain independence. The relationship with the sponsor would be a determining factor on this issue.</p>	<p>noted</p>
948.	Chris Barnard	78.	<p>Yes, I strongly agree with the importance of independence of the actuarial function. The actuarial function should act in a detached manner and be free of pressures, conflicts of interest or encumbrances that could (unreasonably) limit and / or modify its work and / or advice. For example, the actuarial function holder should not have any significant direct or indirect interest in the IORP, or affiliated / connected entities, including the sponsor. It would be preferable if the actuarial function had no other competing role or responsibility that could create conflicts of interest or threaten its independence. Furthermore the remuneration of the actuarial function should be specifically designed in such a way that avoids potential conflicts of interest with its role.</p> <p>The advice in Paragraph 24.5.10 states that: "Member States should have nevertheless the option to permit that the actuarial function is carried out by a member of the staff or the administrative, management or supervisory body of the IORP".</p>	<p>noted</p> <p>noted, the actuarial function could be carried out by a member</p>

			I would advise that the actuarial function should not be carried out by a key “decision-maker”, as this may lead to irreconcilable conflicts of interest; for example between the actuarial advice on funding and contributions or benefits, and the interest of the decision-makers, which could include members and / or the sponsor.	of the staff or the administrative, management or supervisory body of the IORP on the condition that sufficient measures are in place to guarantee his/her independence
949.	CMHF (Centrale van Middelbare en Hogere Functionar	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries’ level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>noted</p> <p>partially agreed, EIOPA is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
950.	De Unie (Vakorganisatie voor werk, inkomen en loop	78.	We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries’ level of protection and increase operational risks. The independence of	noted

			<p>the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>partially agreed, EIOPA is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
951.	Ecie vie	78.	<p>We agree : independence of the actuarial function is important. We consider reporting lines, segregation of duties as necessary criteria.</p>	<p>noted</p>
952.	EFI (European Federation of Investors)	78.	<p>We fully support the GCAE position (see their response)</p>	<p>noted</p>
953.	European Federation for Retirement Provision (EFRP)	78.	<p>The EFRP agrees with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminishing the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function should not prevent the IORP from choosing an internal actuary.</p> <p>The independence of the actuarial function must be clearly defined. The term "operational independence" mentioned in the Call for Advice (24.3.24) is interpreted by the EFRP as the possibility for the actuarial function to determine the best way of achieving its duties, including the types of instruments used</p>	<p>noted</p> <p>noted, further analysis might reveal the need to further develop the</p>

			and the timing of their use. It should be clearly written in order to avoid any misunderstanding or bad interpretation. Moreover, the competence to guarantee the operational independence should be left to Member States.	matter of independence in the Level 2 implementing measures.
954.	FAIDER (Fédération des Associations Indépendantes)	78.	We fully support the GCAE position (see their response)	noted
955.	Federation of the Dutch Pension Funds	78.	We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.  The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.	noted  partially agreed, Eiopa is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification
956.	Financial Reporting Council	78.	We support the requirement of independence of the actuarial function. The criteria for the independence of the actuarial function can be considered during the development of level 2, but will need to reflect and respond to the conflicts of interest	noted

			inherent in the relationship between sponsors and members.	
957.	FNV Bondgenoten	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>noted</p> <p>partially agreed, Eiopa is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
958.	Generali vie	78.	<p>We agree : independence of the actuarial function is important. We consider reporting lines, segregation of duties as necessary criteria.</p>	noted
959.	Groupe Consultatif Actuariel Européen.	78.	<p>We strongly support the view set out in 24.3.24 that the actuarial function should provide competent, appropriate and independent advice to the IORP.</p> <p>We agree that the actuarial function should have "operational independence" so that it can discharge its duties objectively without being inappropriately influenced, constrained or controlled by the IORP, the sponsoring employers or other stakeholders in the IORP, in relation to the data used or the methods or assumptions adopted in undertaking its work, and</p>	<p>noted, further analysis might reveal the need to further develop the matter of independence in the Level 2 implementing measures.</p>

			<p>without any conflict of interests. The framework within which the actuarial function operates may differ from IORP to IORP, but there should in all cases be appropriate safeguards against the independence of the function (and the advice provided) becoming prejudiced.</p> <p>We agree that the actuarial function should be subject to fit and proper requirements.</p> <p>We note the possible criteria set out in 24.3.26 in relation to the qualifications required to perform the actuarial function. We believe that actuaries who are members of their national associations and are therefore subject to the professional (technical and ethical) standards of that association and indirectly of the GCAE are best placed to fulfil the actuarial function in relation to IORPs. Indeed a number of countries currently require the actuary to an IORP to be registered with, or hold a practising certificate issued by, the national actuarial association. In general, such actuaries will satisfy the 3 criteria listed in this paragraph.</p> <p>We would be supportive of any requirement (either in the Directive or by the national regulator) to require the actuarial function holder to be a member of the national professional association of actuaries, as we believe this would enhance the operation of IORPs and the security of their members, in addition to making it easier for regulators to satisfy themselves that fit and proper requirements are met, although we understand that it may not be possible to impose such a requirement in certain Member States. As an alternative, Member States could be permitted to impose such additional requirements in their own jurisdiction: indeed not to permit this would weaken the governance of IORPs in countries where this is currently a requirement.</p>	
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			International standards promulgated by either or both of the International Actuarial Association and the Groupe Consultatif can very valuably support consistency and transparency of practice on the part of holders of the actuarial function if they are members of professional associations.	
960.	Groupement Français des Bancassureurs	78.	Independence is necessary for the actuarial function. Furthermore, the FBIA considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.	noted
961.	PMT-PME-Mn Services	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>noted</p> <p>partially agreed, Eiopa is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
962.	HM Treasury/Department for Work and Pensions	78.	We consider that the independence of the actuarial function is vital and that such independence is best maintained through professional standards set by the profession.	noted

963.	Institute and Faculty of Actuaries (UK)	78.	<p>Yes we agree with the importance of independence of the actuarial function.</p> <p>The actuarial function's ability to provide objective actuarial information to the board of the IORP/its trustees must not be, and must not reasonably be seen to be, compromised. The actuarial function holder(s) must disqualify himself/herself/themselves if their duty to act in the best interests of the IORP conflicts with their own interests, the interest of their firm or the interests of other clients.</p>	noted
964.	KPMG LLP (UK)	78.	<p>We agree with the principle of independence of the actuarial function. However any criteria of independence should be expressed at the principle level only, to avoid any conflict with Member States' requirements, and actuarial professional body requirements.</p>	noted
965.	Le cercle des épargnants	78.	<p>We agree : independence of the actuarial function is important. We consider reporting lines, segregation of duties as necessary criteria.</p>	noted
967.	Mercer	78.	<p>Although we agree that, in principle, it is important for the actuarial function to be independent of the IORP, in practice this is unlikely to be possible. Whether the holder of the actuarial function is directly employed by the IORP, or appointed as an adviser, he or she will have a pecuniary interest in maintaining a relationship with the IORP, which could affect the advice provided; where the holder is an external adviser, he or she could have other clients that are not independent of the IORP. Our view is that, in many cases, the risk of the quality of advice provided being affected can be managed by having robust conflict of interest protocols so that all parties are aware of the risks and have agreed steps to manage them. That is, although independence cannot be</p>	noted, further analysis might reveal the need to further develop the matter of independence in the Level 2 implementing measures.

			guaranteed, it should be possible to ensure that the quality of advice provided can be relied upon.	
968.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>noted</p> <p>partially agreed, Eiopa is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
970.	National Association of Pension Funds (NAPF)	78.	<p>28. Do you agree with the importance of independence of the actuarial function? What do stakeholders perceive as the necessary criteria for the independence of the actuarial function?</p> <p>Conceptually, we agree that the actuary should be able to exercise independent judgement. However, this should not prevent the actuary being employed by the IORP or its sponsoring employer. This matter might be better dealt with through professional conduct standards, rather than specifically through legislation.</p> <p>The competence to guarantee operational independence of</p>	<p>noted</p>

			actuaries should be left to Member States.	
971.	Pan-European Insurance Forum (PEIF)	78.	Yes. Reporting lines, segregation of duties, avoiding conflict of interest.	noted
972.	Pensioenfonds Zorg en Welzijn (PFZW)	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>noted</p> <p>partially agreed, Eiopa is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
973.	Predica	78.	Independence is necessary for the actuarial function. Furthermore, Predica considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.	noted
974.	PTK (Sweden)	78.	PTK agrees with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminishing the members/beneficiaries' level of protection and increase operational risks. The independence of	noted

			<p>the actuarial function should not prevent the IORP from choosing an internal actuary.</p> <p>The independence of the actuarial function must be clearly defined. The term “operational independence” mentioned in the Call for Advice (24.3.24) is interpreted by us as the possibility for the actuarial function to determine the best way of achieving its duties, including the types of instruments used and the timing of their use. It should be clearly written in order to avoid any misunderstanding or bad interpretation. Moreover, the competence to guarantee the operational independence should be left to Member States.</p>	<p>noted, further analysis might reveal the need to further develop the matter of independence in the Level 2 implementing measures.</p>
975.	Railways Pension Trustee Company Limited (“RPTCL	78.	We have not considered this question.	
976.	TCO	78.	<p>TCO agrees with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminishing the members/beneficiaries’ level of protection and increase operational risks. The independence of the actuarial function should not prevent the IORP from choosing an internal actuary.</p> <p>The independence of the actuarial function must be clearly defined. The term “operational independence” mentioned in the Call for Advice (24.3.24) is interpreted by us as the possibility for the actuarial function to determine the best way of achieving its duties, including the types of instruments used and the timing of their use. It should be clearly written in order to avoid any misunderstanding or bad interpretation. Moreover, the competence to guarantee the operational independence should be left to Member States.</p>	<p>noted</p> <p>noted, further analysis might reveal the need to further develop the matter of independence in the Level 2 implementing measures.</p>

977.	The Association of Pension Foundations (Finland)	78.	The independence of actuarial function is of most importance.	noted
978.	The Association of the Luxembourg Fund Industry (A	78.	<p>The Respondents agree that the actuarial function has to be performed in an independent manner, but we insist that the actuarial function could be performed by natural persons as well as by legal persons. For legal persons, the requirements have to be fulfilled by the management. The Respondents feel that the possibility for legal persons to perform the actuarial function could increase independence as well as continuity, which we feel is important for IORPs in general and for small IORPs in particular.</p> <p>In order to insure independence, the fit and proper principle should apply to the actuarial function. In the case of legal persons performing the actuarial function, the identity of the shareholders should be revealed to the supervisory authorities.</p>	<p>agreed, text revised by adding that the actuarial function can also be performed by a firm. In that case, the requirements have to be fulfilled by the firm's representatives that are actually responsible for the activities carried out for the IORP.</p>
979.	The Society of Actuaries in Ireland	78.	<p>We strongly support the view set out in 24.3.24 that the actuarial function should provide competent, appropriate and independent advice to the IORP.</p> <p>We agree that the actuarial function should have "operational independence" so that it can discharge its duties objectively without being inappropriately influenced, constrained or controlled by the IORP, the sponsoring employers or other stakeholders in the IORP, in relation to the data used or the methods or assumptions adopted in undertaking its work, and without any conflict of interests. The framework within which the actuarial function operates may differ from IORP to IORP, but there should in all cases be appropriate safeguards against the independence of the function (and the advice provided)</p>	<p>noted</p> <p>noted</p>

			<p>becoming prejudiced.</p> <p>We agree that the actuarial function should be subject to fit and proper requirements.</p> <p>We note the possible criteria set out in 24.3.26 in relation to the qualifications required to perform the actuarial function. We believe that actuaries who are members of their national associations and are therefore subject to the professional (technical and ethical) standards of that association and indirectly of the GCAE are best placed to fulfil the actuarial function in relation to IORPs. Indeed a number of countries currently require the actuary to an IORP to be registered with, or hold a practising certificate issued by, the national actuarial association. In general, such actuaries will satisfy the 3 criteria listed in this paragraph.</p> <p>We would be supportive of any requirement (either in the Directive or by the national regulator) to require the actuarial function holder to be a member of the national association as we believe this would enhance the operation of IORPs and the security of their members, although we understand that it may not be possible to impose such a requirement in certain Member States. As an alternative, Member States could be permitted to impose such additional requirements in their own jurisdiction: indeed not to permit this would weaken the governance of IORPs in countries where this is currently a requirement.</p> <p>International standards promulgated by either or both of the International Actuarial Association and the GCAE can very valuably support consistency and transparency of practice on the part of holders of the actuarial function.</p>	<p>noted, further analysis might reveal the need to further develop the matter of independence in the Level 2 implementing measures.</p>
980.	THE SOCIETY OF	78.	It is important that the actuarial function should be	noted, further analysis might

	PENSION CONSULTANTS		independent from the IORP, but the extent and nature of this independence should be defined at member state level, in particular by reference to the professional conduct rules laid down by the relevant professional body for the national actuarial profession.	reveal the need to further develop the matter of independence in the Level 2 implementing measures.
981.	UK Association of Pension Lawyers	78.	<p>CfA 19 (Actuarial function): Do you agree with the importance of independence of the actuarial function? What do stakeholders perceive as the necessary criteria for the independence of the actuarial function?</p> <p>Yes, we agree with the importance of the actuarial function. We agree that the actuarial function must not perform a function which gives rise to a conflict of interest, or belong to a provider of other services which could lead to such a conflict, unless sufficient measures are in place to guarantee the actuary's independence.</p> <p>We do, however, recognise that as the board of the IORP/ its trustees are ultimately responsible for the decision making, where appropriate, they could decide to allow the actuarial function to perform a function which gives rise to a conflict of interest if:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> they have received full and frank disclosure of the conflict by the actuarial function; and</li> <li><input type="checkbox"/> they believe that allowing the actuarial function to perform such function is in the best interest of the members.</li> </ul>	noted
982.	Universities Superannuation Scheme (USS),	78.	Do you agree with the importance of independence of the actuarial function? What do stakeholders perceive as the necessary criteria for the independence of the actuarial function?	

983.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	78.	<p>We agree with the importance of the independence of the actuarial function. Conflicts of interests must be avoided because they diminish the members/beneficiaries' level of protection and increase operational risks. The independence of the actuarial function must be clearly defined. Moreover, the competence to guarantee the operational independence should be left to Member States.</p> <p>The regulation should in our opinion include the obligation of a certification by an external actuary or auditor.</p>	<p>noted</p> <p>partially agreed, EIOPA is not in favour of an obligation of a certification by the actuarial function but the directive should not restrict the possibility for Member States to require such certification</p>
984.	Whitbread Group PLC	78.	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
985.	Zusatzversorgungs kasse des Baugewerbes AG	78.	<p>We recognise the importance of the independence of the actuarial function. Conflicts of interests must be avoided in order to have high standards on protection level and of avoidance of operational risk. Therefore the independence of the actuarial function must be clearly defined. The competence to guarantee the operational independence can be left to the member states.</p> <p>If article 48 of Directive 2009/138/EC would be the basis, it</p>	noted

			needs to be amended accordingly to be applicable for pension funds (e.g. no choice of customers).	
986.	Towers Watson	78.	<p>79. Do you agree with the importance of independence of the actuarial function? What do stakeholders perceive as the necessary criteria for the independence of the actuarial function?</p> <p>It is important that the actuarial function should be independent from the IORP, but the extent and nature of this independence should be defined at member state level, in particular by reference to the professional conduct rules laid down by the relevant professional body for the national actuarial profession.</p> <p>The actuarial function's ability to provide objective actuarial information to the board of the IORP/its trustees must not be, and must not reasonably be seen to be, compromised. The actuarial function holder(s) must disqualify himself/herself/themselves if their duty to act in the best interests of the IORP conflicts with their own interests, the interest of their firm or the interests of other clients.</p>	noted
987.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	79.	From an OPSG point of view, barriers to cross-border activities lie in the lack of detailed and comprehensive information on host state social and labour law relevant to occupational pensions. Tax as well continues to be seen as a hurdle for cross-border provision of services. We do not believe that standardisation of the requirements regarding the actuarial function would necessary lead to cross border activity	noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities
988.	AbA Arbeitsgemeinschaft für betriebliche	79.	We do not agree that the proposed standardisation of the requirements regarding the actuarial function would necessarily lead to cross border activity.	noted, standardisation could increase

	Altersver		<p>In addition, the AbA considers the proposed introduction of a whistle-blowing responsibility vis-à-vis the supervisory authority for the actuarial function to be counterproductive. In particular it does not fit to IORPs which often have lean processes and management structures (eg actuarial function is carried out by a member of the staff or the administrative, management or supervisory body of the IORP).</p>	<p>confidence of the stakeholders and give more comfort to the supervisory authorities</p> <p>noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action</p>
989.	ABVAKABO FNV	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardisation of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort</p>

				to the supervisory authorities
990.	AEIP	79.	We agree with with the preference of EIOPA for option 2. With regard to the whistle-blowing obligation as is laid out under 24.5.7, we refer to what we said about this topic regarding the compliance function and internal audit. AEIP is in favour to give the right to act as whistle-blower, not the duty. In that case appropriate protection must be provided.	noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory authority if the IORP does not take any appropriate and timely remedial action
992.	AMONIS OFP	79.	Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advise? Are there any other impacts that should be considered?	
993.	ANIA – Association of Italian Insurers	79.	The ANIA can agree on the analysis of the options and prefers option 2.	noted
994.	Association of British Insurers	79.	The ABI agrees with EIOPA's analysis of the options and prefer Option 2. While acknowledging the actuarial function must be formulated with sufficient flexibility, Option 2 will provide clarity as to the scope of the actuarial function.	noted
995.	Association of Consulting	79.	We do not see that any evidence has been put forward to suggest that standardising the actuarial function will 'alleviate	noted, standardisation

	Actuaries (UK)		<p>cross-border activity’.</p> <p>As noted above, in some Member States, such as the UK, there are already sufficient regulatory requirements applying to the actuarial function such that the negative impacts identified from the ‘no change’ option are not applicable.</p> <p>We agree that the proposals would have little practical impact in terms of the overall scope of the actuarial function in the UK. This does not mean, however, that the change would be cost-free; actuaries would need to review all aspects of their work to be comfortable that what they had done previously will still comply under the amended regime, and might need, for example, to update their reports to the new definition of actuarial function, replacing references to Technical Actuarial Standards to the relevant legislation.</p>	could increase confidence of the stakeholders and give more comfort to the supervisory authorities
996.	Association of French Insurers (FFSA)	79.	The FFSA agrees on the analysis and prefers option 2.	noted
997.	Association of Pensioner Trustees in Ireland	79.	See response to question 63.	noted
998.	Assoprevidenza – Italian Association for supplement	79.	We agree with with the preference of EIOPA for option 2. With regard to the whistle-blowing obligation as is laid out under 24.5.7, we refer to what we said about this topic regarding the compliance function and internal audit. AEIP is in favour to give the right to act as whistle-blower, not the duty. In that case appropriate protection must be provided.	noted, text revised to make clearer that the internal reporting obligation is incontestable. However, the actuarial function should inform the supervisory

				authority if the IORP does not take any appropriate and timely remedial action
999.	Assuralia	79.	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
1,000.	Belgian Association of Pension Institutions (BVPI-	79.	Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advise? Are there any other impacts that should be considered?	
1,001.	BNP Paribas Cardif	79.	BNP Paribas Cardif agrees on the analysis and prefers option 2.	noted
1,002.	Bosch Pensionsfonds AG	79.	See answers to questions 76 and 78.	noted
1,003.	Bosch-Group	79.	See answers to questions 76 and 78.	noted
1,004.	BT Pension Scheme Management Ltd	79.	We believe that the analysis seems appropriate but agree with EIOPA that there is a need for an impact analysis before anything can be finalised in this respect.	noted
1,005.	CEA	79.	The CEA can agree on the analysis of the options and prefers option 2.	noted
1,006.	Charles CRONIN	79.	Yes, I agree with EIOPA's analysis of the options laid out by its advice, subject to the observations made above.	noted
1,007.	Chris Barnard	79.	I broadly agree with the analysis of the options as laid out in the advice. Given the heterogeneity of IORPs, and their varying nature, scale and complexity, this will require a reasonable application of the proportionality principle.	noted

1,008.	CMHF (Centrale van Middelbare en Hogere Functionar	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>
1,009.	De Unie (Vakorganisatie voor werk, inkomen en loop	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>
1,010.	Ecie vie	79.	We agree with the analysis and prefer option 2.	noted
1,011.	European Federation for Retirement Provision (EFRP	79.	<p>The EFRP does not agree with the fact that standardisation of the requirements regarding the actuarial function would necessary lead to cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labour Law as well as tax treatment.</p> <p>The EFRP regrets that EIOPA does not acknowledge that the reporting task laid out in 24.3.17a) will also lead to additional</p>	<p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>

			administrative burden for supervisory authorities.	
1,012.	Federation of the Dutch Pension Funds	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>
1,013.	Financial Reporting Council	79.	<p>We generally agree with the analysis. However, as suggested in our response to question 76, we consider that EIOPA should also consider the implications of not requiring the actuarial function to be performed by a natural person.</p>	<p>agreed, text revised by adding that the actuarial function can also be performed by a legal person. In that case, the requirements have to be fulfilled by the management.</p>
1,014.	FNV Bondgenoten	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardisation of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort</p>

			that there is even a demand for cross-border activity.	to the supervisory authorities
1,015.	Generali vie	79.	We agree with the analysis and prefer option 2.	noted
1,016.	Groupe Consultatif Actuariel Européen.	79.	We agree with the analysis and options as laid out, and with EIOPA we support Option 2. We agree that this should not have a major cost impact as IORPs are already required to have an actuary (or similar qualified specialist) to compute and certify the technical provisions.	noted
1,017.	Groupement Français des Bancassureurs	79.	FBIA agrees on the analysis and prefers option 2.	noted
1,018.	PMT-PME-Mn Services	79.	We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.  We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.	noted  noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities
1,019.	HM Treasury/Department for Work and Pensions	79.	Given the context as set out in the draft response, we merely note that the framework of the current Directive has proved adequate	noted
1,020.	Institute and Faculty of Actuaries (UK)	79.	We believe that leaving the scope of the actuarial function to be clarified in local regulatory and actuarial standards would be the most robust and flexible way of addressing the diversity of IORPs in a proportionate way.	noted

			<p>Option 2 would be acceptable provided that the detailed requirements (including transitional requirements):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> are proportionate to the benefit for IORP members and beneficiaries</li> <li><input type="checkbox"/> take proper account of the diversity of IORPs, and</li> <li><input type="checkbox"/> take proper account of the available actuarial resource.</li> </ul> <p>We agree the Option 1 is the minimum cost option and that Option 2 might have a positive effect on cross-border activity.</p> <p>We have a concern that overly-precise description of the tasks of the actuarial function may reduce the level of responsibility taken by the professionals best qualified to make judgements in relation to the management of IORPs. We advocate a principles-based approach.</p> <p>We reject the suggestion that leaving the IORP unchanged could result in an inability to make well informed decisions and that beneficiaries may suffer as a result. Of course if that gap is not filled, the consequences may be adverse. However we believe that leaving the scope of the actuarial function to be clarified in local regulatory and actuarial standards would be the most robust and flexible approach.</p> <p>We cannot support the assumption that Option 1 would require more supervisory resources than Option 2 – quite the reverse. In the UK far greater resources are required to supervise insurers than are required to regulate far greater numbers of IORPs. Moreover we consider that diversity in the information required by supervisors to be an inevitable consequence of the diversity of IORPs: we would be very concerned if the information collected did not reflect that diversity.</p> <p>It is not possible for us to comment on the additional</p>	
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			administration burden until more details about the scope of the actuarial function are available. We accept in principle that if the scope, tasks and qualification requirements are largely unchanged by the proposed Level 1 changes, the impact should not be high.	
1,021.	KPMG LLP (UK)	79.	Subject to a detailed impact analysis, and appropriate application of proportionality, we agree with the analysis of options. In particular, we agree that it should not be necessary to require additional certification by another actuary.	noted
1,022.	Le cercle des épargnants	79.	We agree with the analysis and prefer option 2.	noted
1,024.	Mercer	79.	We support the proposed introduction of Option 2 and agree with the analysis of the options presented.	noted
1,025.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>
1,026.	National Association of Pension Funds (NAPF)	79.	<p>Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>29.</p>	<p>noted, standardisation</p>

			<p>30. The claim that standardising the actuarial function will 'alleviate cross-border activity' seems exaggerated.</p> <p>31. Although the proposals might lead to little practical difference in the way that actuaries operate, it is likely that there would be some additional costs as actuaries seek to reassure themselves that they are complying appropriately with the revised definition of actuarial function.</p>	could increase confidence of the stakeholders and give more comfort to the supervisory authorities
1,027.	Pan-European Insurance Forum (PEIF)	79.	Yes.	noted
1,028.	Pensioenfonds Zorg en Welzijn (PFZW)	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>
1,029.	Predica	79.	Predica agrees on the analysis and prefers option 2.	noted
1,030.	PTK (Sweden)	79.	PTK does not agree with the fact that standardisation of the requirements regarding the actuarial function would necessary lead to cross border activity. Indeed it has been proved that	noted, standardisation could increase

			the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment.	confidence of the stakeholders and give more comfort to the supervisory authorities
1,031.	Railways Pension Trustee Company Limited ("RPTCL	79.	We have not considered this question.	noted
1,032.	TCO	79.	TCO does not agree with the fact that standardisation of the requirements regarding the actuarial function would necessary lead to cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment.	noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities
1,033.	The Association of the Luxembourg Fund Industry (A	79.	See 78	noted
1,034.	The Society of Actuaries in Ireland	79.	We agree with the analysis and options as laid out, and support Option 2. We agree that this should not have a major cost impact as IORPs are already required to have an actuary (or similar qualified specialist) to compute and certify the technical provisions.	noted
1,035.	THE SOCIETY OF PENSION CONSULTANTS	79.	We agree with the analysis of the two options, but our preferred option is to leave the IORP Directive unchanged in this regard. There is no evidence that the existing regime is in any way deficient.	noted

1,036.	UK Association of Pension Lawyers	79.	<p>CfA 19 (Actuarial function): Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>Our view is that the options do not properly reflect the differences between insurance companies and IORPs (as detailed in our response to question 76. above). To be effective, option 2 will need to be amended more extensively than currently proposed.</p>	noted
1,037.	Universities Superannuation Scheme (USS),	79.	Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?	noted
1,038.	Verbond van Verzekeraars	79.	We agree on the analysis of the options and have a preference for option 2.	noted
1,039.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	79.	<p>We agree with most elements of the analysis of the options as laid down in the advice of EIOPA. We can also agree with the preference of EIOPA for option 2.</p> <p>We do however not agree with the assumption that standardization of the requirements regarding the actuarial function would necessarily lead to more cross border activity. Indeed it has been proved that the main hurdles for cross border activity are the differences in Social and Labor Law as well as tax treatment. Furthermore, as stated earlier we doubt that there is even a demand for cross-border activity.</p>	<p>noted</p> <p>noted, standardisation could increase confidence of the stakeholders and give more comfort to the supervisory authorities</p>
1,040.	Whitbread Group PLC	79.	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
1,041.	Zusatzversorgungs	79.	We agree with the preference of EIOPA for option 2. With	noted

	kasse des Baugewerbes AG		regard to the whistle-blowing obligation as is asked for under 24.5.7, we refer to what we said about this topic regarding the compliance function and internal audit.	
1,042.	Towers Watson	79.	<p>80. Do stakeholders agree with the analysis of the options (including the pros and cons) as laid out in this advice? Are there any other impacts that should be considered?</p> <p>We believe that leaving the scope of the actuarial function to be clarified in local regulatory and actuarial standards would be the most robust and flexible way of coping with the heterogeneity of IORPS across the EU in a proportionate manner. Option 2 would be acceptable provided that the detailed requirements (including transitional requirements):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> are proportionate to the benefit for IORP members</li> <li><input type="checkbox"/> take proper account of the heterogeneity of IORPs across the EU, and</li> <li><input type="checkbox"/> take proper account of the available actuarial resource.</li> </ul> <p>We agree the Option 1 is the minimum cost option.</p> <p>We agree that Option 2 might have a positive effect on cross-border activity.</p> <p>We have a concern that overly precise description of the tasks of the actuarial function may reduce the level of responsibility taken by the professionals best qualified to make judgements in relation to the management of IORPs. We advocate a principles-based approach.</p> <p>We are not convinced by the suggestion that leaving the IORP Directive unchanged could result in an inability to make well informed decisions and that beneficiaries may suffer as a result. Of course if that gap is not filled, the consequences may be adverse. However we believe that leaving the scope of</p>	noted

			<p>the actuarial function to be clarified in local regulatory and actuarial standards would be the most robust and flexible approach.</p> <p>The evidence of the UK does not support the assumption that Option 1 would require more supervisory resources than Option 2 – quite the reverse. In the UK far greater resources are required to supervise insurers than are required to regulate far greater numbers of IORPs. Moreover we consider that diversity in the information supervisors require to be an inevitable consequence of the diversity of IORPs and would be very concerned if the information collected were not to reflect that diversity.</p> <p>It is not possible for us to comment on the additional administration burden without more of the underlying detail of the scope of the actuarial function. We accept in principle that if the scope, tasks and qualification requirements are largely unchanged by the proposed Level 1 changes, the impact should not be high.</p>	
1,043.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	80.	<p>The OPSG refers to the comments made under Question 61.</p> <p>Additionally, we agree with EIOPA that the current principles on outsourcing in the IORP Directive have to be maintained in the revised IORP Directive. There is a clear trend in the sector that IORPs outsource more and more activities.</p> <p>With respect to the role of the supervisory authority we strongly support option 1. We believe that it is sufficient that “Member States must ensure that supervisory authorities have the necessary powers at any time to request information on outsourced functions and activities”.</p>	<p>Noted</p> <p>Noted</p> <p>Not agreed Because of the</p>

			<p>We do not see the need to introduce a new member state's option where the "member state may decide to provide that IORPs shall, in a timely manner, inform or notify the supervisory authorities on the outsourcing of critical or important function or activities as well as any subsequent changes with respect to those functions or activities", as this could create unnecessary legal complexities for cross-border providers.</p>	<p>large heterogeneity of IORPs among member states, it is necessary to ensure a minimum common standard on how to inform/notify the Supervisory Authority on the outsourcing of critical or important function or activities. Leaving the option to member states seems appropriate to give a certain level of flexibility to the system, in order to avoid the creation of excessive legal complexities.</p>
1,044.	AbA Arbeitsgemeinschaft für betriebliche Altersver	80.	<p>Firstly, we agree with EIOPA to maintain the general principles on outsourcing stated in the current IORP Directive [Article 9(4), 19(1), 19(2)].</p> <p>Secondly, we agree with EIOPA that IORPs should remain fully responsible when they outsource functions or activities to third parties (see Article 49 (1) Solvency II Directive). The AbA refers to the comments made under Question 61.</p>	<p>Noted</p> <p>Noted</p>

			<p>However, we accept that “outsourcing of critical or important functions or activities of IORPs should be made subject to certain limitations” (see section 25.3.1). We agree with EIOPA that a limitation to outsourcing in a positive way – in contrast to Article 49 (2) Solvency II Directive – is preferable. Unfortunately, we have not had the time to discuss the principles proposed by EIOPA under section 25.5.2.</p> <p>Outsourcing contracts should especially allow small institutions to implement efficient solutions. Therefore, the process for such contracts may not be complex and costly. The regulations should be established at the national level.</p> <p>In our opinion a Level 1 principle that “Member States must ensure that supervisory authorities have the necessary powers at any time to request information on outsourced functions and activities” should be accepted as sufficient. Therefore, we oppose to apply Article 49 (3) Solvency II Directive to IORPs.</p>	<p>Noted</p> <p>Not agreed Providing a minimum content of outsourcing contracts should lead to a higher level of transparency and could facilitate the supervisory activity on outsourced function or activities. At the national level</p>
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				<p>could be established more detailed rules.</p> <p>Not agreed Because of the large heterogeneity of IORPs among member states, it is necessary to ensure a minimum common standard on how to inform/notify the Supervisory Authority on the outsourcing of critical or important function or activities. Leaving the option to member states seems appropriate to give a certain level of flexibility to the system, in order to avoid the creation of excessive legal complexities.</p>
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1,045.	ABVAKABO FNV	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive.</p> <p>The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."</p>
1,046.	AEIP	80.	<p>AEIP thinks that the starting point should be art. 9 of the IORP Directive, respecting the specificities of IORPs, and not the</p>	<p>Agreed. EIOPA agrees that the principles in Art. 9</p>

			material requirements on insurers in respect of outsourcing.	(4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."
1,048.	AMICE	80.	As outlined in our introduction, we generally support the application of the principles of pillar 2 of Solvency II, with an appropriate division between level 1 and level 2 texts. We underline the importance of the principle of proportionality in all provisions on governance.	Noted
1,049.	AMONIS OFP	80.	Do stakeholders agree that the material requirements on insurers in respect of outsourcing should also apply to IORPs? AMONIS OFP does not agree with EIOPA that the material	Not agreed

		<p>requirements on insurers in respect of outsourcing should also apply to IORP's.</p> <p>The starting point should be Art. 9 of the IORP Directive and respect to the specificities of IORP's.</p>	<p>However it is necessary to take into account the specificities of IORPs in respect to insurers.</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive.</p> <p>The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."</p>
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1,050.	ANIA – Association of Italian Insurers	80.	<p>The ANIA agrees with EIOPA’s view that the material elements of Article 49(1 &amp;2) of Solvency II are generally applicable to IORPs – if applied proportionate. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA.</p> <p>Furthermore, the ANIA is fully supportive of including more detailed requirements such as the outsourcing of key functions to the sponsoring undertaking in the level 2 implementations measures.</p> <p>Finally, the ANIA stresses that the particularities of IORPs should be taken into account appropriately.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p>
1,051.	Association Française de la Gestion financière (AF)	80.	<p>The Directive currently provides that Member States may permit to outsource to third party service providers the whole or part of IORP/Pension scheme management.</p> <p>As far as we know, the established practices are consistent with the objective of protecting members and beneficiaries. In general, these practices reflect the specific characteristics of the occupational pension market at the national level, and are therefore not necessarily conform to the material aspects of Solvency II requirements on outsourcing. To the extent that these practices have a strong track record in terms of scheme protection and cost-efficiency, we would not understand why the Directive should be amended. The obvious consequence would be additional administrative costs for members and beneficiaries without any clear benefit.</p> <p>We also wish to emphasize that when a IORP is a DC pension scheme without a legal personality, each provider is responsible for its own activity. For instance, the asset manager is responsible for the management of the investment</p>	<p>Not agreed.</p> <p>Given the trend of IORPs to outsource many activities, their specificities and their large heterogeneity among member states, the provision of minimum common rules on outsourcing aim to increase transparency and protection of members and beneficiaries and to facilitate the</p>

			funds offered by the plan.	supervision activity.  Noted Issue covered by the CfA related to the scope
1,052.	Association of British Insurers	80.	<p>Yes, the ABI agrees.</p> <p>As noted in the advice, the level of outsourcing and approach followed on the supervision of outsourced activities varies enormously between Member States, and the solution should therefore guarantee a certain degree of flexibility in the system.</p> <p>As we said in our response to Question 61 and Question 62, we believe that the advice should be revised to make it clear that where the entity performing the outsourcing function is itself a regulated financial entity, any requests for information etc. should come from its primary supervisor, not the supervisor of the IORP.</p>	<p>Noted</p> <p>Not agreed. The comment is not consistent with the provisions stated in CfA 12 concerning the power of the supervisory authority to have access to data and to business premises of the</p>

				service provider. Moreover, in considering the trend of IORPs to outsource many functions or activities and the principle that they remain however fully responsible, the supervisory authority should be able to supervise the whole activity of the IORP, even if part of it is outsourced.
1,053.	Association of Consulting Actuaries (UK)	80.	Yes (subject to comments above as regards CfA 12)	Noted
1,054.	Association of French Insurers (FFSA)	80.	The FFSA agrees with EIOPA's view that the material elements of Article 49 of Solvency II are generally applicable to IORPs. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA.	Noted
1,055.	Association of Pensioner Trustees in Ireland	80.	See response to question 61.	Noted
1,056.	Assoprevidenza – Italian Association	80.	We agree	Noted

	for supplement			
1,057.	Assuralia	80.	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.	Partially agreed. EIOPA holds the view that the principles of the Solvency II Directive on outsourcing are generally suitable for IORPs. Nevertheless, such a principle-based regulation has to take into account the specificities of IORPs in respect of insurers.
1,058.	Belgian Association of Pension Institutions (BVPI-	80.	Do stakeholders agree that the material requirements on insurers in respect of outsourcing should also apply to IORPs? BVPI-ABIP does not agree with EIOPA that the material requirements on insurers in respect of outsourcing should also apply to IORP's.  The starting point should be Art. 9 of the IORP Directive and respect to the specificities of IORP's.	Not agreed. However it is necessary to take into account the specificities of IORPs in respect to insurers.  Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should

				be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties.”
1,059.	BNP Paribas Cardif	80.	BNP Paribas Cardif agrees with EIOPA’s view that the material elements of Article 49 of Solvency II are generally applicable to IORPs. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA.	Noted
1,060.	Bosch Pensionsfonds AG	80.	We strongly advise against the introduction of the proposed new MS options:  - that MS may require information / notification by the IORP prior to outsourcing or when changes occur. This would	Not agreed. The option is related to outsourcing of

			<p>unnecessarily increase bureaucracy, complexity and cost for IORPs and the sponsoring undertakings;</p> <p>- that MS may prohibit outsourcing of certain functions and/or activities.</p> <p>MS options should be avoided in IORP II at all cost - they constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p>	<p>critical or important functions or activities, where a common standard in how to inform / notify the supervisory authority could lead to an increase in transparency and in the level of protection of members and beneficiaries of the IORP.</p> <p>Not agreed. The current IORP Directive give the member states the option to "permit" or "require to IORPs the outsourcing of the whole or part of their management. As a natural consequence member states</p>
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				<p>have the power to prohibit the outsourcing of certain functions or activities.</p> <p>A set of minimum common rules might facilitate the cross border activity</p>
1,061.	Bosch-Group	80.	<p>We strongly advise against the introduction of the proposed new MS options:</p> <ul style="list-style-type: none"> <li>- that MS may require information / notification by the IORP prior to outsourcing or when changes occur. This would unnecessarily increase bureaucracy, complexity and cost for IORPs and the sponsoring undertakings;</li> <li>- that MS may prohibit outsourcing of certain functions and/or activities.</li> </ul>	<p>Not agreed.</p> <p>The option is related to outsourcing of critical or important functions or activities, where a common standard in how to inform / notify the supervisory authority could lead to an increase in transparency and in the level of protection of</p>

			<p>MS options should be avoided in IORP II at all cost - they constitute obstacles for cross-border activity, allow "gold plating" through additional national regulation and could give rise to supervisory arbitrage.</p>	<p>members and beneficiaries of the IORP.</p> <p>The current IORP Directive give the member states the option to "permit" or "require to IORPs the outsourcing of the whole or part of their management. As a natural consequence member states have the power to prohibit the outsourcing of certain functions or activities.</p> <p>A set of minimum common rules might facilitate the cross border activity</p>
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1,062.	BT Pension Scheme Management Ltd	80.	We believe that the requirements can be applied to IORPs just as they can to insurers.	Partially agreed. EIOPA holds the view that the principles of the Solvency II Directive on outsourcing are generally suitable for IORPs. Nevertheless, it is necessary to consider the specificities of IORPs in respect of Insurers.
1,063.	Bundesarbeitgeber verband Chemie e.V. (BAVC)	80.	BAVC does not agree with EIOPA that the material requirements on insurers in respect of outsourcing should also apply to IORP's.	Not agreed. However it is necessary to take into account the specificities of IORPs in respect to insurers.
1,064.	BVI Bundesverband Investment und Asset Management	80.	<p>The Directive currently provides that Member States may permit to outsource to third party service providers the whole or part of IORP management.</p> <p>As far as we know, the established practices are consistent with the objective of protecting members and beneficiaries. In general, these practices reflect the specific characteristics of the occupational pension market at the national level and are therefore not necessarily conform to the material aspects of Solvency II requirements on outsourcing. To the extent that these practices have a strong track record in terms of scheme</p>	Not agreed. Given the trend of IORPs to outsource many activities, their specificities and their large heterogeneity among member states, the

			protection and cost-efficiency, we do not see any need for the Directive to be amended. The obvious consequence would be additional administrative costs for members and beneficiaries without any clear benefit.	provision of a minimum set of common rules on outsourcing aim to increase transparency and protection of members and beneficiaries and to facilitate the supervision activity.
1,065.	CEA	80.	<p>The CEA agrees with EIOPA's view that the material elements of Article 49(1 &amp;2) of Solvency II are generally applicable to IORPs – if applied proportionate. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA.</p> <p>Furthermore, the CEA is fully supportive of including more detailed requirements such as the outsourcing of key functions to the sponsoring undertaking in the level 2 implementations measures.</p> <p>Finally, the CEA stresses that the particularities of IORPs should be taken into account appropriately.</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p>
1,066.	Charles CRONIN	80.	<p>Generally I am very supportive of incorporating the material elements of Article 49 from the Solvency II Directive as laid out in EIOPA's advice to the Commission, with one material exception. As stated above I am deeply concerned that outsourcing of investment management services is not optimising the interests of scheme M &amp; B, because of the</p>	<p>Not agreed. It must be taken into account that in some member states the</p>

			<p>shortage of internal investment expertise. Given the comments above I suggest an amendment to EIOPA's advice with the following additional text;</p> <p>25.5.1 The IORP cannot be required to have the human and physical resources detailed technical knowledge to carry out the activities outsourced to third parties. However the IORP must retain within its operational body the skills and professional experience to effectively challenge the advice it receives and be able to measure, monitor and manage the performance of activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions to third parties.</p> <p>In the UK it is becoming increasingly popular for smaller IORPs to hire part time professional trustees/board members who are former investment professionals. Hence even for relatively small schemes it is possible to internally resource skills, which are independent of outsourced service providers, to support the requirements above.</p>	<p>outsourcing of investment management is mandatory by law. The main reason for this is the lack of specific expertises within the operational bodies of the IORPs. In this cases it is important that IORPs remain fully responsible and that they ensure full understanding and control of the investment process as a whole.</p>
1,067.	Chris Barnard	80.	<p>I agree that the material requirements on insurers in respect of outsourcing should also apply to IORPs. This is prudentially reasonable and appropriate and would improve consistency between IORPs and insurers.</p> <p>Several paragraphs refer to responsibility including Paragraphs 17.3.3, 18.3.16, 19.3.4, and particularly 22.3.4, 23.3.3 and 25.2.3. It is a general principle that no matter how much decision-making or functionality is outsourced, overall</p>	<p>Noted However it is necessary to take into account the specificities of IORPs in respect to insurers.</p> <p>Noted</p>

			responsibility remains firmly with the IORP. Therefore I strongly agree with Paragraph 25.3.2 that this principle should be explicitly prescribed in the revised IORP Directive.	
1,068.	CMHF (Centrale van Middelbare en Hogere Functionar	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."</p>

1,069.	De Unie (Vakorganisatie voor werk, inkomen en loop	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."</p>
1,070.	Direction Générale du Trésor, Ministère des	80.	Yes, the material requirements on insurance undertakings in respect of outsourcing should also apply to IORPS.	<p>Noted However it is necessary to take</p>

	financ			into account the specificities of IORPs in respect to insurers.
1,071.	Ecie vie	80.	We consider Article 49 of Solvency II is suitable to IORPs.	Noted However it is necessary to take into account the specificities of IORPs in respect to insurers.
1,072.	ECIIA	80.	Yes and these requirements should include key processes and must be in the scope of Internal Audit Function, the Internal Control and Risk Management system.	Noted
1,073.	European Federation for Retirement Provision (EFRP)	80.	<p>The EFRP does not agree with EIOPA that the material requirements on insurers in respect of outsourcing should also apply to IORP's.</p> <p>The starting point should be Art. 9 of the IORP Directive and respect to the specificities of IORP's.</p>	<p>Not agreed. However it is necessary to take into account the specificities of IORPs in respect to insurers.</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot</p>

				<p>be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties.”</p>
1,074.	European Fund and Asset Management Association (EF	80.	<p>The Directive currently provides that Member States may permit to outsource to third party service providers the whole or part of IORP management.</p> <p>As far as we know, the established practices are consistent with the objective of protecting members and beneficiaries. In general, these practices reflect the specific characteristics of the occupational pension market at the national level, and are therefore not necessarily conform to the material aspects of Solvency II requirements on outsourcing. To the extent that these practices have a strong track record in terms of scheme protection and cost-efficiency, we would not understand why the Directive should be amended. The obvious consequence would be additional administrative costs for members and beneficiaries without any clear benefit.</p>	<p>Not agreed. Given the trend of IORPs to outsource many activities, their specificities and their large heterogeneity among member states, the provision of minimum common rules on</p>

			<p>We also wish to emphasize that the principle that IORPs should remain fully responsible when they outsource functions or activities to third parties can be easily subject to different interpretations across Europe, and within each Member State to the extent that it is often up to judges to decide on a case by case basis. We therefore believe that it would be hard to converge towards an unambiguous specification of the responsibility for outsourced functions. By way of illustration, EIOPA notes that when outsourcing investment activity, IORPs are required to ensure full understanding and control of the investment process as a whole. Whilst this requirement seems all right, we have reservations against the additional clarification brought by EIOPA, i.e. that IORPs should remain fully responsible for all aspects of the investment process. Clearly, this requirement goes too far, the more so because it is accepted that IORPs appoint professionals to carry out certain functions precisely when they lack sufficient expertise to make fully informed decisions.</p> <p>In general, we consider that what matters is that IORPs are required to have a legally enforceable document for any outsourced activity, in a written form.</p> <p>This response is also valid for questions 81-82.</p>	<p>outsourcing aim to increase transparency and protection of members and beneficiaries and to facilitate the supervision activity.</p> <p>Noted Section 25.5.1 provides that the IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. They have to be able to perform regular monitoring of the carrying out of the outsourced activities.</p>
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				Noted
1,075.	FairPensions	80.	<p>We strongly agree that, although they may not have technical expertise in the detail of day-to-day asset management, IORPs must have sufficient expertise to meaningfully oversee and monitor their agents in this regard. It is difficult to see how this can be achieved in the absence of some understanding of the activity being outsourced. This has historically been a problem among UK trust-based occupational pension schemes, as identified by the Myners Report a decade ago.</p> <p>We also agree that IORPs must remain ultimately responsible for outsourced functions. However, care must be taken to ensure that this chain of accountability functions properly in practice. In the UK, it is clear under trust law that pension fund trustees are ultimately responsible for outsourced functions. However, in practice this has sometimes led to a governance deficit, since asset managers regard themselves simply as carrying out instructions rather than having a fiduciary responsibility of their own, while pension fund trustees may not have the time or expertise to meaningfully hold their asset</p>	<p>Noted</p> <p>Noted</p> <p>See also paragraph 25.3.9.</p>

			<p>managers to account. It is vital that the respective responsibilities of IORPs and their external agents are clear (see also our response to Q73 and Q82). In this context, we strongly support EIOPA's suggestion (para 25.3.7) to "add a principle requiring IORPs to ensure the proper functioning of the outsourced activities through the selection process and ongoing monitoring."</p> <p>In addition, we believe there may be a need for clarification of the role of agents themselves, whether in the IORP Directive or elsewhere in European law.</p> <p>The problems associated with increasing delegation are not confined to the UK, and are highlighted by the growing popularity of fiduciary management. Even the term 'fiduciary management' illustrates the paradox of this type of delegation: IORPs cannot delegate their fiduciary responsibility to ensure that the best interests of beneficiaries are protected, yet the level of delegation implied by fiduciary management can make it difficult to see how this responsibility is discharged. In this context, clarity over the responsibilities of the fiduciary manager becomes even more important: do they also have a responsibility to effectively manage conflicts of interest, or does this responsibility rest solely with the IORP, which may not be in a position to fulfil it?</p>	<p>Noted, not within the scope of the mandate</p> <p>Noted, see also paragraph 25.3.9.</p>
1,076.	Federation of the Dutch Pension Funds	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the</p>

				<p>principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive</p> <p>The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties.</p> <p>Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties.”</p>
1,077.	Financial Reporting Council	80.	The requirements appear reasonable.	Noted
1,078.	FNV Bondgenoten	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. Text revised as follows: Not agreed. EIOPA</p>

				<p>finds the term "management" used in Art. 9 (4) too vague. We think that the same aim can be achieved through text proposed in the blue box. The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."</p>
1,079.	Generali vie	80.	We consider Article 49 of Solvency II is suitable to IORPs.	<p>Noted However it is necessary to take into account the specificities of IORPs in respect</p>

				to insurers.
1,080.	Groupement Français des Bancassureurs	80.	FBIA agrees with EIOPA's view that the material elements of Article 49 of Solvency II are generally applicable to IORPs. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA.	Noted
1,081.	PMT-PME-Mn Services	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when</p>

				they outsource functions or activities to third parties.”
1,082.	HM Treasury/Department for Work and Pensions	80.	We consider that the current requirements on outsourcing (Article 13(1)(b) of the IORP Directive are adequate to ensure that Regulatory Authorities can call in information on outsourcing where needed)	Noted. Powers of the supervisory authority are increased by providing effective access to data and to business premises of the service provider
1,083.	Institute and Faculty of Actuaries (UK)	80.	Yes we consider that the requirements on insurers in respect of outsourcing represent a sensible template for the corresponding requirements in respect of IORPs but we also believe that 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	Noted. The principle-based regulation proposed by EIOPA aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity. More detailed rules could be done at level 2 regulation.
1,084.	Italian Banking	80.	See answer to question 82.	Noted

	Association			
1,085.	Le cercle des épargnants	80.	We consider Article 49 of Solvency II is suitable to IORPs.	Noted. However it is necessary to take into account the specificities of IORPs in respect to insurers.
1,086.	Mercer	80.	<p>We agree with the principle that IORPs should be permitted to outsource most aspects of their management to third party providers whilst retaining the responsibility for ensuring any functions are provided effectively.</p> <p>We are concerned about the effects of the proposal in paragraph 25.5.2(c), that Supervisory Authorities must 'remain sighted of the outsourcing and ... able to monitor the compliance'. Although clearly service providers should not be appointed with a view to avoiding supervision, in our view, the prime consideration should be that outsourcing cannot hinder the effective running of the IORP – provided this is the case, then Supervisory Authorities should be able to organise themselves to operate effectively in relation to any third party arrangements. It is likely that EIOPA's proposal will achieve this, but it will depend on how 'remains sighted' is interpreted during the implementation process.</p> <p>We also do not understand the need for IORPs to notify supervisory authorities in 'a timely manner', of any decisions taken with respect of outsourcing. We expect supervisory</p>	<p>Noted.</p> <p>Noted.</p> <p>Not agreed. The large diversity of IORP regimes among member states makes</p>

			<p>authorities will become aware of this through normal disclosure requests and requirements, and that should be sufficient.</p> <p>In relation to the powers being given to supervisory authorities, in this case, as in previous parts of the consultation, we suggest that supervisory authorities' ability to request information is limited to cases where it is reasonable for them to do so and that the information they are able to demand is proportionate.</p>	<p>necessary a certain degree of flexibility, to realize which the power to decide in order to notification /information on outsourcing to supervisory authority is left to member states.</p> <p>Noted. It is connected with activity of carrying out the supervision activity.</p>
1,087.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to</p>

				<p>the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties.”</p>
1,088.	National Association of Pension Funds (NAPF)	80.	<p><b>OUTSOURCING</b></p> <p>Do stakeholders agree that the material requirements on insurers in respect of outsourcing should also apply to IORPs?</p> <p>EIOPA’s cautionary note about the pros and cons of new regulations on outsourcing is welcome.</p> <p>Most outsourcing is to organisations that are already regulated in one way or another. EIOPA should beware duplication.</p>	<p>Noted</p> <p>Noted. It could happen that a service provider is subject to the supervision of more than one supervisory</p>

			<p>Furthermore, EIOPA should be clearer about its justification for a written statement on outsourcing. Although this may not sound like a major imposition, it adds an extra item to the administrative burdens on IORPs. The UK has a 'one in, one out' rule for regulations. Will EIOPA support a similar approach?</p>	<p>authority. Anyway they carry out their activity reflecting different objectives. Hence the eventual duplication is not connected with the supervision activity but only with the plurality of the supervisory authority.</p> <p>Noted. Providing a written agreement (and a minimum common standard for this) could lead to an increase in the level of transparency and protection of the members and beneficiaries of the IORP.</p>
1,089.	NEST Corporation	80.	<p>While the existing provisions in the current IORP directive provide a useful base line, we believe that there could be considerable governance gains to be made by carrying across the requirements on insurers under article 49 of the Solvency</p>	Noted

			<p>II directive. This would require the outsourcing IORP to retain responsibility for the function and to ensure that they have sufficient governance and monitoring procedures, with the arrangement governed by a legally enforceable contract. This would help IORPs to provide better outcomes for members by taking advantage of external expertise while retaining overall control.</p> <p>This is especially relevant in jurisdictions where retirement provision is split between insurance products and IORPs. In these jurisdictions it makes sense for both groups to adhere to the same, or fundamentally similar, sets of requirements.</p>	
1,090.	Pan-European Insurance Forum (PEIF)	80.	<p>In principle, yes. Given the vast number of IORPs and their need to be effectively run by fit and proper persons, key activities may have to be outsourced to appropriate providers. In certain cases there may need to be a duty to outsource.</p> <p>Any notification process must on the basis of 'notify-and-go', it must explicitly avoid becoming an opportunity for competent authorities to approve the arrangement.</p> <p>However, the legal distinction between 'managing' an IORP under Article 9(4) of the current IORP Directive and providing other outsourced services to an IORP may need to be clarified</p>	<p>Noted However the IORP remain ultimate responsible for all the outsourced activities.</p> <p>Not agreed. The large diversity of IORP regimes among member states makes necessary a certain degree of flexibility, to realize which the power to decide in order to notification /information on</p>

			<p>as should the scope of power of competent authorities to take measures against “the persons running an institution” (IORP) (Article 14(2)). The basic rules in this area should be clear to all parties ab initio.</p>	<p>outsourcing to supervisory authority is left to member states. In any case this has to be interpreted as a prior approval of the outsourcing arrangement.</p> <p>Noted.</p>
1,091.	Pensioenfonds Zorg en Welzijn (PFZW)	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Not agreed. EIOPA finds the term Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to</p>

				carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."
1,092.	Predica	80.	Predica agrees with EIOPA's view that the material elements of Article 49 of Solvency II are generally applicable to IORPs. In addition, as is currently the case, the ultimate responsibility for outsourced functions should be borne by the IORP as correctly indicated by EIOPA.	Noted However it is necessary to take into account the specificities of IORPs in respect to insurers.
1,093.	PTK (Sweden)	80.		
1,094.	Railways Pension Trustee Company Limited ("RPTCL	80.	We have not considered this question.	Noted
1,095.	The Association of Pension Foundations (Finland)	80.	The starting point of explanatory text doesn't take into consideration that outsourcing is done to operate more efficiently and cost-effective. As EIOPA presents, most of member countries allow most of activities to be outsourced to service providers. Most of IORP's function on the contrary to pension insurance as general rule for pension insurance is not	Noted

			<p>outsourcing of its activities. Therefore it is questionable whether or not paragraph fit to insurance is useful starting point to IORP with adverse starting point.</p> <p>Wording of directive should not limit outsourcing of activities as is has been currently acceptable in member countries.</p>	Noted
1,096.	The Association of the Luxembourg Fund Industry (A	80.	<p>The Respondents agree that outsourcing of critical or important functions or activities of IORPs should be made subject to certain limitations that would be included in the revised IORP Directive. Outsourcing cannot lead to operating inefficiency in IORPs. Furthermore, it cannot hinder the exercise of an effective supervision by Supervisory authorities.</p> <p>The Respondents also agree that Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties.</p> <p>In this context, we agree with EIOPA's view that Art. 49 of Directive 2009/138/EC (Solvency II), reformulated in a positive way, is a good basis for addressing the specificities of IORPs in relation to outsourcing.</p> <p>Further, we fully agree that the revised IORP Directive contains a principle requiring IORPs to have a written outsourcing agreement and that Level 2 would then provide for the minimum contents of the agreement.</p> <p>The Respondents would also welcome a precision by the IORP Directive (or on Level 2) on</p>	<p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>

		<p><input type="checkbox"/> which functions and activities are considered as being critical and important and</p> <p><input type="checkbox"/> which functions would be considered as other functions that could eventually be carried out by undertakings which do not fall under specific prudential supervision.</p> <p>Our opinion is that outsourcing by IORPs to non-supervised entities should be avoided.</p> <p>Finally, as to the role of the supervisory authority, we are in favour of Option 2, i.e. a system where</p> <p><input type="checkbox"/> For IORPs that are registered, the Supervisory authority should have the necessary powers at any time to request information on outsourced functions and activities and</p> <p><input type="checkbox"/> For IORPs that are authorized, the IORP shall in timely manner notify the supervisory authority prior to the outsourcing of critical or important functions or activities as well as any subsequent changes with respect to those functions or activities.</p>	<p>Not agreed Difficulty to define a closed list of critical or important functions or activities given the large heterogeneity of kinds of IORPs among member states</p> <p>Not agreed The IORP remain fully responsible, even in case of outsourcing of functions or activities. The supervisory authority have the power of access to data and to the business premises of the service provider, even if they do not fall under specific supervision.</p> <p>Not agreed.</p>
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				According to EIOPA proposal, in option 2 there are not differences between IORPs that are registered and those that are authorised. Member states have the power to decide in order to the notification / information regime.
1,097.	THE SOCIETY OF PENSION CONSULTANTS	80.	We suggest that the fundamental principle must be that, provided the IORP takes appropriate safeguards when outsourcing services, any liability for the outsourced services should be transferred to the provider of those services. The type of appropriate steps envisaged would be selecting a suitably qualified provider, conducting due diligence on the selected provider, ensuring adequate contractual protections/obligations and monitoring compliance with them. We agree that the IORP should remain legally responsible for providing the relevant pension benefits but, if particular services have been correctly outsourced, that fact should be a defence against legal liability for the IORP, unless the provider's resources are insufficient to meet any residual costs of rectification.	Noted. See also paragraph 25.3.9
1,098.	UK Association of	80.	CfA 20 (Outsourcing): Do stakeholders agree that the material	

	Pension Lawyers		<p>requirements on insurers in respect of outsourcing should also apply to IORPS?</p> <p>We support Option 1: Leave the IORP Directive unchanged. An additional layer of regulation to regulate IORPs in general, when less than 1% of them will ever engage in cross-border activity, is a disproportionate approach which runs contrary to the principle of subsidiarity.</p>	<p>Not agreed.</p> <p>The principle-based regulation proposed by EIOPA aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity.</p>
1,099.	Universities Superannuation Scheme (USS),	80.	<p>OUTSOURCING</p> <p>Do stakeholders agree that the material requirements on insurers in respect of outsourcing should also apply to IORPs?</p>	
1,100.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	80.	<p>We agree with EIOPA that the material requirements on insurers in respect of outsourcing could also apply to IORPs under the condition that the IORP remains responsible.</p> <p>But nevertheless, the starting point should be Art. 9 of the IORP Directive respecting the specificities of IORPs.</p>	<p>Noted</p> <p>Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot</p>

				be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties.”
1,101.	Whitbread Group PLC	80.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member’s pension benefits	Not agreed The regulation aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity in all member states. It is necessary a compromise between the safeguard of the national legislation

				and the requirement of harmonisation.
1,102.	Zusatzversorgungskasse des Baugewerbes AG	80.	We think that the starting point should be art. 9 of the IORP directive, respecting the specificities of IORPs, and not the material requirements on insurers in respect of outsourcing.	Agreed. EIOPA agrees that the principles in Art. 9 (4) of the current Directive should be taken over to the revised IORP Directive The IORP cannot be required to have detailed technical knowledge to carry out the activities outsourced to third parties. Member States shall ensure that IORPs remain fully responsible when they outsource functions or activities to third parties."
1,103.	Towers Watson	80.	81. CfA 20 Outsourcing Do stakeholders agree that the material requirements on insurers in respect of outsourcing should also apply to IORPs?	

			<p>We agree that the fundamental principle must be that the overall responsibility for the running of the IORP remains with the IORP itself and cannot be transferred to a provider of outsourced services.</p> <p>We welcome EIOPA's recognition that pension funds differ from insurers by, in many cases, outsourcing so many of the critical and important functions and activities. We consider that the requirements on insurers represent a sensible template but believe that a flexible principles-based approach is necessary to accommodate the full diversity of existing IORPs.</p> <p>Again, in the UK, this should represent little change, beyond formalising what is already good practice, at least for larger pension schemes.</p>	<p>Noted</p> <p>Noted</p>
1,104.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	81.	See question 80	Noted
1,105.	AbA Arbeitsgemeinschaft für betriebliche Altersver	81.	No, we do not believe that standardisation will have a huge impact on cross border activities.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of

				transparency and protection of the members and beneficiaries of the IORPs.
1,106.	ABVAKABO FNV	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,107.	AEIP	81.	We are not convinced that standardization of outsourcing process requirements would enlarge cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross

				border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,109.	AMONIS OFF	81.	CfA 20 Outsourcing  Do stakeholders agree with the standardisation of outsourcing process in order to enlarge the cross border activity?  Yes, standardisation of outsourcing process requirements will facilitate but have only a minor impact on the development of cross border activity.	Noted
1,110.	ANIA – Association of Italian Insurers	81.	The ANIA can agree on EIOPA’s suggestion to ensure a minimum standard in how to inform/notify the Supervisory authority on outsourced functions or activities.	Noted
1,111.	Association of British Insurers	81.	The ABI believes this is sensible.	Noted
1,112.	Association of French Insurers (FFSA)	81.	The FFSA agrees on EIOPA’s with the standardisation of outsourcing process in order to enlarge the cross border activity.	Noted
1,113.	Association of Pensioner Trustees in Ireland	81.	See response to question 61.	Noted.
1,114.	Assoprevidenza – Italian Association for supplement	81.	We are not convinced that standardization of outsourcing process requirements would enlarge cross border activity.	Not agreed Providing a common minimum standard could

				represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,115.	Assuralia	81.	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.	Partially agreed. EIOPA holds the view that the principles of the Solvency II Directive on outsourcing are generally suitable for IORPs. Nevertheless, such a principle-based regulation has to take into account the specificities of IORPs in respect of insurers.
1,116.	Belgian Association of Pension	81.	CfA 20 Outsourcing Do stakeholders agree with the standardisation of outsourcing	

	Institutions (BVPI-		process in order to enlarge the cross border activity?  Yes, standardisation of outsourcing process requirements will facilitate but have only a minor impact on the development of cross border activity.	Noted
1,117.	BNP Paribas Cardif	81.	BNP Paribas Cardif agrees on EIOPA's with the standardisation of outsourcing process in order to enlarge the cross border activity.	Noted
1,118.	BT Pension Scheme Management Ltd	81.	We are not convinced that the burden imposed by a standardised form of approach to outsourcing, particularly, as this burden would be suffered by all IORPs, is warranted by the desire to encourage cross-border activity, which would benefit only a few IORPs.  We suggest an impact assessment is needed before this proposal is taken forwards.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.  An Impact assessment could be evaluated
1,119.	CEA	81.	The CEA can agree on EIOPA's suggestion to ensure a	

			minimum standard in how to inform/notify the Supervisory authority on outsourced functions or activities.	Noted
1,120.	Charles CRONIN	81.	Yes, I support the standardisation of the outsourcing process in order to promote harmonisation and cross border activity.	Noted
1,121.	Chris Barnard	81.	I generally agree with the standardisation of outsourcing process; however I am not convinced that this would meaningfully enlarge cross-border (IORP) activity. See also my response to question 5.	Noted.
1,122.	CMHF (Centrale van Middelbare en Hogere Functionar	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,123.	De Unie (Vakorganisatie voor werk, inkomen en loop	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could

				represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,124.	Ecie vie	81.	Yes	Noted
1,125.	European Federation for Retirement Provision (EFRP)	81.	The EFRP does not support the standardization of outsourcing processes.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of

				the IORPs.
1,126.	Federation of the Dutch Pension Funds	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,127.	Financial Reporting Council	81.	We have not formed a view on this question.	Noted
1,128.	FNV Bondgenoten	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities

				and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,129.	Generali vie	81.	Yes	Noted
1,130.	Groupement Français des Bancassureurs	81.	FBIA agrees on EIOPA's with the standardisation of outsourcing process in order to enlarge the cross border activity.	Noted
1,131.	PMT-PME-Mn Services	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,132.	HM Treasury/Departme	81.	We concur that some standardisation of outsourcing may be needed for schemes operating across borders	Noted

	nt for Work and Pensions			
1,133.	Institute and Faculty of Actuaries (UK)	81.	<p>We do not object to standardisation of the outsourcing process however we suspect that the diversity of IORPs may mean that a standardised process is likely to be suboptimal for a substantial number of IORPs.</p> <p>We therefore consider that a comprehensive and detailed impact assessment ought to be considered before any decisions are made on this.</p> <p>Moreover we believe that standardisation of outsourcing process will do nothing to enlarge the cross border activity but, despite this, that it is a worthy aspiration.</p>	<p>Noted.</p> <p>Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.</p> <p>An Impact assessment could be evaluated.</p> <p>Noted</p>
1,134.	Italian Banking Association	81.	See answer to question 82.	Noted
1,135.	Le cercle des épargnants	81.	Yes	Noted

1,136.	Mercer	81.	We are not sure what is referred to here. Outsourcing contracts will be driven by the relationship between the IORP and its service provider, which in turn is likely to depend on the size and legal structure of the IORP and the benefits targeted. So standardisation might not be appropriate. In addition, in our experience outsourcing contracts do not create any obstacles in relation to cross border provision: the obstacles are met long before arrangements for outsourcing are considered, and arise in relation to tax and other legislative restrictions.	Noted Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,137.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the

				members and beneficiaries of the IORPs.
1,138.	National Association of Pension Funds (NAPF)	81.	Do stakeholders agree with the standardisation of outsourcing process in order to enlarge the cross-border activity?	
1,139.	Pan-European Insurance Forum (PEIF)	81.	Yes.	Noted
1,140.	Pensioenfondszorg en Welzijn (PFZW)	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,141.	Predica	81.	Predica agrees on EIOPA's with the standardisation of outsourcing process in order to enlarge the cross border	Noted

			activity.	
1,142.	Railways Pension Trustee Company Limited ("RPTCL	81.	We have not considered this question.	noted
1,143.	The Association of the Luxembourg Fund Industry (A	81.	See 80	noted
1,144.	THE SOCIETY OF PENSION CONSULTANTS	81.	No. Due to the diversity in scale and form of IORPs it would be inappropriate to standardise outsourcing processes across different member states. We also do not consider that this would have the effect of increasing cross-border activity. If EIOPA considers it will, we would be very pleased to see the evidence on which it bases this assertion.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.
1,145.	UK Association of Pension Lawyers	81.	1. CfA 20 (Outsourcing): Do stakeholders agree with the standardisation of outsourcing process in order to enlarge the cross border activity?  We support Option 1: Leave the IORP Directive unchanged. An	Not agreed.

			additional layer of regulation to regulate IORPs in general, when less than 1% of them will ever engage in cross-border activity, is a disproportionate approach which runs contrary to the principle of subsidiarity.	The principle-based regulation proposed by EIOPA aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity.
1,146.	Universities Superannuation Scheme (USS),	81.	Do stakeholders agree with the standardisation of outsourcing process in order to enlarge the cross-border activity?	
1,147.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	81.	We do not agree with the standardisation of outsourcing process in order to enlarge the cross border activity.	Not agreed Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and protection of the members and beneficiaries of the IORPs.

1,148.	Whitbread Group PLC	81.	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>Not agreed</p> <p>The regulation aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity in all member states. It is necessary a compromise between the safeguard of the national legislation and the requirement of harmonisation.</p>
1,149.	Zusatzversorgungs kasse des Baugewerbes AG	81.	We are not convinced that standardization of outsourcing process requirements would stimulate cross border activities.	<p>Not agreed</p> <p>Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and this of a higher level of transparency and</p>

				protection of the members and beneficiaries of the IORPs.
1,150	Towers Watson	81.	<p>82. Do stakeholders agree with the standardisation of outsourcing process in order to enlarge the cross border activity?</p> <p>No. Due to the diversity in scale and form of IORPs it would be inappropriate to standardize outsourcing processes across different Member States. We also do not consider that this would have the effect of increasing cross-border activity.</p>	<p>Not agreed</p> <p>Providing a common minimum standard could represent a possible solution to the compromise between the requirement to develop cross border activities and that to increase the level of transparency and protection of the members and beneficiaries of the IORPs.</p>
2.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	82.	See question 80	noted
3.	AbA Arbeitsgemeinschaft für betriebliche Altersver	82.	<p>The following criteria (on the basis of the BaFin Circular MaRisk VA) could be taken into account and could form part of the contractual outsourcing agreement:</p> <ul style="list-style-type: none"> <li>- services to be performed by the company to which the activity is outsourced must be specified and where appropriate</li> </ul>	<p>Noted.</p> <p>The regulation could be developed at level 2 implementing measures. From a</p>

			<p>delineated;</p> <ul style="list-style-type: none"> <li>- information and audit rights of the internal audit function as well as of external auditors must be determined;</li> <li>- the rights to issue instructions must be clearly defined;</li> <li>- there must be rules that ensure that data protection provisions are taken into account;</li> <li>- appropriate periods of notice must be specified;</li> <li>- it must be ensured that the company to which the activity is outsourced complies with insurance supervisory requirements;</li> <li>- the outsourcing undertaking must inform the undertaking of developments that affect the proper performance of outsourced activities and processes.</li> </ul>	<p>preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. EIOPA holds the view that too detailed rules could reduce the level of harmonisation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
4.	ABVAKABO FNV	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.</p>

5.	AEIP	82.	<p>Minimum outsourcing contract elements could include: (1) rights &amp; obligations of the service provider and the IORP, (2) confidentiality and security features, (3) timely and accurate reporting and communication of information, (4) commitment of the service provider to grant access to information by the IORP and the supervisor on an ongoing basis, (5) defining of applicable laws and regulations, (6) defining auditing rights (by both the internal and the external auditor and possibly also by the compliance officer), (7) requirement of an internal controls certification (8) possibility to modify and/or terminate the agreement and obligation for the external service provider to return all necessary data to the IORP and/or to transfer them to another external service provider.</p>	<p>Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. EIOPA holds the view that too detailed rules could reduce the level of harmonisation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
7.	AMONIS OFP	82.	<p>What are the minimum outsourcing contract elements stakeholders consider as useful to ensure the protection for IORP members and beneficiaries?</p> <p>Minimum outsourcing contract elements could include: (1) rights &amp; obligations of the service provider and the IORP, (2) confidentiality and security features, (3) timely and accurate reporting and communication of information, (4) commitment of the service provider to grant access to information by the</p>	<p>Noted. The regulation could be developed at level 2 implementing</p>

			<p>IORP and the supervisors on an on-going basis, (5) defining of applicable laws and regulations, (6) defining auditing rights (by both the internal and the external auditor and possibly also by the compliance officer), (7) requirement of an internal controls certification (8) possibility to modify and/or terminate the agreement and obligation for the external service provider to return all necessary data to the IORP and/or to transfer them to another external service provider.</p>	<p>measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. EIOPA holds the view that too detailed rules could reduce the level of harmonisation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
8.	ANIA – Association of Italian Insurers	82.	<p>The ANIA would not suggest introducing minimum contract elements. The IORP is the final responsible for outsourcing while the employer is the final responsible for the commitment made towards his employees.</p> <p>In addition, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision and administrative burden, especially where there are two regulators responsible for pension regulation and financial regulation. The advice should therefore be amended to make clear that where the entity performing the outsourcing function is itself regulated, the supervisor of the IORP should</p>	<p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity.</p> <p>Not agreed It could happen that a service provider is subject to the supervision</p>

			<p>not set overlapped provisions and, in case of request of information, should collaborate with the supervisor of the outsourcer in order to obtain the same data already sent from the outsourcer entity to its supervisor. The supervisory authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to facilitate access to data etc. In any case, the ANIA highlights that even if different supervisors follow have different objectives, duplication of work should be avoided.</p>	<p>of more than one supervisory authority. Anyway they carry out their activity reflecting different objectives. Hence the eventual duplication is not connected with the supervision activity but only with the plurality of the supervisory authority. Moreover, the co-operation between supervisory authorities is a current principle of the regulation of their activity within the financial system.</p>
9.	Association Française de la Gestion financière (AF)	82.	<p>The contract elements must remain flexible so that they can be adapted to suit each particular outsourcing situation or Member State specifics.</p>	<p>Noted The aim is to provide only a minimum common standard for the outsourcing agreement. This could safeguard the need of</p>

				flexibility.
10.	Association of British Insurers	82.	The ABI does not believe that the minimum elements of an outsourcing contract should be set. Contract elements must remain flexible so they can suit each particular outsourcing situation.	Not agreed The aim is to provide only a minimum common standard for the outsourcing agreement. This could safeguard the need of flexibility.
11.	Association of French Insurers (FFSA)	82.	<p>89. The minimum outsourcing contract elements should at least include:</p> <p>90. - requirements to safeguard continuity,</p> <p>91. - obligation to inform the IORP in case of problems,</p> <p>92. - necessary powers for the IORP to issue instructions and obtain information,</p> <p>93. - requirements on exit provisions,</p> <p>94. - minimum data protection requirements</p> <p>95. - explicit or implicit costs ceilings.</p> <p>96. - confidentiality clause,</p> <p>- information duty and cooperation with auditor and Competent authority</p>	Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.
12.	Association of Pensioner Trustees	82.	See response to question 61.	Noted

	in Ireland			
13.	Assoprevidenza – Italian Association for supplement	82.	<p>We agree with analysis in 25.5.2 and 25.5.3</p> <p>Minimum outsourcing contract elements could include: (1) rights &amp; obligations of the service provider and the IORP, (2) confidentiality and security features, (3) timely and accurate reporting and communication of information, (4) commitment of the service provider to grant access to information by the IORP and the supervisor on an ongoing basis, (5) defining of applicable laws and regulations, (6) defining auditing rights (by both the internal and the external auditor and possibly also by the compliance officer), (7) requirement of an internal controls certification (8) possibility to modify and/or terminate the agreement and obligation for the external service provider to return all necessary data to the IORP and/or to transfer them to another external service provider.</p> <p>But given the diversity of IORP’s and the social systems in which they play a role, minimum standards should be left to the responsibility of member states, with respect of the principle of subsidiarity.</p>	<p>Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation.. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p> <p>Not agreed A minimum common standard could be useful for harmonisation. More detailed rules could be left to the national legislation</p>

14.	Assuralia	82.	<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>	<p>Partially agreed. EIOPA holds the view that the principles of the Solvency II Directive on outsourcing are generally suitable for IORPs. Nevertheless, such a principle-based regulation has to take into account the specificities of IORPs in respect of insurers.</p>
15.	Belgian Association of Pension Institutions (BVPI-	82.	<p>What are the minimum outsourcing contract elements stakeholders consider as useful to ensure the protection for IORP members and beneficiaries?</p> <p>Minimum outsourcing contract elements could include: (1) rights &amp; obligations of the service provider and the IORP, (2) confidentiality and security features, (3) timely and accurate reporting and communication of information, (4) commitment of the service provider to grant access to information by the IORP and the supervisors on an on-going basis, (5) defining of applicable laws and regulations, (6) defining auditing rights (by both the internal and the external auditor and possibly also by the compliance officer), (7) requirement of an internal controls certification (8) possibility to modify and/or terminate the agreement and obligation for the external service provider to return all necessary data to the IORP and/or to transfer them</p>	<p>Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria</p>

			to another external service provider.	could be an useful starting point for the implementing regulation.
16.	BNP Paribas Cardif	82.	<p>The minimum outsourcing contract elements should at least include:</p> <ul style="list-style-type: none"> <li>- requirements to safeguard continuity,</li> <li>- obligation to inform the IORP in case of problems,</li> <li>- necessary powers for the IORP to issue instructions and obtain information,</li> <li>- requirements on exit provisions,</li> <li>- minimum data protection requirements</li> <li>- explicit or implicit costs ceilings.</li> <li>- confidentiality clause,</li> <li>- information duty and cooperation with auditor and Competent authority,</li> </ul>	<p>Noted.</p> <p>The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
17.	BT Pension Scheme Management Ltd	82.	We believe that the elements which EIOPA has identified the relevant elements necessary to protect the interests of beneficiaries, in the standards that it outlines in its proposed response.	Noted
18.	CEA	82.	The CEA would not suggest introducing minimum contract elements. The IORP is the final responsible for outsourcing while the employer is the final responsible for the commitment made towards his employees.	<p>Not agreed.</p> <p>A minimum common standard could be useful for harmonisation and</p>

			<p>In addition, in the event that an entity is already supervised by another authority clarification is needed to avoid overlap of supervision and administrative burden, especially where there are two regulators responsible for pension regulation and financial regulation. The advice should therefore be amended to make clear that where the entity performing the outsourcing function is itself regulated, the supervisor of the IORP should not set overlapped provisions and, in case of request of information, should collaborate with the supervisor of the outsourcer in order to obtain the same data already sent from the outsourcer entity to its supervisor. The primary supervisory authority of the entity performing the outsourced function should co-operate with the supervisory authority of the IORP to facilitate access to data etc. In any case, the CEA highlights that even if different supervisors follow have different objectives, duplication of work for the insurers should be avoided.</p>	<p>for the supervisory activity.</p> <p>Not agreed It could happen that a service provider is subject to the supervision of more than one supervisory authority. Anyway they carry out their activity reflecting different objectives. Hence the eventual duplication is not connected with the supervision activity but only with the plurality of the supervisory authority. Moreover, the co-operation between supervisory authorities is a current principle of the regulation of their activity within the financial system.</p>
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19.	Charles CRONIN	82.	<p>I believe that the conditions set out in 25.5.2 of EIOPA's draft advice, which is translated from Article 49(2) of the Solvency II Directive, provide adequate protection of IORP M &amp; B. These should be included in the revised IORP Directive.</p> <p>In addition the IORP should make an annual return to the national supervisor which should certify (by a current named board member) that any outsourced functions are in observance of elements 'a...e' of EIOPA's advice.</p> <p>This avoids IORPs needing prior permission to outsource services, which reduces administrative burden for the IORP and the supervisor. But crucially creates an audit trail to a responsible person, should the outsourced service fail to the extent that it requires supervisory intervention.</p> <p>Note a requirement for an annual return by IORPs to national supervisors at Level 1 could harmonise to an EU level the text in paragraph 25.5.4. An alternative 25.5.4 could read:</p> <p>25.5.4 Member States must ensure that supervisory authorities have the necessary powers at any time to request information on outsourced functions and activities. IORPs must provide, in a timely manner, an annual return to national supervisors detailing Member States may decided to provide that IORPs shall, in a timely manner, inform or notify the supervisory authorities on the outsourcing of critical or important functions or activities as well as any subsequent changes with respect to those functions and activities. The annual return must certify compliance with the provisions of 25.5.2.</p>	<p>Noted</p> <p>Noted. It could be considered at level 2 regulation.</p> <p>Not agreed In EIOPA proposal the prior approval of the outsourcing of functions or activities is not included.</p> <p>Not agreed The power to decide in order to notify / inform on outsourcing is left to member states. The solution seems appropriate</p>
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			Alternatively after the first sentence above, the remaining text could fall under the information to supervisors section – see CfA 22, reference question 90.	to give a certain level of flexibility to the system, in order to avoid the creation of excessive legal complexities.  Not agreed
20.	Chris Barnard	82.	I would not support detailed minimum outsourcing contract elements here.  However, the following broad principles need to be considered: - outsourcing should ideally improve operational efficiency in IORPs; - it should not increase operational risk; - it should not hinder effective supervision by Supervisory authorities.	Agreed The aim is to provide only a minimum common standard for the outsourcing agreement.  Noted Similar general principles are already provided in the EIOPA proposal (see. Section 25.5.2)
21.	CMHF (Centrale van Middelbare en Hogere Functionar	82.	We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.  Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum	Agreed (see also paragraph 25.3.9)  Not agreed. A minimum common standard could be useful for harmonisation and

			requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.	for the supervisory activity. More detailed rules could be left to the national legislation.
22.	De Unie (Vakorganisatie voor werk, inkomen en loop	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.</p>
23.	Ecie vie	82.	<p>The minimum outsourcing contract elements should at least include:</p> <ul style="list-style-type: none"> <li>- requirements to safeguard continuity,</li> <li>- obligation to inform the IORP in case of problems,</li> <li>- necessary powers for the IORP to issue instructions and obtain information,</li> <li>- requirements on exit provisions,</li> <li>- minimum data protection requirements</li> <li>- explicit or implicit costs ceilings.</li> </ul>	<p>Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard</p>

			<ul style="list-style-type: none"> <li>- confidentiality clause,</li> <li>- information duty and cooperation with auditor and Competent authority.</li> </ul>	<p>regulation. EIOPA holds the view that too detailed rules could reduce the level of harmonisation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
24.	European Federation for Retirement Provision (EFRP)	82.	The EFRP thinks that the clarity of fiduciary duties is essential in outsourcing and it should be defined in a written agreement.	Agreed (see also paragraph 25.3.9)
25.	European Fund and Asset Management Association (EF)	82.	The contract elements must remain flexible so that they can be adapted to suit each particular outsourcing situation or Member State specifics.	<p>Noted</p> <p>The aim is to provide only a minimum common standard for the outsourcing agreement. This could safeguard the need of flexibility, where useful.</p>
26.	FairPensions	82.	We strongly agree that "it would be useful to provide that, in the case of outsourcing of critical or important functions or activities (such as investment management), fiduciary duties are extended to the provider of the outsourced services." Please see our report at	<p>Noted</p> <p>It could be useful in level 2 regulation</p>

			<p><a href="http://www.fairpensions.org.uk/fiduciaryduty">http://www.fairpensions.org.uk/fiduciaryduty</a> for more details of our work in this area.</p> <p>We note with concern that in relation to Investment Management Agreements (IMAs) used by UK pension funds, the situation may be the opposite of that envisaged by the Commission. Anecdotal evidence from lawyers suggests that asset management firms, when drawing up or negotiating IMAs, often seek to provide that they do not have fiduciary duties or to exclude or restrict any liability that may exist under the common law. We believe that this practice should be prevented and that pension funds should be actively encouraged to scrutinise this aspect of IMAs and to press their asset managers to accept their fiduciary responsibilities.</p> <p>Other important factors which should be covered in outsourcing agreements with asset managers might include:</p> <ul style="list-style-type: none"> <li>- clarity about the time horizons of the pension fund and the balancing of short-term and long-term risk management</li> <li>- clarity about expectations regarding the management of conflicts of interest</li> <li>- clarity about expectations regarding voting and engagement with investee companies, including regular reporting to the IORP on voting and engagement activity</li> <li>- clarity about expectations regarding the management of environmental, social and governance (ESG) risks (see also our response to Q68)</li> </ul>	<p>Noted.</p> <p>The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria could be an useful starting point for</p>
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				the implementing regulation.
27.	Federation of the Dutch Pension Funds	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.</p>
28.	Financial Reporting Council	82.	We have not formed a view on this question but consider that any requirements should be proportionate.	noted
29.	FNV Bondgenoten	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national</p>

				legislation.
30.	Generali vie	82.	<p>The minimum outsourcing contract elements should at least include:</p> <ul style="list-style-type: none"> <li>- requirements to safeguard continuity,</li> <li>- obligation to inform the IORP in case of problems,</li> <li>- necessary powers for the IORP to issue instructions and obtain information,</li> <li>- requirements on exit provisions,</li> <li>- minimum data protection requirements</li> <li>- explicit or implicit costs ceilings.</li> <li>- confidentiality clause,</li> <li>- information duty and cooperation with auditor and Competent authority.</li> </ul>	<p>Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
31.	Groupement Français des Bancassureurs	82.	<p>The minimum outsourcing contract elements should at least include:</p> <ul style="list-style-type: none"> <li>- requirements to safeguard continuity,</li> <li>- obligation to inform the IORP in case of problems,</li> <li>- necessary powers for the IORP to issue instructions and obtain information,</li> <li>- requirements on exit provisions,</li> <li>- minimum data protection requirements</li> </ul>	<p>Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common</p>

			<ul style="list-style-type: none"> <li>- explicit or implicit costs ceilings.</li> <li>- confidentiality clause,</li> <li>- information duty and cooperation with auditor and Competent authority,</li> </ul>	standard regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.
32.	PMT-PME-Mn Services	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.</p>
33.	HM Treasury/Department for Work and Pensions	82.	We consider that bodies or individuals to whom functions are outsourced should be appropriately qualified or authorised to carry out their functions	Noted
34.	Institute and Faculty of Actuaries (UK)	82.	We consider that the number and diversity of IORPs means that prescribing minimum terms would be a suboptimal approach. Consistent with our response to Question 80, we believe that it would be better to have a principles-based approach in which the IORP Directive makes it clear that the	Noted

			persons running the IORP are responsible for ensuring that any outsourcing contract is appropriate and that IORP members and beneficiaries are appropriately protected.	
35.	Italian Banking Association	82.	ABI agrees with EIOPA's advice which considers the material elements of Art. 49 of Solvency II requirements in terms of outsourcing generally applicable also to IORPs, and suggests some amendments aimed at adequately addressing the specifics of IORPs.	Noted
36.	KPMG LLP (UK)	82.	Outsourcing contracts could contain a requirement within the contract terms to allow access to IORP auditors and to Regulators.	Noted
37.	Le cercle des épargnants	82.	<p>The minimum outsourcing contract elements should at least include:</p> <ul style="list-style-type: none"> <li>- requirements to safeguard continuity,</li> <li>- obligation to inform the IORP in case of problems,</li> <li>- necessary powers for the IORP to issue instructions and obtain information,</li> <li>- requirements on exit provisions,</li> <li>- minimum data protection requirements</li> <li>- explicit or implicit costs ceilings.</li> <li>- confidentiality clause,</li> <li>- information duty and cooperation with auditor and Competent authority.</li> </ul>	<p>Noted.</p> <p>The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>

38.	Mercer	82.	<p>We consider this a matter for the IORP and its service provider.</p> <p>Since its approach to outsourcing will be part of an IORP's risk management and internal controls policies, proposals elsewhere in the consultation already cover any special risks associated with outsourcing contracts adequately.</p>	<p>Partially agreed. Providing a minimum common standard could give a certain level of flexibility to the system.</p> <p>Noted</p>
39.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.</p>
40.	National Association of Pension Funds (NAPF)	82.	<p>What are the minimum outsourcing contract elements stakeholders consider as useful to ensure the protection for IORP members and beneficiaries?</p>	

41.	Pan-European Insurance Forum (PEIF)	82.	In general, Solvency II requirements should suffice. It may be worth considering advising members and beneficiaries of any outsourcing arrangements.	Noted It could be considered in Level 2 regulation
42.	Pensioenfonds Zorg en Welzijn (PFZW)	82.	We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.  Given the diversity of IORP's and the social systems in which they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.	Agreed (see also paragraph 25.3.9)  Not agreed. A minimum common standard could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.
43.	Predica	82.	The minimum outsourcing contract elements should at least include:  <ul style="list-style-type: none"> <li>- requirements to safeguard continuity,</li> <li>- obligation to inform the IORP in case of problems,</li> <li>- necessary powers for the IORP to issue instructions and obtain information,</li> <li>- requirements on exit provisions,</li> <li>- minimum data protection requirements</li> <li>- explicit or implicit costs ceilings.</li> </ul>	Noted. The regulation could be developed at level 2 implementing measures. From a preliminary point of view the criteria seems enough detailed for a minimum common standard

			<ul style="list-style-type: none"> <li>- confidentiality clause,</li> <li>- information duty and cooperation with auditor and Competent authority,</li> </ul>	<p>regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
44.	PTK (Sweden)	82.	PTK thinks that the clarity of fiduciary duties is essential in outsourcing and it should be defined in a written agreement.	Agreed (see also paragraph 25.3.9)
45.	Railways Pension Trustee Company Limited ("RPTCL	82.	We have not considered this question.	noted
46.	TCO	82.	TCO thinks that the clarity of fiduciary duties is essential in outsourcing and it should be defined in a written agreement.	Agreed (see also paragraph 25.3.9)
47.	The Association of the Luxembourg Fund Industry (A	82.	See 80	noted
48.	THE SOCIETY OF PENSION CONSULTANTS	82.	<p>The minimum outsourcing contract elements will need to be determined by the directors/trustees of the board of the IORP on a case by case basis, having regard to what is appropriate in the circumstances (given the diversity in size and form of IORPs).</p> <p>Typical key contract areas will be termination, liability, service levels and data protection.</p>	<p>Not agreed</p> <p>The aim is to provide only a minimum common standard for outsourcing agreements. The need of detailed rules could be satisfied by national legislation.</p>

				Noted. It could be considered in level 2 regulation
49.	UK Association of Pension Lawyers	82.	<p>CfA 20 (Outsourcing): What are the minimum outsourcing contract elements stakeholders consider as useful to ensure the protection for IORP members and beneficiaries?</p> <p>We support Option 1: Leave the IORP Directive unchanged. An additional layer of regulation to regulate IORPs in general, when less than 1% of them will ever engage in cross-border activity, is a disproportionate approach which runs contrary to the principle of subsidiarity.</p>	Not agreed. The principle-based regulation proposed by EIOPA aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity.
50.	Universities Superannuation Scheme (USS),	82.	What are the minimum outsourcing contract elements stakeholders consider as useful to ensure the protection for IORP members and beneficiaries?	
51.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	82.	<p>We think that the clarity of fiduciary duties is essential in outsourcing and that this should be defined in a written agreement.</p> <p>Given the diversity of IORP's and the social systems in which</p>	<p>Agreed (see also paragraph 25.3.9)</p> <p>Not agreed. A minimum common standard</p>

			they play a role, even minimum standards should furthermore be left to the responsibility of Member States, with respect to the principle of subsidiarity. The aim is not to impose minimum requirements on the service provider alone: for the member, it is important that the combination of IORP and service provider is adequate.	could be useful for harmonisation and for the supervisory activity. More detailed rules could be left to the national legislation.
52.	Whitbread Group PLC	82.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Not agreed The regulation aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity in all member states. It is necessary a compromise between the safeguard of the national legislation and the requirement of harmonisation.
53.	Zusatzversorgungskasse des Baugewerbes AG	82.	Minimum outsourcing contract elements could include: (1) rights & obligations of the service provider and the IORP, (2) confidentiality and security features, (3) timely and accurate reporting and communication of information, (4) commitment of the service provider to grant access to information by the	Noted. The regulation could be developed at level 2 implementing measures. From a

			<p>IORP and the supervisor on an ongoing basis, (5) defining of applicable laws and regulations, (6) defining auditing rights (by both the internal and the external auditor and possibly also by the compliance officer), (7) requirement of an internal controls certification (8) possibility to modify and/or terminate the agreement and obligation for the external service provider to return all necessary data to the IORP and/or to transfer them to another external service provider.</p>	<p>preliminary point of view the criteria seems enough detailed for a minimum common standard regulation. Nevertheless the suggested criteria could be an useful starting point for the implementing regulation.</p>
54.	Towers Watson	82.	<p>83. What are the minimum outsourcing contract elements stakeholders consider as useful to ensure the protection for IORP members and beneficiaries?</p> <p>The minimum outsourcing contract elements will need to be determined by the directors/trustees of the board of the IORP on a case by case basis, having regard to what is appropriate in the circumstances (given the diversity in size and form of IORPs). Typical key contract areas will of course be termination, liability, service levels and data protection. However, we favour a principles-based approach rather than trying to prescribe an exhaustive list.</p>	<p>Not agreed. The principle-based regulation proposed by EIOPA aim to increase the level of protection of the members and the beneficiaries both in domestic and in cross-border activity.</p>
55.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	83.	<p>The OPSG regrets that the review of the custodian/depositary function for the IORP is based on the UCITS and AIFM legal framework (26.3.4). We believe that it should be taken into account that IORPs have different governance structure and</p>	<p>Partially agreed. Besides the fact that AIFM Directive provides</p>

			<p>investment policies than UCITS and AIFM, even those without legal personality. Although we acknowledge that AIFM Directive is the latest and most advanced legislative act on the custodian issue and that it could be taken into account, the IORP Directive should be the starting point for the review.</p> <p>The OPSG emphasizes that the flexibility and the respect of the subsidiarity principle must be maintained. Therefore the IORP</p>	<p>the more recent and advance piece of legislation on the depositary subject (while the current IORP Directive provides no specific requirements on several related issues), the UCITS and AIFM legal framework, as well as Solvency II, were considered in order to ensure some level of consistency among different sectors. In addition, whenever applicable/justifiable, the specificities of IORPs are to be taken into account.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken</p>
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			<p>directive should not be amended when it comes to the appointment of a depositary, leaving to Member States the decision of whether to make the appointment of a custodian or a depositary compulsory. Given the heterogeneity of IORPs in the EU, Member States should remain responsible for the appointment regime of IORPs. Anyway, according to the OPC report, the appointment of custodian/depositary is compulsory in a majority of CEIOPS members (16 countries).</p>	<p>into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
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56.	AbA Arbeitsgemeinschaft für betriebliche Altersver	83.	<p>The proposed distinction between IORPs with or without legal personality (in which IORPs with legal personality are treated similar to insurance companies) appears justified.</p> <p>We agree with EIOPA's evaluation that a compulsory appointment of depositaries for IORPs with legal personality is not necessary.</p> <p>As to IORPs without legal personality, in our opinion the proposed distinction between contract and trust based systems is appropriate.</p> <p>On the other hand, the (optionally) proposed compulsory appointment of a depositary in case of DC schemes needs further analysis. A common understanding of hybrid schemes needs to be developed in order to avoid the extension of inappropriate rules to such (already protected) schemes.</p>	<p>Noted.</p> <p>Agreed. Under this possibility, further clarification on the application of this requirement to hybrids would be needed.</p>
57.	ABVAKABO FNV	83.	<p>given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.</p>	<p>Partially agreed.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not</p>

				<p>being entirely comparable to the UCITS and AIFM realities.”</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
58.	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE IN	83.	<p>ADEPO welcomes and takes a positive view of the opportunity and specific content of the document and appreciates the usefulness of this CALL FOR ADVICE . ADEPO is a Spanish association of mutual and pension funds depositaries, currently formed by BBVA, BANCO POPULAR, BANCO SABADELL, BANCO SANTANDER, BNP-PARIBAS, CECA , BANKIA, RBS- DEXIA and LA CAIXA.</p> <p>We strongly support the proposal that entities eligible to act as depositaries under the UCITS Directive be eligible to act as</p>	<p>Noted.</p> <p>Agreed. Text revised as follows:</p>

			<p>depositories of IORPs.</p> <p>ADEPO also wants to emphasize that if the oversight function is to be generalized, the depositories should be necessarily established in the same country where the IORP is located. The oversight function cannot be performed cross-border.</p> <p>We also firmly believe in and support the conclusion EIOPA has reached, in paragraph 26.3.53, regarding a suitable liability regime. The reasons EIOPA gives for wishing to base a regime on the current UCITS Directive are sound and sensible ones. EIOPA is to be commended for giving due weight to the fact that increased costs could undermine the supply of affordable occupational pensions. We would also add that an unduly burdensome liability regime is likely to adversely impact beneficiaries through increased costs and the resultant reduction in pension returns.</p>	<p>“Member States shall not restrict IORP from appointing, for the safe-keeping of their assets, depositories established in another Member State and duly authorised in accordance with Directive 2004/39/EC or Directive 2006/48/EC, or accepted as a depository for the purposes of Directive 2009/65/EC”</p> <p>Noted.</p>
59.	AEIP	83.	145. IORPs have specific objectives, social responsibilities, investment policies and governance structures that are not at all comparable to AIFM and UCITS. Therefore there is no need	<p>Partially agreed.</p> <p>Further clarification will be</p>

			<p>for a compulsory appointment of a depositary for IORPs. We propose option 1 and leave the IORP directive unchanged.</p>	<p>provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities."</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
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60.	AFTI (Association Française des professionnels des	83.	<p>83.What is the view of the stakeholders on the proposed treatment of depositaries?</p> <p>AFTI supports the EIOPA’s recommendation making the appointment of depositary compulsory for IORPs/schemes that are segregated pools of assets co-owned by members/beneficiaries which bear the consequences of operational failures associated with the asset safeguard and investment risks . In these circumstances, regulation should impose a segregation between management functions from assets safe-keeping and oversight functions for the benefit of members/beneficiaries protection.</p> <p>AFTI suggests that the appointment of a depositary should be compulsory for IORPs which have no legal personality and for DC schemes (option 2 and option 3 ).</p> <p>In addition, AFTI suggests that the appointment of a depositary should be mandatory in case of ring-fenced funds, regardless of the legal form of the IORP or of the type of the pension scheme whenever the cost of any operational failures associated with the asset safeguard and investment risks is borne by the members/beneficiaries</p>	<p>Noted.</p> <p>Noted.</p> <p>Not agreed. The criterion of RFF per se does not seem to imply that the cost of any operational failures associated with the asset safeguard and investment risks is borne by the members/beneficiaries, but it will ultimately depend on the ownership of the assets</p>
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				and/or the type of plan.
62.	AMONIS OFP	83.	<p>What is the view of the stakeholders on the proposed treatment of depositaries?</p> <p>Custodians should be able to provide services cross-border (no need to require a custodian in the home country of the IORP). Their primary activity should be the fundamental custody and safekeeping of IORP assets. A basic oversight task (similar to UCITS) may have a beneficial effect.</p>	<p>Partially agreed. Text revised as follows: "Member States shall not restrict IORP from appointing, for the safe-keeping of their assets, depositaries established in another Member State and duly authorised in accordance with Directive 2004/39/EC or, Directive 2006/48/EC, or accepted as a depositary for the purposes of Directive 2009/65/EC".</p>
63.	Association Française de la Gestion financière (AF	83.	<p>We support the idea of the appointment of an independent custodian. This is an effective way to safeguard the physical and legal integrity of the assets of a pension scheme.</p>	<p>Noted.</p>

64.	Association of British Insurers	83.	<p>The appointment of a depository is not the only way to safeguard the assets. This may be carried out by the pension provider or fund manager for example. The ABI believes that regulation of the asset management industry is sufficient to ensure the safeguarding of DC scheme assets. Duplication of these safeguards seems unnecessary and costly.</p> <p>Further, the consultation correctly points out in paragraph 26.3.22, there is the potential for duplication by applying the principle of a depository to pension institutions. In trust-based systems, trustees are required by law to have oversight and ensure the safe-keeping of assets. UK occupational schemes will typically use the services of a custodian.</p> <p>The ABI therefore supports Option 1.</p>	<p>Noted.</p> <p>The appointment of a depository does not aim to duplicate any task but to act as an additional external and independent control mechanism.</p> <p>Partially agreed. Text revised as follows: "New paragraph: As regards the appointment of a depository EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
65.	Association of Consulting Actuaries (UK)	83.	<p>We favour Option 1 under 26.4.1(i) in that this option would recognise the distinction between a sponsor-supported pension scheme and a regulated insurance undertaking, subject to</p>	<p>Agreed. Text revised as follows: "New paragraph:</p>

			<p>Member State regulation. In particular we feel it is important to recognise that in trust-based schemes the trustees already carry out the oversight function and the appointment of a depositary would result in duplication and unnecessary costs being imposed on such schemes.</p> <p>Additionally we are not in favour of providing Member States with the ability to prohibit free disposal of assets, and would consider this to be an impediment to the functioning of cross-border schemes.</p>	<p>As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p> <p>Noted. Not within the scope of the mandate.</p>
66.	Association of Pensioner Trustees in Ireland	83.	<p>We are in favour of option 1 i.e. "maintain the current provision, leaving to Member States the decision of whether to make the appointment of a custodian or depositary compulsory, according to the option that best suits the needs of its own occupational pension system."</p>	<p>Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>

67.	Assoprevidenza – Italian Association for supplement	83.	We agree with option 1.	Agreed. Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”
68.	Assuralia	83.	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. The rules of Solvency II with regard to governance and other qualitative requirements and their applicability to IORPs are being analyzed in other sections of the CfA. Nevertheless SII rules do not cover issues related to the

				<p>appointment and the role of depositaries and it has to be considered that insurance and pension sectors might not be entirely comparable.</p>
69.	Belgian Association of Pension Institutions (BVPI-	83.	<p>What is the view of the stakeholders on the proposed treatment of depositaries?</p> <p>Custodians should be able to provide services cross-border (no need to require a custodian in the home country of the IORP). Their primary activity should be the fundamental custody and safekeeping of IORP assets. A basic oversight task (similar to UCITS) may have a beneficial effect.</p>	<p>Partially agreed. Text revised as follows: "Member States shall not restrict IORP from appointing, for the safe-keeping of their assets, depositaries established in another Member State and duly authorised in accordance with Directive 2004/39/EC or, Directive 2006/48/EC, or accepted as a depositary for the purposes of</p>

				Directive 2009/65/EC".
70.	BNP PARIBAS SECURITIES SERVICES	83.	<p>83.What is the view of the stakeholders on the proposed treatment of depositaries?</p> <p>We support the EIOPA's recommendation making the appointment of depositary compulsory for IORPs/schemes that are segregated pools of assets co-owned by members/beneficiaries which bear the cost of operational failures associated with the asset safeguard and investment risks. In these circumstances regulation should require to separate management functions from assets safe-keeping and oversight functions in order to protect members/beneficiaries</p> <p>Consequently we believe that the appointment of a depositary should be compulsory for IORPs which have no legal personality or for DC schemes (option 2 and option 3 ).</p> <p>In addition, we suggest that the appointment of a depositary should be mandatory in case of ring-fenced funds, regardless of the legal form of the IORP or of the type of the pension scheme whenever the cost of any operational failures associated with the asset safeguard and investment risks are borne by the members/beneficiaries</p>	<p>Noted.</p> <p>Noted.</p> <p>Not agreed. The criterion of RFF per se does not seem to imply that the cost of any operational failures associated with the asset safeguard and investment risks is borne by the members/beneficiaries, but it will ultimately depend on the ownership of the assets and/or the type of</p>

				plan.
71.	BT Pension Scheme Management Ltd	83.	We believe a complete impact assessment is necessary before taking forwards the proposals on depositaries.	Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.
72.	BVI Bundesverband Investment und Asset Management	83.	<p>In our opinion the proposed distinction between IORPs with or without legal personality (in which the IORPs with legal personality are treated similar to insurance companies) is justified. An extension of the requirements of UCITS IV or AIFM Directives to all kinds of IORPs would lead to uneven treatment between insurance and pension sectors in an area where there is no justification for differentiation. Therefore, we agree with EIOPA's evaluation that compulsory appointment of depositaries for IORPs with legal personality is not necessary.</p> <p>On the other hand, the (optionally) proposed compulsory appointment of a depositary in case of DC schemes needs further analysis. We see the need of a common understanding of hybrid schemes to avoid extension of inappropriate rules to such (already protected) schemes.</p>	<p>Noted.</p> <p>Agreed. Under this possibility, further clarification on the application of this requirement to hybrids would be needed.</p>
73.	Charles CRONIN	83.	I support the approach that IORP depositaries should be under the same regulatory conceptual framework as under the AIFM Directive and the forthcoming UCITS V Directive. I believe it is important to codify the role and responsibilities with reference	Noted.

			to oversight and safekeeping.	
74.	Chris Barnard	83.	<p>In general I agree with the proposed treatment of depositaries.</p> <p>It is necessary to clarify when the depositary is liable for losses referred to in Paragraphs 26.3.32 and 26.5.16. For example, Paragraph 26.3.32 states that:</p> <p>“the depositary should be liable to IORPs and pension scheme members and beneficiaries for any loss suffered as a result of its unjustifiable failure to perform its obligations or its improper performance of them”.</p> <p>I would therefore recommend that Level 2 and Level 3 guidance regarding safe-keeping, oversight and administration should be introduced in order to clarify the duties (including duty of care) of the depositary. For example the depositary may not be liable for a loss if it could show that it could not reasonably have avoided the loss. This may be particularly pertinent in the case of country risk or political risk.</p>	<p>Agreed. A new sentence will be added in the end of paragraph 26.3.32.: “Further details in relation to depositary’s liability regime should be introduced in level 2 text”.</p>
75.	CMHF (Centrale van Middelbare en Hogere Functionar	83.	<p>Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.</p>	<p>Partially agreed.</p> <p>Further clarification will be provided: “New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not</p>

				<p>being entirely comparable to the UCITS and AIFM realities.”</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
76.	De Unie (Vakorganisatie voor werk, inkomen en loop	83.	Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.	<p>Partially agreed.</p> <p>Further clarification will be provided: “New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and</p>

				<p>social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
77.	European Federation for Retirement Provision (EFRP)	83.	In the point 26.3.4 of the Call for Advice it is stressed that: “to assess the need and importance of having a depositary performing safe-keeping of assets and oversight functions, EIOPA has referred to the current and expected future practices among other financial sectors, namely the UCITS and AIFM legal framework and Solvency II”. The EFRP regrets that the review of the custodian/depositary function for the IORP be	Partially agreed. Besides the fact that AIFM Directive provides the more recent and advance piece of legislation on

			<p>based on the UCITS and AIFM legal framework. Indeed it should be taken into account that IORPs have different governance structure and investment policies to UCITS and AIFM even those without legal personality. The EFRP acknowledges that AIFM Directive is the latest and most advanced legislative act on the custodian issue and that it should be taken into account. Nevertheless, the IORP Directive should be the starting point for the review.</p> <p>The EFRP emphasizes that the flexibility and the respect of the subsidiarity principle must be maintained. Therefore the IORP directive should not be amended when it comes to the appointment of a depositary, leaving to Member States the</p>	<p>the depositary subject (while the current IORP Directive provides no specific requirements on several related issues), the UCITS and AIFM legal framework, as well as Solvency II, were considered in order to ensure some level of consistency among different sectors. In addition, whenever applicable/justifiable, the specificities of IORPs are to be taken into account.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific</p>
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			<p>decision of whether to make the appointment of a custodian or depositary compulsory. The EFRP states that, given the heterogeneity of IORPs in the EU, Member States should remain responsible for the appointment regime of IORP. Anyway, according to the OPC report, the appointment of custodian/depositary is compulsory in a majority of CEIOPS members (16 countries).</p>	<p>objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
78.	European Fund and Asset Management Association (EF	83.	We have reservations regarding the proposed treatment of depositaries.	

			<p>We recognize that the appointment of an independent custodian may be an effective way to safeguard the physical and legal integrity of the assets of a pension fund. It is also clear that custodians may also provide additional services. However, the appointment of a custodian is not the only way to ensure the safeguarding of the pension fund assets. As noted by the EIOPA, the OECD core principle 6.8 of occupational pension regulation notes that „custody of the pension fund assets may be carried out by the pension entity, the financial institution that manages the pension fund, or by an independent custodian”.</p> <p>The OECD/IOPS good practices for pension funds’ risk management systems do not contradict this principle when they highlight that „in addition to – and working with – the internal control mechanisms, independent external parties should be appointed as part of the risk management of a pension system”. Indeed, the good practices acknowledge that different institutions can be considered independent third parties, in particular external auditors, actuaries and custodians. Thus, it is misleading to suggest that the appointment of custodians is recommended by the OECD/IOPS. In fact, the comments given by the OECD/IOPS emphasize the role played by the compliance function, actuarial analysis, internal audit and external auditors.</p>	<p>Agreed. Text revised as follows: “According to the OECD/IOPS Good Practices for Pension Funds’ Risk Management Systems, January 2011, in addition to – and working with – the internal control mechanisms, independent external parties, such as external auditors, actuaries and custodians, should be appointed...”.</p>
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			<p>While it is clear that the conditions of operation of IORPs should be based on properly constituted rules, including regarding the safekeeping of assets, it is up to the competent supervisory authority to make sure that the rules are applied in the best interests of members and beneficiaries, in line with the current IORP Directive. We are therefore concerned that a compulsory requirement for the appointment of a depositary would not fit the jurisdictions where there is no such requirement, cause unjustified changes to their pension systems, and lead to an increase of costs of IORPs that can directly or indirectly impact member/beneficiaries.</p> <p>The problem is well illustrated by EIOPA in its analysis of the trust based system, when it notes that „appointing a depositary with oversight duties will lead to a duplication of role/cost with no extra benefit in terms of members/beneficiaries, protection“. In our view, this point provides a sufficient reason for accepting that IORPs without legal personality in a trust based system should not be required to appoint a depositary.</p> <p>We also have reservations regarding the proposal to require that the appointment of a depositary for safe-keeping of assets and oversight function for DC schemes in general. Such</p>	<p>Agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p> <p>Noted.</p>
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			<p>schemes are often managed by IORPs without legal personality, and as noted by EIOPA, in this situation, „the assets of members and beneficiaries are segregated from the assets of the management company” in charge of managing the pool of assets. It is therefore unclear what would be the extra benefit in terms of investor protection of making the appointment of a depositary compulsory. The regulation of UCITS, AIF and asset management companies in general are sufficiently strong to ensure the safety of the DC schemes assets they manage, in particular in terms of custodian/depositary requirements. All the more so that there is a common practice to have contractual relationship between the IORP, the investment manager (in charge of the investment of the assets) and the custodian/depositary appointed by the investment manager. We fear that in situation like that appointing a depositary with oversight duties would lead to a duplication of role/cost with no extra benefit.</p> <p>Against this background, we are in favor of leaving the flexibility in the appointment regime to each Member State. We can support however the proposal to introduce general requirements that should be verified in case a depositary is not appointed.</p> <p>This response also applies to questions 83-88.</p>	<p>Noted.</p> <p>It is also common for IORPs with legal personality to manage DC schemes.</p> <p>The key idea is that, in those cases, members and beneficiaries are more likely to be exposed to the risk of having to bear the cost of any operational failures associated with the asset safeguard and investment operations.</p>
79.	Federation of the Dutch Pension	83.	Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not	<p>Noted.</p> <p>Partially agreed. Further</p>

	Funds		<p>comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.</p>	<p>clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities."</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
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80.	Financial Reporting Council	83.	We have not formed a view on this question.	noted
81.	FNV Bondgenoten	83.	given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.	<p>Partially agreed.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities."</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the</p>

				majority of respondents of the consultation on this topic..."
82.	PMT-PME-Mn Services	83.	Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.	<p>Partially agreed.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities."</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility</p>

				under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
83.	HM Treasury/Department for Work and Pensions	83.	We consider that the appointment of custodians and depositaries should remain voluntary for IORPs	Agreed. This possibility is foreseen under option 1.  Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
84.	IMA (Investment Management Association)	83.	The role of the depositary in the investment fund universe is very specific. As the consultation notes, it relates both to oversight of the fund and safekeeping of assets. As the consultation also correctly notes, there is a real danger of	Agreed.  Text revised as follows: "New

			<p>duplication by applying the principle of a depositary to pension institutions whose oversight structures (and general governance structures) are not comparable to those of investment funds. This is particularly evident in the case of trust-based schemes where the trustees have a specific legal duty of oversight (paragraph 26.3.22) and must ensure safekeeping of assets. UK occupational schemes will typically use the services of a custodian. For this reason, we strongly oppose Option 2 and lean towards Option 1. If the current provision is unacceptable to EIOPA, then Option 3, recognising the specificities of trust-based provision and leaving national discretion over DB schemes, would be the best option.</p>	<p>paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
85.	Institute and Faculty of Actuaries (UK)	83.	<p>Our view is that the number and diversity of IORPs means that the appropriate treatment of depositaries is a decision that needs to take account of the social and economic context of each IORP and is therefore best left to Member States (Option 1).</p>	<p>Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
86.	Italian Banking Association	83.	<p>ABI strongly supports the EIOPA proposal of reviewing Art. 19 (2) and 19(3) in order to always refer to the word "depositary"</p>	<p>Noted.</p>

			<p>in the legal text, as in the case of the AIFM Directive. This approach is a good starting point to enhance the protection of members/beneficiaries of IORPs and the level playing field for IORPs operating cross-border.</p> <p>ABI prefers option 2, which proposes that for IORP without legal personality the appointment of a depositary for safe-keeping of assets and oversight functions should be compulsory, while for IORPs with legal personality the decision whether to require the appointment of a depositary should remain at the discretion of the Member State concerned.</p> <p>This approach would produce a minimal convergence and not prevent the Home Member State from making the appointment of a depositary compulsory for all IORPs located in the same Member State (this is the case with Italian legislation).</p>	
87.	Mercer	83.	<p>We agree that, in the absence of member state regulation, the provisions in the current IORP Directive risk leaving some scheme members exposed to the risk of operational failure in relation to the scheme's assets. However, we are not sure that the distinction made in the consultation between IORPs with a 'legal personality' and those without is necessarily helpful. Instead, we would support an amendment to the IORP Directive that introduced the general principles of good governance in relation to safe keeping of assets, as set out in paragraph 26.3.35 of the consultation document. Then, member states could decide whether more prescription was required, based on the different models for IORPs in their countries.</p> <p>In particular, many IORPs will invest via entities subject to either the UCITS or the AIFM Directives, so to carry the</p>	Noted.

			principles in those Directives directly into the IORP Directive would risk duplicating regulation.	
88.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	83.	Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.	<p>Partially agreed.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities."</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also</p>

				supported by the majority of respondents of the consultation on this topic..."
89.	National Association of Pension Funds (NAPF)	83.	<p>32. CUSTODIAN / DEPOSITARY</p> <p>33.</p> <p>34. What is the view of the stakeholders on the proposed treatment of depositaries?</p> <p>The role of the depositary in the investment fund universe is very specific. As the consultation notes, it relates both to oversight of the fund and safekeeping of assets.</p> <p>As the consultation also correctly notes, there is a real danger of duplication by applying the principle of a depositary to pension institutions whose oversight structures (and general governance structures) are not comparable to those of investment funds. This is particularly evident in the case of trust-based schemes where the trustees have a specific legal duty of oversight (paragraph 26.3.22) and must ensure safekeeping of assets.</p> <p>UK occupational schemes will typically use the services of a custodian. For this reason, we strongly oppose Option 2 and lean towards Option 1. If the current provision is unacceptable to EIOPA, then Option 3, recognising the</p>	<p>Agreed.</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>

			specificities of trust-based provision and leaving national discretion over DB schemes, would be the best option.	
90.	NEST Corporation	83.	If NEST falls within the definition of an IORP without legal personality in a trust based system, then it would need to appoint a depository under Options 2 and 3 as outlined. Our main concern would be the costs associated with having to appoint a depository, which will ultimately be borne by members. In addition, in the UK there is already a requirement to appoint a custodian to safeguard scheme assets, and most well run organisations will already have the oversight activities of the proposed depositories embedded in their systems.	Noted. Both options 2 and 3 include an exception for trust based systems in relation to the appointment of a depository for oversight functions, in order to avoid unnecessary duplications.
91.	Pensioenfonds Zorg en Welzijn (PFZW)	83.	Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depository for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.	Partially agreed. Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities,

				<p>therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
92.	PTK (Sweden)	83.	<p>In the point 26.3.4 of the Call for Advice it is stressed that: “to assess the need and importance of having a depositary performing safe-keeping of assets and oversight functions, EIOPA has referred to the current and expected future practices among other financial sectors, namely the UCITS and AIFM legal framework and Solvency II”. PTK regrets that the review of the custodian/depositary function for the IORP is based on the UCITS and AIFM legal framework. Indeed it should be taken into account that IORPs have different governance structure and investment policies than UCITS and</p>	<p>Partially agreed. Besides the fact that AIFM Directive provides the more recent and advance piece of legislation on the depositary subject (while the current IORP</p>

			<p>AIFM even those without legal personality. PTK wants to acknowledge that AIFM Directive is the latest and most advanced legislative act on the custodian issue and that it should be taken into account. Nevertheless, the IORP Directive should be the starting point for the review.</p> <p>PTK emphasizes that the flexibility and the respect of the subsidiarity principle must be maintained. Therefore the IORP directive should not be amended when it comes to the appointment of a depositary, leaving to Member States the</p>	<p>Directive provides no specific requirements on several related issues), the UCITS and AIFM legal framework, as well as Solvency II, were considered in order to ensure some level of consistency among different sectors. In addition, whenever applicable/justifiable, the specificities of IORPs are to be taken into account.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities,</p>
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			<p>decision of whether to make the appointment of a custodian or depositary compulsory. PTK wish to state that, given the heterogeneity of IORPs in the EU, Member States should remain responsible for the appointment regime of IORP. Anyway, according to the OPC report, the appointment of custodian/depositary is compulsory in a majority of CEIOPS members (16 countries).</p>	<p>therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
93.	Railways Pension Trustee Company Limited (“RPTCL	83.	We have not considered this question.	

94.	Standard Life Plc	83.	<p>The appointment of a depository is not the only way to safeguard the assets. This may be carried out by the pension provider or fund manager for example. We believe that the asset management industry is already well regulated, the role of a depository in that industry is clearly defined, and that duplication of regulation is unnecessary and expensive. We therefore oppose option 2 and support Option 1.</p>	<p>Agreed.</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depository EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
95.	State Street Corporation	83.	<p>7. State Street does not wish to comment on the three options suggested by EIOPA with regards to the question of requiring the appointment of a depository. However, we would like to offer some comments and observations with regards to the regime applicable to depositories should EIOPA decide to introduce an obligation for Institutions for Occupational Retirement Provision ("IORPs") to appoint a depository.</p> <p>8.</p> <p>9. In general, State Street welcomes the thorough assessment that EIOPA has undertaken with regards to the depository by looking at existing depository provisions in the Directive on Undertakings for Collective Investment in Transferable Securities ("UCITS") IV as well as in the Alternative Investment Fund Managers ("AIFM") Directive. We</p>	<p>Noted.</p>

		<p>generally support the framework that EIOPA has set out for depositaries and would like to offer specific comments with regards to the envisaged depositary liability regime, eligible institutions, the depositary passport as well as depositary oversight duties.</p> <p>10. On liability, EIOPA recommends, as set out in paragraph 26.3.53 of the Call for Advice, to follow the provisions laid down in Article 24 of the UCITS IV Directive and not the stricter standard as introduced by the AIFM Directive. According to the UCITS IV provisions, the depositary would be liable for any losses as a result of its unjustifiable failure to perform its obligations or its improper performance of them. State Street strongly supports this approach as this standard is well understood by industry participants and has worked well.</p> <p>11. We also agree with EIOPA's assessment that the increased liability regime under the AIFM Directive would be inappropriate, as it could impose significant costs on IORPs to the detriment of the scheme members and beneficiaries. Not only would depositaries have to reserve against an increased potential for liability, but would also be confronted with higher operational and legal costs. In addition, the AIFM Directive's liability standard could result in capital requirements which may reduce the choice of available service providers. This would have important implications for potential systemic risk.</p> <p>12. We therefore welcome that EIOPA has given due weight to the fact that increased costs resulting from a depositary liability regime based on the AIFM Directive could undermine the supply of affordable occupational pensions. We would also add that an unduly burdensome liability regime is likely to adversely impact beneficiaries through increased costs and the</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>
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			<p>resultant reduction in pension returns in cases of defined contribution ("DC") pension schemes where beneficiaries bear those costs.</p> <p>13.</p> <p>Furthermore, we welcome and strongly support EIOPA's recommendation to allow IORPs to appoint a depositary in another Member State, subject to cooperation amongst relevant supervisory authorities. Such a de facto depositary passport allows for a more efficient provision of depositary services which is ultimately beneficial to the pension scheme members and beneficiaries. State Street would also strongly encourage the European legislators to consider the application of such a passport for depositaries of UCITS and alternative investment funds.</p> <p>With regards to the entities eligible to provide depositary services, EIOPA expresses in paragraph 26.3.51 its preference for the approach chosen in the AIFM Directive, rather than the broader definition used in the UCITS IV Directive. Whilst this approach is workable, it is imperative that the requirement under Article 23.3 of the UCITS IV Directive is carried forward in order to ensure Member State flexibility for determining categories of institution that may be eligible without any trade-off vis-à-vis investor protection.</p>	<p>Partially agreed. Text revised as follows: "Member States shall not restrict IORP from appointing, for the safe-keeping of their assets, depositaries established in another Member State and duly authorised in accordance with Directive 2004/39/EC or, Directive 2006/48/EC, or accepted as a depositary for the purposes of Directive 2009/65/EC".</p> <p>Noted.</p>
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			<p>Lastly, with regards to oversight functions, EIOPA considers that not all functions as laid down in the UCITS IV Directive and the AIFM Directive are appropriate in the context of IORPs. In addition, EIOPA suggests that Member States should have the flexibility to lay down additional oversight tasks that a depositary should perform. Whilst we agree with EIOPA that not all oversight functions as set out by UCITS IV and the AIFM Directive should apply in the context of IORPs, State Street would favour a harmonized set of oversight functions to be performed by the depositary. A fully harmonized pan-European approach would ensure consistency, clarity with regards to the functions a depositary undertakes and equal levels of investor protection across EU Member States.</p>	<p>Noted. The Directive should not prevent Member States from laying down oversight tasks in addition to those that are listed (in relation to which a minimum level of consistency will be achieved).</p>
97.	TCO	83.	<p>In the point 26.3.4 of the Call for Advice it is stressed that: “to assess the need and importance of having a depositary performing safe-keeping of assets and oversight functions, EIOPA has referred to the current and expected future practices among other financial sectors, namely the UCITS and AIFM legal framework and Solvency II”. TCO regrets that the review of the custodian/depositary function for the IORP is based on the UCITS and AIFM legal framework. Indeed it should be taken into account that IORPs have different governance structure and investment policies than UCITS and AIFM even those without legal personality. TCO wants to acknowledge that AIFM Directive is the latest and most advanced legislative act on the custodian issue and that it should be taken into account. Nevertheless, the IORP Directive should be the starting point for the review.</p>	<p>Partially agreed. Besides the fact that AIFM Directive provides the more recent and advance piece of legislation on the depositary subject (while the current IORP Directive provides no specific requirements on several related issues), the UCITS</p>

			<p>TCO emphasizes that the flexibility and the respect of the subsidiarity principle must be maintained. Therefore the IORP directive should not be amended when it comes to the appointment of a depositary, leaving to Member States the decision of whether to make the appointment of a custodian or depositary compulsory. TCO wishes to state that, given the heterogeneity of IORPs in the EU, Member States should remain responsible for the appointment regime of IORP. Anyway, according to the OPC report, the appointment of custodian/depositary is compulsory in a majority of CEIOPS members (16 countries).</p>	<p>and AIFM legal framework, as well as Solvency II, were considered in order to ensure some level of consistency among different sectors. In addition, whenever applicable/justifiable, the specificities of IORPs are to be taken into account.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities."</p>
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				<p>Agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p>
98.	The Association of Pension Foundations (Finland)	83.	IORPs are not UCITs or AIFM. The principle of subsidiarity must be maintained.	<p>Agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA</p>

				prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
99.	The Association of the Luxembourg Fund Industry (A	83.	<p>The Respondents agree that the concept comprises safe keeping and oversight and that the word "depository" is the appropriate term.</p> <p>(a) Choice between the three options:</p> <p>The Respondents do agree that an obligation to use a depository is beneficial for asset protection and general supervision.</p> <p>The Respondents do not share the view that either a distinction according to legal form (contractual vs. company type structure) or according to the type (DC vs. DB) is appropriate.</p> <p>Such distinction is not made in Ucits or in AIFMD, and this for good reason. The need for protection is and remains the same, regardless of the legal for or type or at least the increase of protection outweighs potential disadvantages.</p> <p>Consequently we favour a general requirement to have a custodian, regardless of the legal form or the type.</p>	<p>Noted. Although UCITS and AIFM legal framework was taken as a reference, IORPs specificities have to be considered. A general requirement to have a custodian regardless, for instance, the legal form will result in an uneven treatment between insurance and pension</p>

		<p>(b) Need for written contract:</p> <p>The Respondents agree</p> <p>(c) Distinction between financial instruments that can be held in custody and other assets:</p> <p>The Respondents agree with the distinction and notably that “financial instruments, including units and shares of collective investment schemes, issued in nominative form or registered directly with the issuer or through a registrar acting on behalf of the issuer” fall into the category of “other assets”.</p> <p>(c) Duties of a depositary:</p> <p>The Respondents generally agree with the proposed text, provided, however, that the principle of proportionality will find application and it being understood that in relation to custody segregation of accounts may not always be feasible on sub-custody level and that in relation to other assets record keeping and ownership verification duties can only apply to assets that have been notified by the IORP to the depositary as belonging to the fund.</p> <p>(d) Liability:</p> <p>The Respondents agree with liability of the depositary for loss as a result of unjustifiable failure to perform its obligations or its improper performance of them.</p> <p>(e) Oversight functions:</p>	<p>sectors.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Proportionality is an overarching principle.</p> <p>Further details will be provided in level 2 text.</p> <p>Noted.</p>
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			<p>The Respondents agree.</p> <p>(f) Conflicts of interest:</p> <p>The Respondents agree.</p>	<p>Noted.</p> <p>Noted.</p>
100.	The Depositary and Trustee Association	83.	<p>The Depositary and Trustee Association (DATA) represents all depositaries and trustees of UK based authorised funds. At the end of October 2011, the members of DATA were responsible for safeguarding £578 billion of fund assets.</p> <p>We are pleased to have the opportunity to respond to this consultation. Given that our members currently act as depositaries for UCITS and other UK authorised funds which will fall within the ambit of the AIFM Directive, we have significant long term expertise in both the oversight function and the safekeeping of assets for open-ended collective investment schemes.</p> <p>We strongly support the proposal that entities eligible to act as depositaries under the UCITS Directive be eligible to act as depositaries of IORPs.</p> <p>We also support the logic that, in any instances where a depositary is not required, the same level of safety should be</p>	<p>Noted.</p> <p>Noted.</p>

			<p>provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.</p> <p>We also firmly believe in and support the conclusion EIOPA has reached, in paragraph 26.3.53, regarding a suitable liability regime. The reasons EIOPA gives for wishing to base a regime on the current UCITS Directive are sound ones. EIOPA is to be commended for giving due weight to the fact that increased costs could undermine the supply of affordable occupational pensions. We would also add that an unduly burdensome liability regime is likely to adversely impact beneficiaries through increased costs and the resultant reduction in pension returns in cases of defined contribution pension schemes where beneficiaries bear those costs.</p>	Noted.
101.	THE SOCIETY OF PENSION CONSULTANTS	83.	<p>We favour option 1, leaving to member states the decision of whether to make the appointment of a custodian or depositary compulsory. The diversity in terms of a scale and form of IORPs means that this decision is best left to member states (to decide what best suits the needs of their own occupational pension systems).</p>	<p>Agreed.</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on</p>

				this topic..."
102.	UK Association of Pension Lawyers	83.	<p>CfA 21 (Custodian / depository): What is the view of stakeholders on the proposed treatment of depositories?</p> <p>From a UK Occupational Pension Scheme perspective, we would support option 1 (maintaining the current provision, leaving Member States the decision of whether to make the appointment of a custodian or depository compulsory, according to the option that best suits the needs of its own occupational pension system).</p> <p>Under Option 2, the consultation states "For IORPs without legal personality in a trust based system, the appointment of a depository for safe-keeping should be compulsory." We do not support this option. The appointment of a depository would not be appropriate in all circumstances. UK occupational pension schemes invest in a wide range of assets often on a non-segregated basis including, for example, insurance policies, private equity, hedge fund and infrastructure investments. A number of UK IORPs invest all of their assets in one or more unit-linked insurance policies issued by an insurance company to the trustee of the UK IORP. The insurance policy is not tradable on a market. There is no useful purpose served in appointing a depository to hold the insurance policy. A similar point relates to other non-tradable</p>	<p>Agreed.</p> <p>Text revised as follows: "New paragraph: As regards the appointment of a depository EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."</p> <p>Noted.</p> <p>The details on which assets can be held in custody or subject to the task of record-keeping is a level 2 issue.</p> <p>If there are cases</p>

			<p>investments, such as investing in limited partnerships (a common preferred legal structure for private equity style investments).</p> <p>Option 3 (which appears to relate to contract based DC schemes) would be a matter for DC scheme providers (for example insurance companies). This could however have cost implications for scheme members.</p>	<p>where neither custody nor record-keeping is applicable then there is no point to required safe-keeping of assets.</p> <p>Noted.</p>
103.	Universities Superannuation Scheme (USS),	83.	<p>10. CUSTODIAN / DEPOSITARY</p> <p>11.</p> <p>12. What is the view of the stakeholders on the proposed treatment of depositaries?</p>	
104.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	83.	<p>Given their specific objectives, social responsibilities, investment policies and governance structure IORPs are not comparable to AIFM and UCITS. Therefore we do not see the benefits of a compulsory regime for the appointment of a depositary for IORPs. To the contrary, we only see increasing costs which will finally be translated into higher contributions and lower benefits. In the interest of the participants we see no need for amending the IORP Directive as to this matter.</p>	<p>Partially agreed.</p> <p>Further clarification will be provided: "New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities,</p>

				<p>therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
105.	Whitbread Group PLC	83.	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.</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1,</p>

				which was also supported by the majority of respondents of the consultation on this topic...”
106.	Zusatzversorgungskasse des Baugewerbes AG	83.	IORPs are not comparable to AIFM and UCITS. Therefore there is no need for a compulsory appointment of a depositary for IORPs. We propose option 1 to leave the IORP directive unchanged.	<p>Partially agreed.</p> <p>Further clarification will be provided: “New paragraph: In addition, it also has to be taken into account that, in general, IORPs have their specific objectives and social responsibilities, therefore not being entirely comparable to the UCITS and AIFM realities.”</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA</p>

				prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
107.	European Private Equity & Venture Capital Associat	83	EVCA wishes to comment that any provisions regarding the custody functions of a depositary should take into account the common understanding reached in the process of drafting the AIFMD that certain assets cannot be held in custody (cf. Art. 21 para. (3) sub-para. (3), para. (8) AIFMD). As ESMA has rightly pointed out such assets include in particular "investments in privately held companies and interests in partnerships" (ESMA's final report on implementing measures of the AIFMD, dated 16 November 2011, ESMA/2011/379, page 158, explanatory notes after Box 79, para. 18, last bullet point).	Noted. Further details will be provided in level 2 text.
108.	Towers Watson	83.	84. CfA 21 Custodian / depositary What is the view of the stakeholders on the proposed treatment of depositaries? We favour option 1, leaving to member states the decision of whether to make the appointment of a custodian or depositary compulsory. The diversity in terms of a scale and form of IORPs means that this decision is best left to member states (to decide what best suits the needs of their own occupational pension systems).	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility

				under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
109.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	84.	The OPSG is of the opinion that the costs of changing the current IORP Directive will outweigh the potential benefits.	Noted.
110.	AbA Arbeitsgemeinschaft für betriebliche Altersver	84.	The AbA shares EIOPA's view that unjustified changes, esp. Any unjustified increase of costs for the IORPs, should be avoided.	Noted.
111.	ABVAKABO FNV	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
112.	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE IN	84.	See response to question 83.	noted
113.	AEIP	84.	The increase of costs will be translated in higher contributions or lower benefits. In the interest of the participants there is no need for amending the IORP Directive regarding this matter.	Noted.
114.	AFTI (Association Française des	84.	84 .How do stakeholders evaluate the positive and negative impacts of the proposals?	

	professionnels des		<p>The long-term nature of IORPs schemes reinforces the need to perform on-going controls of record-keeping of the assets and of compliance with the investment's rules in order to identify anomalies and enable actions addressing poor administration, negligence or fraud within the IORP. AFTI suggests that the tasks listed below have to be performed by the depositary:</p> <ul style="list-style-type: none"> <li>• Maintain a comprehensive inventory of all assets that are safekept on behalf of the IORP/Pension Scheme ,</li> <li>• controlling that the investments are carried out in accordance with the IORP's investment rules</li> <li>• controlling that contributions and investment returns are allocated to the correct accounts.</li> </ul> <p>AFTI is of the opinion that these tasks are a necessary part of the risk management function of a pension system. The increase of costs will depend on whether these tasks are already performed or not.</p>	<p>Noted. Some of these tasks are already included in the text, but other go beyond the scope of what it is established under the UCITS and AIFM Directives.</p>
116.	AMONIS OFP	84.	<p>How do stakeholders evaluate the positive and negative impacts of the proposals?</p> <p>AMONIS OFP is worried about and asks EIOPA to take in consideration the impact on a possible increase the costs, which might have a negative effect on the benefits paid out to the beneficiaries.</p>	<p>Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.</p>
117.	Association Française de la Gestion financière	84.	<p>We very strongly agree with EIOPA that there is a need for a study to assess the real impact of the proposed new requirements. This is particularly important as the impact</p>	<p>Noted.</p>

	(AF		could significantly increase the cost of IORPs/Pension scheme, and the expected retirement income of members/beneficiaries.	
118.	Association of British Insurers	84.	As stated in our response to Question 83, the ABI would not want to see duplication by applying the principle of a depository. We believe this is costly and unnecessary, especially in trust-based schemes. The ABI supports Option 1.	Noted.
119.	Association of Consulting Actuaries (UK)	84.	We broadly agree with EIOPA's assessment of the impacts of the proposals, although have concerns in relation to the costs of compliance, particularly for schemes below €500m in assets. We also note that the custody / depository market has high barriers to entry due to the required investment in IT infrastructure to enable successful provision of these services.	Partially agreed. Greater emphasis will be given as follows: "26.4.2. ... need for a study to assess the real impact of the new requirements on different jurisdictions and types of IORSs (e.g., considering the structure, size and type of scheme, etc.), including a search for numbers/figures."
120.	Assoprevidenza – Italian Association for supplement	84.	The increase of costs will be translated in higher contributions or lower benefits. In the interest of the participants there is no need for amending the IORP Directive regarding this matter.	Noted.
121.	Assuralia	84.	The rules of Solvency II with regard to governance and other	Noted. The rules

			<p>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>	<p>of Solvency II with regard to governance and other qualitative requirements and their applicability to IORPs are being analyzed in other sections of the CfA. Nevertheless SII rules do not cover issues related to the appointment and the role of depositaries and it has to be considered that insurance and pension sectors might not be entirely comparable.</p>
122.	Belgian Association of Pension Institutions (BVPI-	84.	<p>How do stakeholders evaluate the positive and negative impacts of the proposals?</p> <p>BVPI-ABIP is worried about and asks EIOPA to take in consideration the impact on a possible increase the costs, which might have a negative effect on the benefits paid out to the beneficiaries.</p>	<p>Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.</p>

123.	BNP PARIBAS SECURITIES SERVICES	84.	<p>84 .How do stakeholders evaluate the positive and negative impacts of the proposals?</p> <p>The long-term nature of IORPs reinforces the need to perform on-going controls of adequate record-keeping of assets and of compliance with the investment's rules in order to identify possible problem and take adequate response to poor administration, negligence or fraud within the IORP. We believe that the tasks listed below have to be performed :</p> <ul style="list-style-type: none"> <li>• centralizing in one place, independant from the IORP , the comprehensive and up to date inventory of all assets that are safekept on behalf of the IORP/Pension Scheme , in order to reduce the risk of fraud and operational risks ,</li> <li>• controlling that the investments are carried out in accordance with the IORP's investment rules,</li> <li>• controlling that contributions and investment returns are allocated to the correct accounts.</li> </ul> <p>We believe these tasks are a necessary part of the risk management of a pension system. The increase of costs will depend on whether these tasks are already performed by a third party or not.</p>	Noted. Some of these tasks are already included in the text, but other go beyond the scope of what it is established under the UCITS and AIFM Directives.
124.	BT Pension Scheme Management Ltd	84.	We believe that a more complete impact assessment is required before it is possible to express a view on this issue.	Noted.
125.	BVI Bundesverband Investment und Asset Management	84.	We very strongly agree with EIOPA that there is a need for a study to assess the real impact of the proposed new requirements. This is particularly important as the impact could significantly increase the cost of IORPs and the expected	Noted.

			retirement income of members/beneficiaries. Any unjustified changes, especially those which would lead to unjustified increase of costs for the IORPs, should be avoided.	
126.	Charles CRONIN	84.	I agree with EIOPA's observations on the positive and negative aspects of the proposals.	Noted.
127.	CMHF (Centrale van Middelbare en Hogere Functionar	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
128.	De Unie (Vakorganisatie voor werk, inkomen en loop	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
129.	European Federation for Retirement Provision (EFRP	84.	The EFRP is in favor of option 1 because the costs of changing the current IORP Directive will outweigh the portential benefits.  The main positive and negative impacts of the proposed	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."

		<p>options are:</p> <p>Option 1: Maintaining Directive</p> <p>Positive impacts:</p> <p>The subsidiarity principle is respected, so it allows for more flexibility. The costs for the IORP and for the members/beneficiaries will not increase.</p> <p>Negative impacts:</p> <p>Keeping the different regimes between Member states.</p> <p>Option 2: Compulsory regime depends on legal form of the IORP:</p> <p>Positive impacts:</p> <p>None foreseen</p> <p>Negative impacts:</p> <p>This option will lead to an increase of charges for the IORP that will be reflected on the members and beneficiaries' contributions or benefits.</p> <p>Option 3: Compulsory regime depends on the type of pension scheme</p> <p>Positive impacts:</p> <p>The appointment of a depositary for DB schemes would remain at the discretion of the Member States. The principle of subsidiarity would be at least respected for such schemes.</p>	<p>Noted.</p>
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			<p>Negative impacts:</p> <p>This option will lead to an increase of charges for the IORPs with DC schemes that will be reflected on the members and beneficiaries' contributions or benefits. This option will lead to uncertainty because of the lack of clearness in the taxonomy of different pension schemes. Indeed, there are many types and pension schemes. As a result, a compulsory regime will force the supervisor to make a distinction between DB and DC but this task is heavily difficult because a lot of hybrid schemes do not totally fall under one of these categories.</p>	<p>Noted. Under this possibility, further clarification on the application of this requirement to hybrids would be needed.</p>
130.	European Fund and Asset Management Association (EF	84.	<p>We very strongly agree with EIOPA that there is a need for a study to assess the real impact of the proposed new requirements. This is particularly important as the impact could significantly increase the cost of IORPs, and the expected retirement income of members/beneficiaries.</p>	<p>Noted.</p>
131.	Federation of the Dutch Pension Funds	84.	<p>We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.</p>	<p>Noted.</p>
132.	Financial Reporting Council	84.	<p>We have not formed a view on this question.</p>	<p>noted</p>
133.	FNV Bondgenoten	84.	<p>We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.</p>	<p>Noted.</p>

134.	PMT-PME-Mn Services	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
135.	HM Treasury/Department for Work and Pensions	84.	On questions 84 – 88 we have not had time to carry out such an impact assessment	noted
136.	Institute and Faculty of Actuaries (UK)	84.	In the time available we have not been able to research the likely positive and negative impacts of the proposals but we consider custodianship and the treatment of depositaries to be highly developed in the UK and so would be concerned if the proposed changes were expected to have a significant impact here. We therefore urge EIOPA to ensure that no such change is introduced without first considering the results of a detailed and comprehensive impact assessment.	Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.
137.	Italian Banking Association	84.	ABI positively evaluates the impact of this approach as already observed in answer to question 83.	Noted.
138.	Mercer	84.	We agree that having stronger principles than those in the current IORP Directive could make scheme members' benefits more secure.  However, inconsistent outcomes could arise if what seems to us to be an artificial distinction between those IORPs considered to have 'legal personality' and those that are not, is used to impose different regulatory standards.	Noted.  We do not see the distinction between IORPs with and without legal personality as artificial. Of course, one could argue whether this is the best way to

				tackle the appointment issue.
139.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
140.	National Association of Pension Funds (NAPF)	84.	How do stakeholders evaluate the positive and negative impacts of the proposals?	
141.	Pensioenfonds Zorg en Welzijn (PFZW)	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
142.	PTK (Sweden)	84.	PTK is in favor of option 1 because the costs of changing the current IORP Directive will outweigh the potential benefits.	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the

		<p>The main positive and negative impacts of the proposed options are:</p> <p>Option 1: Maintaining Directive → Positive impacts: The subsidiarity principle is respected, so it allows for more flexibility. The costs for the IORP and for the members/beneficiaries will not increase. → Negative impacts: Keeping the different regimes between Member states.</p> <p>Option 2: Compulsory regime depends on legal form of the IORP: → Positive impacts: None foreseen → Negative impacts: This option will lead to an increase of charges for the IORP that will be reflected on the members and beneficiaries' contributions or benefits.</p> <p>Option 3: Compulsory regime depends on the type of pension scheme → Positive impacts:</p>	<p>majority of respondents of the consultation on this topic..."</p> <p>Noted.</p>
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			<p>The appointment of a depositary for DB schemes would remain at the discretion of the Member States. The principle of subsidiarity would be at least respected for such schemes.</p> <p>→ Negative impacts:</p> <p>This option will lead to an increase of charges for the IORPs with DC schemes that will be reflected on the members and beneficiaries' contributions or benefits. This option will lead to uncertainty because of the lack of clearness in the taxonomy of different pension schemes. Indeed, there are many types and pension schemes. As a result, a compulsory regime will force the supervisor to make a distinction between DB and DC but this task is heavily difficult because a lot of hybrid schemes do not totally fall under one of these categories.</p>	<p>Noted. Under this possibility, further clarification on the application of this requirement to hybrids would be needed.</p>
143.	Railways Pension Trustee Company Limited ("RPTCL	84.	We have not considered this question.	
144.	TCO	84.	<p>TCO is in favor of option 1 because the costs of changing the current IORP Directive will outweigh the potential benefits.</p> <p>The main positive and negative impacts of the proposed</p>	<p>Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on</p>

		<p>options are:</p> <p>Option 1: Maintaining Directive → Positive impacts: The subsidiarity principle is respected, so it allows for more flexibility. The costs for the IORP and for the members/beneficiaries will not increase. → Negative impacts: Keeping the different regimes between Member states.</p> <p>Option 2: Compulsory regime depends on legal form of the IORP: → Positive impacts: None foreseen → Negative impacts: This option will lead to an increase of charges for the IORP that will be reflected on the members and beneficiaries' contributions or benefits.</p> <p>Option 3: Compulsory regime depends on the type of pension scheme → Positive impacts: The appointment of a depositary for DB schemes would remain at the discretion of the Member States. The principle of subsidiarity would be at least respected for such schemes.</p>	<p>this topic..."</p> <p>Noted.</p>
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			<p>→ Negative impacts:</p> <p>This option will lead to an increase of charges for the IORPs with DC schemes that will be reflected on the members and beneficiaries' contributions or benefits. This option will lead to uncertainty because of the lack of clearness in the taxonomy of different pension schemes. Indeed, there are many types and pension schemes. As a result, a compulsory regime will force the supervisor to make a distinction between DB and DC but this task is heavily difficult because a lot of hybrid schemes do not totally fall under one of these categories.</p>	Noted. Under this possibility, further clarification on the application of this requirement to hybrids would be needed.
145.	The Association of the Luxembourg Fund Industry (A	84.	The Respondents believe that the increased protection generated will outweigh potential disadvantages.	Noted.
146.	The Depositary and Trustee Association	84.	<p>Depositaries for UCITS and other UK authorised funds which will fall within the ambit of the AIFM Directive have significant long term expertise in both the oversight function and the safekeeping of assets for open-ended collective investment schemes and so are well placed to acts as depositaries under other Directives.</p> <p>We strongly support the proposal that entities eligible to act as depositaries under the UCITS Directive be eligible to act as depositaries of IORPs.</p> <p>We also support the logic that, in any instances where a depositary is not required, the same level of safety should be provided by the IORP in order to ensure that a harmonised</p>	<p>Noted.</p> <p>Noted.</p>

			<p>level of protection is achieved irrespective of its legal form.</p> <p>We also firmly believe in and support the conclusion EIOPA has reached, in paragraph 26.3.53, regarding a suitable liability regime. The reasons EIOPA gives for wishing to base a regime on the current UCITS Directive are sound ones. EIOPA is to be commended for giving due weight to the fact that increased costs could undermine the supply of affordable occupational pensions. We would also add that an unduly burdensome liability regime is likely to adversely impact beneficiaries through increased costs and the resultant reduction in pension returns in cases of defined contribution pension schemes where beneficiaries bear those costs.</p>	Noted.
147.	THE SOCIETY OF PENSION CONSULTANTS	84.	<p>We have no specific comment on the positive and negative impacts of the proposals except that it is vital that a prescriptive framework regarding the requirements for depositaries and custodians is not imposed. This is because it could result in the imposition of inappropriate and burdensome requirements on some IORPs (because their diversity in terms of size and form was not taken into account). We agree that a consequence of drawing on the principles of the UCITs and AIFM Directives regarding the appointment of depositaries and custodians could result in there being instances of even tougher requirements applying to IORPs than under Solvency II</p>	Noted.
148.	UK Association of Pension Lawyers	84.	<p>CfA 21 (Custodian / depository): How do stakeholders evaluate the positive and negative impacts of the proposals?</p> <p>The negative impact of the proposals would be increased costs.</p>	Noted.

			We have yet to see any real evidence to suggest that the proposals would have a positive impact.	
149.	Universities Superannuation Scheme (USS),	84.	How do stakeholders evaluate the positive and negative impacts of the proposals?	
150.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	84.	We refer to our answer to question 83. A compulsory regime for depositaries will entail costs which outweigh benefits. Furthermore the existing flexibility for Member States to tailor their regulations to the specific conditions in respect of local pension systems would be restricted.	Noted.
151.	Whitbread Group PLC	84.	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.
152.	Zusatzversorgungskasse des Baugewerbes AG	84.	The increase of costs will be translated in higher contributions or lower benefits. In the interest of the participants there is no need for amending the IORP directive regarding this matter.	Noted.
153.	Towers Watson	84.	85. How do stakeholders evaluate the positive and negative impacts of the proposals?  We have no specific comment on the positive and negative impacts of the proposals except that it is vital that a prescriptive framework regarding the requirements for depositaries and custodians is not imposed.	Noted.
154.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	85.	The appointment of a depository should not be compulsory. The principles of flexibility and subsidiarity should be respected in order to leave this decision to the Member States. We believe that the implementation of a compulsory regime regarding the appointment of a depository under the two options will lead to an increase in the fees that IORPs will have to pay to the depository. This will lead to an increase in the	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depository EIOPA prefers to keep

			contributions or a decrease of the benefits of the members/beneficiaries.	the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
155.	AbA Arbeitsgemeinschaft für betriebliche Altersver	85.	In our view, most of the active operating depositaries e.g. in GB, DE, F, I, ESP and Benelux are able to fulfil both functions already, therefore we expect that the economic impact of the proposed safe keeping and oversight functions will be reasonable and in general of minor effect.	Noted.
156.	ABVAKABO FNV	85.	Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.	Noted. The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.
157.	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE IN	85.	Although we do prefer establishing a general and compulsory requirement for the appointment of a depositary –irrespective of the type of the scheme-, as a second best we also support the logic that, in any instances where a depositary should not be required(according to EIOPA stance), the same level of safety should be provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.	Noted.

			In Spain all IORP are obliged to utilize a depositary and costs are perfectly affordable.	
158.	AEIP	85.	We refer to the two previous questions.	noted
159.	AFTI (Association Française des professionnels des	85.	<p>85 .What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>positive impacts</p> <p>The value of the depositary’s controls and functions are linked to its expertise and its statutory independence vis-à-vis the manager. The appointment of a depositary provide the IORPS and their members a higher protection from operational failures and investment breaches.</p> <p>Negative impacts</p> <p>EIOPA’s proposal of not retaining a strict liability regime for the depositary should limit the additional costs .</p>	<p>Noted.</p> <p>Noted.</p>
161.	AMONIS OFP	85.	<p>What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>It is difficult to assess the consequences. But if defined carefully and limited, the cost of safekeeping and oversight functions may become “standardized”, meaning that due to competition (cross border) these costs will remain reasonable.</p>	Noted.

162.	Association of British Insurers	85.	The ABI has no further comments beyond our response to Question 83.	noted
163.	Association of Consulting Actuaries (UK)	85.	We note that for smaller schemes below €500m, some of the costs of compliance with the depositary requirements could be significant and discourage provision of pension schemes by sponsors. This is both in terms of a) safe-keeping of assets and b) oversight functions. This may suggest alternative approaches be sought on proportionality grounds.	Partially agreed. Greater emphasis will be given as follows: "26.4.2. ... need for a study to assess the real impact of the new requirements on different jurisdictions and types of IORs (e.g., considering the structure, size and type of scheme, etc.), including a search for numbers/figures."
164.	Assoprevidenza – Italian Association for supplement	85.	We refer to the two previous questions.	noted
165.	Assuralia	85.	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. The rules of Solvency II with regard to governance and other qualitative requirements and their applicability

				to IORPs are being analyze in other sections of the CfA. Nevertheless SII rules do not cover issues related to the appointment and the role of depositaries and it has to be considered that insurance and pension sectors might not be entirely comparable.
166.	Belgian Association of Pension Institutions (BVPI-	85.	<p>What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>It is difficult to assess the consequences. But if defined carefully and limited, the cost of safekeeping and oversight functions may become "standardized", meaning that due to competition (cross border) these costs will remain low.</p>	Noted.
167.	BNP PARIBAS SECURITIES SERVICES	85.	<p>85 .What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>Positive impacts</p>	

			<p>the value of the depositary's controls and functions are linked to its expertise and its statutory independence from the manager . The appointment of a depositary provides the IORPS and their members a higher protection from operational failures and investment breaches.</p> <p>Negative impacts</p> <p>The potential additional costs should be limited thanks to the EIOPA's proposal to define depositary's liability as its unjustifiable failure to perform its obligation or its improper performance of them.</p>	<p>Noted</p> <p>Noted.</p>
168.	BT Pension Scheme Management Ltd	85.	We believe that a more complete impact assessment is required before it is possible to express a view on this issue.	Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.
169.	CMHF (Centrale van Middelbare en Hogere Functionar	85.	Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.	<p>Noted.</p> <p>The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent</p>

				control mechanism.
170.	De Unie (Vakorganisatie voor werk, inkomen en loop	85.	Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.	Noted.  The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.
171.	European Federation for Retirement Provision (EFRP	85.	The appointment of a depositary should not be compulsory. The principles of flexibility and subsidiarity should be respected in order to leave this decision to the Member States. The implementation of a compulsory regime regarding the appointment of a depositary under the two options will lead to an increase in the fees that IORPs will have to pay to the depositary. This will lead to an increase in the contributions or a decrease of the benefits of the members/beneficiaries.	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
172.	Federation of the Dutch Pension Funds	85.	Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a	Noted.  The appointment of a depositary

			superfluous institution and the introduction of redundant procedures to interact with such institution.	does not aim to duplicate any task but to act as an additional external and independent control mechanism.
173.	Financial Reporting Council	85.	We have not formed a view on this question.	
174.	FNV Bondgenoten	85.	Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.	Noted. The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.
175.	PMT-PME-Mn Services	85.	Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.	Noted. The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.
176.	Institute and	85.	As noted in our response to Question 84, we have not been	noted

	Faculty of Actuaries (UK)		able to research the likely positive and negative impacts of the proposals in the time available.	
177.	Italian Banking Association	85.	ABI believes that the evaluation of costs and other consequences should be addressed taking into account the importance of providing IORP members/beneficiaries the same protection already provided by AIFMD.	Noted.
178.	Mercer	85.	<p>Currently, many IORPs invest a significant proportion of their assets in collective investment funds, so proposals to require IORPs to appoint a depositary will need to consider the relationships and responsibilities of those that act as an IORP's accounting book of record for investments in collective investment funds, but do not act as the collective fund's depositary. Moves to increase depositary's liability for investments in collective investment funds will increase the cost of investments and could create an economic incentive for IORPs to purchase units direct from fund managers as opposed to holding units in the custodian's nominee name.</p> <p>Consideration needs to be given to the treatment of different classes of investment instruments. For example, some financial instruments, such as securities which can be registered in an account opened at the depositary's books or physically delivered to the depositary (e.g. bearer securities), can be held in custody. However, others, such as over the counter derivative instruments, real estate and private equity investments, cannot, and more thought should be given to the responsibility and liability the depositary bears in these cases.</p> <p>We do not consider it would be desirable or practicable to require IORP appointed depositaries to undertake due diligence</p>	Noted.

			<p>of other service providers, such as fund accountants, custodians and auditors appointed by investment managers or investment funds. This could make it more difficult for IORPs to access new, or change existing, fund managers.</p> <p>Because IORPs often contract with other regulated entities with regard to investment management, there is a risk that regulatory measures will be duplicated, with no additional benefit for members and superfluous resource implications for supervisory authorities.</p>	
179.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	85.	<p>Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.</p>	<p>Noted.</p> <p>The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.</p>
180.	National Association of Pension Funds (NAPF)	85.	<p>35. What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>36.</p> <p>Some large trust-based IORPs keep the depositary function in-house in order to maximise efficiency and minimise costs to</p>	<p>Noted. The proposals under options 2 and 3</p>

			<p>members. The role of the trustees ensures that these activities are carried out responsibly.</p> <p>The NAPF suggests that the IORP Directive should continue to provide this flexibility.</p> <p>For this reason, the NAPF favours Option One – leave the IORP Directive unchanged.</p>	<p>recognize the fact that trustees are required by law to perform oversight function.</p> <p>Agreed. Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
181.	Pensioenfondsen Zorg en Welzijn (PFZW)	85.	<p>Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.</p>	<p>Noted.</p> <p>The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.</p>

182.	PTK (Sweden)	85.	The appointment of a depository should not be compulsory. The principles of flexibility and subsidiarity should be respected in order to leave this decision to the Member States. The implementation of a compulsory regime regarding the appointment of a depository under the two options will lead to an increase in the fees that IORPs will have to pay to the depository. This will lead to an increase in the contributions or a decrease of the benefits of the members/beneficiaries.	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depository EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic..."
183.	Railways Pension Trustee Company Limited ("RPTCL	85.	We have not considered this question.	noted
184.	TCO	85.	The appointment of a depository should not be compulsory. The principles of flexibility and subsidiarity should be respected in order to leave this decision to the Member States. The implementation of a compulsory regime regarding the appointment of a depository under the two options will lead to an increase in the fees that IORPs will have to pay to the depository. This will lead to an increase in the contributions or a decrease of the benefits of the members/beneficiaries.	Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depository EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the

				consultation on this topic..."
185.	The Association of the Luxembourg Fund Industry (A	85.	While it is certain that costs will increase, it is not reasonably possible to provide a specific amount.	Agreed. The following sentence will be added to the impact assessment section, when relevant: “(costs)...whose magnitude is unknown...”
186.	THE SOCIETY OF PENSION CONSULTANTS	85.	Any options other than option 1 could add significantly to the cost burden for certain forms of IORP, resulting in a negative impact on members’ outcomes.	Partially agreed. Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”
187.	UK Association of Pension Lawyers	85.	CfA 21 (Custodian / depositary): What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the	noted

			<p>appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>See our responses to 83 and 84 above.</p>	
188.	Universities Superannuation Scheme (USS),	85.	<p>13. What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p>	
189.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	85.	<p>Given their objectives and responsibilities IORPs are extremely prudent as to existing procedures for and in-depth oversight and safekeeping of their assets. Compulsory appointment of a depositary would lead to the costly engagement of a superfluous institution and the introduction of redundant procedures to interact with such institution.</p>	<p>Noted.</p> <p>The appointment of a depositary does not aim to duplicate any task but to act as an additional external and independent control mechanism.</p>
190.	Whitbread Group PLC	85.	<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.
191.	Zusatzversorgungskasse des Baugewerbes AG	85.	<p>We refer to the two previous questions.</p>	noted
192.	European Private Equity & Venture Capital Associat	85	<p>EVCA wishes to comment that any provisions regarding the custody functions of a depositary should take into account the common understanding reached in the process of drafting the AIFMD that certain assets cannot be held in custody (cf. Art. 21</p>	<p>Noted.</p> <p>Further details will be provided in</p>

			para. (3) sub-para. (3), para. (8) AIFMD). As ESMA has rightly pointed out such assets include in particular “investments in privately held companies and interests in partnerships” (ESMA’s final report on implementing measures of the AIFMD, dated 16 November 2011, ESMA/2011/379, page 158, explanatory notes after Box 79, para. 18, last bullet point).	level 2 text.
193.	Towers Watson	85.	<p>86. What do stakeholders anticipate in terms of cost and other consequences of the implementation of a compulsory regime regarding the appointment of a depositary under options 2 and 3 for: (a) the safe-keeping of assets; (b) oversight functions?</p> <p>We have a general concern that any options other than option 1 could add to the cost burden for certain forms of IORP. However, in the absence of any great detail as to what might be proposed, it is unclear how likely or material those additional costs might be.</p>	Noted.
194.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	86.	<p>The written contract will involve administrative costs. Moreover, the elements of the contract are not known yet (level 2), thus the costs could be bigger than those included in the providing of the flow of information.</p> <p>The role of a depositary in terms of safe-keeping will lead to an increase in the fee that IORPs will have to pay to the depositary institution. Furthermore, the costs related to safe keeping are not clear yet since the definition of the term “financial instruments” and the type of financial instruments that can be included in the scope of the depositary’s custody functions is still under discussion (26.2.18).</p>	<p>Noted.</p> <p>Noted.</p>

			<p>The depositary must be liable to the IORP for the losses it encountered. It is essential that assets entrusted to depositaries are safe. It will have a positive impact on the general level of protection for members/beneficiaries. However, the cost of such a regime for depositaries could lead to an increase of the fee that IORPs have to pay to depositaries.</p> <p>The oversight functions that should be performed by the depositary will entail some costs that will have an impact on the fee that IORPs have to pay to them. These costs will trigger either an increase of contributions or a decrease in benefits for the members and beneficiaries.</p> <p>The OPSG agrees with the rules regarding conflicts of interest because such conflicts are seen as costly for members and beneficiaries as well as for supervisory authorities. A rule on conflict of interest will raise the level of protection for the members/beneficiaries.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>
195.	AbA Arbeitsgemeinschaft für betriebliche Altersver	86.	We consider the consequences of the proposed general requirements as acceptable. A list of minimum oversight functions (with application of the proportionality principle) is reasonable. The additional costs cannot be anticipated, as the diversity of IORPs will lead to a significant bandwidth of implementation efforts (from very low at large and more sophisticated organisations to higher and potentially costly outcomes at smaller entities).	Noted.
196.	ABVAKABO FNV	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be	Noted.

			high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interests rules are welcome.	
197.	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE IN	86.	ADEPO thinks that final legislation should be similar to the one already adopted for mutual funds depositaries and this option has not represented big costs in Spain..	Noted.
198.	AEIP	86.	146. It is difficult to assess the consequences. We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. The liability of the depositary will increase protection for the IORP but might lead to fee increases.  We support the idea of having conflict of interests rules.	Noted.
199.	AFTI (Association Française des professionnels des	86.	86. What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depositary in terms of safe-keeping; (c) the liability regime of depositaries; (d) the list of minimum oversight functions that should be performed; (e) conflict of interest?  We support the general requirements regarding the depositary as they will clarify and harmonize the roles played by the depositaries and their duties and consequently they will harmonize the level of protection for members/beneficiaries at a reasonable cost .  (a) the need for a written contract: The need for written contract will bring benefits since it clarifies respective	Noted.  Agreed. The following sentence will be added to the impact

		<p>obligations in terms of relevant information / communications flows. This is essential to an adequate members/beneficiaries' protection.</p> <p>(b) the role of a depositary in terms of safe-keeping : AFTI supports the EIOPA's proposal. In addition, AFTI suggests that the scope of "assets held in custody" is clearly defined and related to transferable securities, money market instruments or units of collective investment undertakings – as listed in Annex I, section C of Directive 2004/39/EC. To qualify for assets held in custody, the financial instruments should have the following characteristics:</p> <ol style="list-style-type: none"> <li>1. they are registered in the name of the depositary or in the name of its sub-custodian acting on behalf the depositary;</li> <li>2. They are settled in a settlement system which maintains the relevant issuer account; in order to promote and protect investments and financial stability in Europe, the European banking system should not be exposed and made liable for weaker or less regulated financial markets outside the EU. We therefore suggest to restrict the settlement systems to those designated in Directive 98/26/EC".</li> <li>3. They have not been provided as collateral.</li> </ol> <p>(c) the liability regime of depositaries: AFTI supports the</p>	<p>assessment section: "A written contract will more clearly defined the obligations of the parties involved in terms of relevant flow of information deemed necessary to allow the depositary to perform its functions".</p> <p>Noted. Further details will be provided in level 2 text.</p>
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	British Insurers		Question 83.	
203.	Association of Consulting Actuaries (UK)	86.	The list of requirements appears reasonable, although we have concerns in relation to compliance costs for schemes below €500m in assets.	Partially agreed. Greater emphasis will be given as follows: "26.4.2. ... need for a study to assess the real impact of the new requirements on different jurisdictions and types of IORs (e.g., considering the structure, size and type of scheme, etc.), including a search for numbers/figures."
204.	Assoprevidenza – Italian Association for supplement	86.	It is difficult to assess the consequences. We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. The liability of the depositary will increase protection for the IORP but might lead to fee increases.  We support the idea of having conflict of interests rules.	Noted.
205.	Assuralia	86.	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. The rules of Solvency II with regard to governance and other qualitative

				<p>requirements and their applicability to IORPs are being analyzed in other sections of the CfA. Nevertheless SII rules do not cover issues related to the appointment and the role of depositaries and it has to be considered that insurance and pension sectors might not be entirely comparable.</p>
206.	Belgian Association of Pension Institutions (BVPI-	86.	<p>What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depositary in terms of safe-keeping; (c) the liability regime of depositaries; (d) the list of minimum oversight functions that should be performed; (e) conflict of interest?</p> <p>We strongly suggest in the best interest of scheme members to officialise the relationship via a written contract. We also suggest that the content has some minimum rules imposed by the regulator. In this, certainly the limitation of liability with regard to safe-keeping should be forbidden, and define a minimum list of oversight functions determined by the</p>	<p>Noted. The minimum rules, if any, will be discussed in level 2 text.</p>

			<p>regulator.</p> <p>A procedure to cope with possible conflict of interest should also be part of the agreement. We strongly advise the condition of "Chinese walls" between activities with probable conflict of interest.</p>	
207.	BNP PARIBAS SECURITIES SERVICES	86.	<p>86. What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depositary in terms of safe-keeping; (c) the liability regime of depositaries; (d) the list of minimum oversight functions that should be perform; (e) conflict of interest?</p> <p>We support the general requirements regarding the depositary as they will clarify and harmonize the roles played by the depositaries and their duties and consequently they will harmonize the level of protection for members/beneficiaries at a reasonable cost .</p> <p>(a) the need for a written contract: The need for written contract will create benefits for the reason that it helps to establish all the relevant information / communications flows, which is essential for an adequate members/beneficiaries' protection.</p>	<p>Noted.</p> <p>Agreed. The following sentence will be added to the impact assessment section: "A written contract will more clearly defined the obligations of the parties involved in terms of relevant flow of information deemed necessary to allow the depositary to perform its</p>



208.	BT Pension Scheme Management Ltd	86.	We believe that a more complete impact assessment is required before it is possible to express a view on this issue.	Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.
209.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	86.	<p>The written contract will involve administrative costs. Moreover, the elements of the contract are not known yet (level 2), thus the costs could be bigger than those included in the providing of the flow of information.</p> <p>Furthermore, the costs related to safe keeping are not clear yet since the definition of the term “financial instruments” and the type of financial instruments that can be included in the scope of the depository’s custody functions is still under discussion.</p> <p>The oversight functions that should be performed by the depository will entail some costs that will have an impact on the fee that IORPs have to pay to them. These costs will trigger either an increase of contributions or a decrease in benefits for the members and beneficiaries.</p> <p>BAVC agrees with the rules regarding conflicts of interest because such conflicts are seen as costly for members and beneficiaries as well as for supervisory authorities. A rule on conflict of interest will raise the level of protection for the members/beneficiaries.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

210.	Chris Barnard	86.	<p>Regarding point (a) the need for a written contract; I agree with Paragraph 26.3.30 that “the appointment of depositaries should be formalised in a written contract regulating at least the flow of information necessary to enable the depositary to perform its function. Furthermore, the elements of the contract should be detailed in level 2 text”.</p> <p>Regarding point (e) conflicts of interest; a requirement for functional and hierarchical segregation of functions would be reasonable and appropriate.</p>	Noted.
211.	CMHF (Centrale van Middelbare en Hogere Functionar	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interest rules are welcome.	Noted.
212.	De Unie (Vakorganisatie voor werk, inkomen en loop	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interest rules are welcome.	Noted.
213.	European Federation for Retirement Provision (EFRP	86.	The written contract will involve administrative costs. Moreover, the elements of the contract are not known yet (level 2), thus the costs could be bigger than those included in the providing of the flow of information. The written contract should not be needed for small IORPs insofar as a relatively low	When applicable, the principle of proportionality should be taken into account.

			<p>level of information should be needed to perform the depositary's function.</p> <p>The role of a depositary in terms of safe-keeping will lead to an increase in the fee that IORPs will have to pay to the depositary institution.</p> <p>Furthermore, the costs related to safe keeping are not clear yet since the definition of the term "financial instruments" and the type of financial instruments that can be included in the scope of the depositary's custody functions is still under discussion (26.2.18).</p> <p>The depositary must be liable to the IORP for the losses it encountered. It is essential that assets entrusted to depositaries are safe. It will have a positive impact on the general level of protection for members/beneficiaries. However, the cost of such a regime for depositaries could lead to an increase of the fee that IORPs have to pay to depositaries.</p> <p>The oversight functions that should be performed by the depositary will entail some costs that will have an impact on the fee that IORPs have to pay to them. These costs will trigger either an increase of contributions or a decrease in benefits for the members and beneficiaries.</p> <p>The EFRP agrees with the rules regarding conflicts of interest because such conflicts are seen as costly for members and beneficiaries as well as for supervisory authorities. A rule on conflict of interest will raise the level of protection for the</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>
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			members/beneficiaries.	
214.	Federation of the Dutch Pension Funds	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interest rules are welcome.	Noted.
215.	Financial Reporting Council	86.	We have not formed a view on this question.	noted
216.	FNV Bondgenoten	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interests rules are welcome.	Noted.
217.	PMT-PME-Mn Services	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interest rules are welcome.	Noted.
218.	Institute and Faculty of Actuaries (UK)	86.	We have not been able to research the likely positive and negative impacts of the proposals in the time available.	noted
219.	Italian Banking	86.	See answer to questions 84 and 85.	noted

	Association			
220.	Mercer	86.	<p>Custodians and Depositories commonly only enter into business with entities after completing know your customer, anti money laundering and contract negotiations, so we do not consider the requirement to agree contractual terms will add materially to most IORP's existing costs.</p> <p>Extending a depository's liability to include investments in commingled investment funds or assets not in safekeeping is likely to incur substantial additional costs which may be disproportionate to the additional protections offered.</p> <p>Extending oversight functions to cover areas such as valuation, cash flow, liquidity forecasting and accounting goes beyond the current remit of the depository or custodian function. Since this is likely to result in additional fees, a detailed cost-benefit analysis should be undertaken to ensure it is in the best interests of investors.</p> <p>We consider the commonest source of conflicts of interest will arise from combined prime brokerage / custodian appointments. Such conflicts are currently commonly managed by fire walls within organisations, including, but not limited to, staff access rights between trading floors and asset servicing areas, in addition to physically segregated servers for house positions and positions in administration. Our preference would be for regulation to be implemented at the level of the prime broker or other potentially conflicted organisation as opposed</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.</p> <p>Noted.</p>

			<p>to individual IORPs. In practice, prime brokerage and similar services are provided by a small number of globally active organisations, so regulation could then be implemented more effectively.</p> <p>Where it is deemed necessary to appoint a depositary, we agree that the terms of engagement should cover the general requirements set out here. We do not distinguish between the cost of having to appoint a depositary, and the cost of entering into a robust contract with the depositary.</p>	Noted.
221.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interest rules are welcome.	Noted.
222.	National Association of Pension Funds (NAPF)	86.	<p>37. What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depositary in terms of safe-keeping; (c) the liability regime of depositaries; (d) the list of minimum oversight functions that should be perform; (e) conflict of interest?</p> <p>38. The NAPF favours option 1 because the costs of changing the current IORP Directive would outweigh the potential benefits.</p>	<p>Agreed. Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility</p>

		<p>39.</p> <p>40. The main positive and negative impacts of the proposed options are:</p> <p>41.</p> <p>Option 1: Maintaining Directive</p> <p>42. Positive impacts:</p> <p>43. The subsidiarity principle is respected, so it allows for more flexibility. The costs for the IORP and for the members/beneficiaries will not increase.</p> <p>44. Negative impacts:</p> <p>45. Keeping the different regimes between Member States.</p> <p>46. Option 2: Compulsory regime depends on legal form of the IORP:</p> <p>47. Positive impacts:</p> <p>48. None foreseen</p> <p>49. Negative impacts:</p> <p>50. This option would lead to an increase in charges that would be passed to members.</p>	<p>under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p> <p>Noted.</p>
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			<p>51.</p> <p>52. Option 3: Compulsory regime depends on the type of pension scheme</p> <p>53. Positive impacts:</p> <p>54. The appointment of a depositary for DB schemes would remain at the discretion of Member States. The principle of subsidiarity would be at least respected for such schemes.</p> <p>55. Negative impacts:</p> <p>This option would increase charges for IORPs with DC schemes that would be passed on to members. This option would lead to uncertainty because of the lack of clarity in the taxonomy of different pension schemes.</p>	
223.	Pensioenfonds Zorg en Welzijn (PFZW)	86.	<p>We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depositary could increase protection for the IORP (and thus for its participants) the relevant depositary party is likely to require higher fees in proportion to its liability risk. Conflict of interest rules are welcome.</p>	Noted.
224.	PTK (Sweden)	86.	<p>The written contract will involve administrative costs. Moreover, the elements of the contract are not known yet (level 2), thus the costs could be bigger than those included in the providing of the flow of information. The written contract should not be needed for small IORPs insofar as a relatively low level of information should be needed to perform the depositary's function.</p>	When applicable, the principle of proportionality should be taken into account.

			<p>The role of a depositary in terms of safe-keeping will lead to an increase in the fee that IORPs will have to pay to the depositary institution.</p> <p>Furthermore, the costs related to safe keeping are not clear yet since the definition of the term "financial instruments" and the type of financial instruments that can be included in the scope of the depositary's custody functions is still under discussion (26.2.18).</p>	Noted.
225.	Railways Pension Trustee Company Limited ("RPTCL	86.	We have not considered this question.	
226.	TCO	86.	<p>The written contract will involve administrative costs. Moreover, the elements of the contract are not known yet (level 2), thus the costs could be bigger than those included in the providing of the flow of information. The written contract should not be needed for small IORPs insofar as a relatively low level of information should be needed to perform the depositary's function.</p> <p>The role of a depositary in terms of safe-keeping will lead to an increase in the fee that IORPs will have to pay to the depositary institution.</p> <p>Furthermore, the costs related to safe keeping are not clear yet since the definition of the term "financial instruments" and the type of financial instruments that can be included in the scope of the depositary's custody functions is still under discussion (26.2.18).</p>	<p>When applicable, the principle of proportionality should be taken into account.</p> <p>Noted.</p>

227.	The Association of the Luxembourg Fund Industry (A	86.	Please see above.	
228.	UK Association of Pension Lawyers	86.	<p>CfA 21 (Custodian / depository): What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depository in terms of safe-keeping; (c) the liability regime of depositories; (d) the list of minimum oversight functions that should be perform; (e) conflict of interest?</p> <p>See our responses to 83 and 84 above.</p> <p>In addition, the proposed extension of a depository's liability where it has delegated its functions may have the effect of restricting the markets in which pension schemes can invest, to their, their members' and sponsoring employers' disadvantage.</p>	<p>Noted.</p> <p>This cause/effect is not clear.</p>
229.	Universities Superannuation Scheme (USS),	86.	<p>14. What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depository in terms of safe-keeping; (c) the liability regime of depositories; (d) the list of minimum oversight functions that should be perform; (e) conflict of interest?</p>	
230.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	86.	We expect that the costs related to a written contract, the role in terms of safekeeping and the oversight functions will be high. Although a certain level of liability of the depository could increase protection for the IORP (and thus for its participants) the relevant depository party is likely to require higher fees in	Noted.

			proportion to its liability risk. Conflict of interest rules are welcome.	
231.	Whitbread Group PLC	86.	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.
232.	Zusatzversorgungskasse des Baugewerbes AG	86.	We expect that the costs related to a written contract, the role in terms of safekeeping, a liability regime of the depositary and the oversight functions will be high.	Noted.
233.	Towers Watson	86.	87. What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements regarding: (a) the need for a written contract; (b) the role of a depositary in terms of safe-keeping; (c) the liability regime of depositaries; (d) the list of minimum oversight functions that should be perform; (e) conflict of interest? No specific comment.	noted
234.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	87.	The list of oversight functions will be burdensome, notably in the case of a cross-border activity. Indeed, the SSL difference among member states is the reason why the oversight function and the provision of information that it implies will entail some costs.  The OPSG points out that the depositary should not be responsible for ensuring that income produced by assets is applied in accordance with the IORP rules.	Noted.  Not agreed. This task was taken from the UCITS and AIFM Directives. To be deleted, further rationale must be provided in

			The OPSG does not agree with the introduction of the whistle-blowing function for the depositary. The depositary should only inform the IORP if any breaches of national laws or IORP rules are revealed.	<p>relation to why depositary should not be responsible for it, in case it is appointed to perform oversight function.</p> <p>Noted. This function was only introduced as a possibility, not an obligation.</p>
235.	AbA Arbeitsgemeinschaft für betriebliche Altersver	87.	The list appears to be comprehensible and appropriate.	Noted.
236.	ABVAKABO FNV	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.	Partially agreed. The following clarification will be added to paragraph 26.3.36. :“ The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/intern

				al control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.
237.	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE IN	87.	It seems appropriate given that it is based upon existing similar regimes(mutual funds legislation).	Noted.
238.	AEIP	87.	<p>It will be difficult to establish a general rule, because the need for oversight functions that should be performed by a depositary is dependent on the structure of the IORP and the type of scheme it manages.</p> <p>The governance structure and social responsibilities of the IORP require already the performance of a tight oversight function. Depositaries should not be asked to duplicate tasks that are already performed by the IORPs.</p>	<p>Noted. The tasks included in the list presented in paragraph 26.3.37. are high level enough to encompass different types of IORPs and schemes.</p> <p>Partially agreed. The following clarification will be added to paragraph 26.3.36. :” The appointment of a</p>

				<p>depository with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.</p>
239.	AFTI (Association Française des professionnels des	87.	<p>87.Do stakeholders agree that the list of minimum oversight functions that should be performed by a depository is appropriate?</p> <p>AFTI agrees that the list of minimum oversight functions proposed by EIOPA is appropriate.</p> <p>AFTI makes the following observations and comments regarding the point 9.a) :</p> <p>i. the depository oversight duties are to be performed by ex post controls.</p> <p>ii. the depository should not perform first levels of control (operational &amp; internal control) that are performed at the IORP</p>	<p>Noted.</p> <p>Agreed. The following clarification will be added to paragraph 26.3.36:</p>

			<p>level. The depositary performs secondary level controls. Therefore the depositary should neither substitute nor replicate the controls performed internally by the IORP.</p> <p>Provided the above listed principles are implemented, and applicable to all oversight functions, AFTI is of the opinion that EIOPA's proposal should not cause significantly adverse effects on procedures and costs to IORPs and other IORP's third party providers.</p> <p>For clarification purpose ,.</p> <p>AFTI suggests the following amendments:</p> <p>9;a) carry out instructions of the IORP, unless they conflict with the applicable national law or the IORP rules; verify the compliance of the IORP regarding investment restrictions and leverage limits with applicable national law and regulation as well as with the IORPs rules</p>	<p>" The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism".</p> <p>Not agreed. The second task seems to go beyond the scope of what it is established under the UCITS and AIFM Directives.</p>
241.	AMONIS OFP	87.	<p>Do stakeholders agree that the list of minimum oversight functions that should be performed by a depositary is appropriate?</p> <p>Yes. We view the basic functions as providing compliance, execution check and certification of asset ownership.</p>	Noted.

242.	Association of British Insurers	87.	The ABI has no further comments beyond our response to Question 83.	noted
243.	Assoprevidenza – Italian Association for supplement	87.	Yes	Noted.
244.	Assuralia	87.	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. The rules of Solvency II with regard to governance and other qualitative requirements and their applicability to IORPs are being analyzed in other sections of the CfA. Nevertheless SII rules do not cover issues related to the appointment and the role of depositaries and it has to be considered that insurance and pension sectors might not be entirely comparable.

245.	Belgian Association of Pension Institutions (BVPI-	87.	<p>Do stakeholders agree that the list of minimum oversight functions that should be performed by a depositary is appropriate?</p> <p>Yes. We view the basic functions as providing compliance, execution check and certification of asset ownership.</p>	Noted.
246.	BNP PARIBAS SECURITIES SERVICES	87.	<p>87.Do stakeholders agree that the list of minimum oversight functions that should be performed by a depositary is appropriate?</p> <p>BNP PARIBAS SECURITIES SERVICES agrees that the list of minimum oversight functions proposed by EIOPA is appropriate but would like to make the following observations and comments regarding the point 9.a) :</p> <p>i. the depositary oversight duties are to be performed by ex post controls.</p> <p>ii. the depositary should not perform first levels of control (operational &amp; internal control) that are performed at the IORP level. The depositary performs secondary level controls. Therefore the depositary should neither substitute nor replicate the controls performed internally by the IORP.</p> <p>Provided the principles listed above are followed BNP PARIBAS SECURITIES SERVICES does not believe that the EIOPA's proposal will be burdensome for IORP and other IORP's third party providers.</p>	<p>Noted.</p> <p>Agreed. The following clarification will be added to paragraph 26.3.36:</p> <p>" The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/intern</p>

			<p>Therefore BNP PARIBAS SECURITIES SERVICES suggests the following amendments:</p> <p>9;a) carry out instructions of the IORP, unless they conflict with the applicable national law or the IORP rules; verify the compliance of the IORP regarding investment restrictions and leverage limits with applicable national law and regulation as well as with the IORPs rules</p>	<p>al control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.</p> <p>Not agreed. The second task seems to go beyond the scope of what it is established under the UCITS and AIFM Directives.</p>
247.	BT Pension Scheme Management Ltd	87.	Yes, we agree that these minimum oversight functions are appropriate.	Noted.
248.	Charles CRONIN	87.	Yes, I agree with the proposed list of depository oversight functions.	Noted.
249.	Chris Barnard	87.	The list of minimum oversight functions that should be performed by a depository is appropriate. We should, however, be careful that these oversight functions are not extended into areas which are more properly the duty of the IORP.	<p>Agreed. The following clarification will be added to paragraph 26.3.36:</p> <p>“ The appointment of a depository</p>

				with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.
250.	CMHF (Centrale van Middelbare en Hogere Functionar	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.	Agreed. The following clarification will be added to paragraph 26.3.36:  “ The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the

				IORP itself, but to act as an additional external and independent control mechanism”.
251.	De Unie (Vakorganisatie voor werk, inkomen en loop	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.	Agreed. The following clarification will be added to paragraph 26.3.36:  “ The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.
252.	European Federation for Retirement	87.	The list of oversight functions will be burdensome, notably in the case of a cross-border activity. Indeed, the Social and Labour Law differs among Members States that is why the	Noted.

	Provision (EFRP		<p>oversight function and the prospection of information that it implies will entail some costs.</p> <p>The EFRP points out that the depository should not be responsible for ensuring that income produced by assets is applied in accordance with the IORP rules.</p> <p>The EFRP does not agree with the introduction of the whistle-blowing function for the depository. The depository should only inform the IORP if any breaches of national laws or IORP rules are revealed.</p>	<p>Not agreed. This task was taken from the UCITS and AIFM Directives. To be deleted, further rationale must be provided in relation to why depository should not be responsible for it, in case it is appointed to perform oversight function.</p> <p>Noted. This function was only introduced as a possibility, not an obligation.</p>
253.	Federation of the Dutch Pension Funds	87.	<p>IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositories should not duplicate these tasks which are already performed by IORPs themselves.</p>	<p>Agreed. The following clarification will be added to paragraph 26.3.36:</p>

				<p>“The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.</p>
254.	Financial Reporting Council	87.	We have not formed a view on this question.	noted
255.	FNV Bondgenoten	87.	<p>IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.</p>	<p>Agreed. The following clarification will be added to paragraph 26.3.36:</p> <p>“ The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to</p>

				operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism".
256.	PMT-PME-Mn Services	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.	Agreed. The following clarification will be added to paragraph 26.3.36: " The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism".

257.	Institute and Faculty of Actuaries (UK)	87.	The oversight functions in the list do seem reasonable and necessary to us.	Noted.
258.	Italian Banking Association	87.	See answer to questions 84 and 85.	
259.	Mercer	87.	We consider that the principles set out in paragraph 26.3.35 are sufficient.	Noted. These are related to safe-keeping of assets only.
260.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.	Agreed. The following clarification will be added to paragraph 26.3.36:  " The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control

				mechanism”.
261.	National Association of Pension Funds (NAPF)	87.	56. Do stakeholders agree that the list of minimum oversight functions that should be performed by a depositary is appropriate?	
262.	NEST Corporation	87.	If IORPs are required to appoint depositaries, then the list of activities to be carried out is sensible. As some of the activities are already carried out by the custodian such as the oversight functions. As a well-run scheme, NEST carries out much of the proposed oversight already. NEST believes that serious consideration should be given to how these activities are executed. A future IORP Directive should not preclude the option for certain activities to be dealt with ‘in house’ rather than appointing a depositary, which could result in extra cost for members, without additional protections. This should especially be considered in the case of large trust-based schemes.	Noted. In the case of trust based system the appointment of a depositary for oversight function will not be required to avoid duplication of tasks.
263.	Pensioenfondsen Zorg en Welzijn (PFZW)	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositaries should not duplicate these tasks which are already performed by IORPs themselves.	Agreed. The following clarification will be added to paragraph 26.3.36:  “ The appointment of a depositary with oversight duties do not aim to duplicate any task (in particular,

				related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control mechanism”.
264.	PTK (Sweden)	87.	<p>The list of oversight functions will be burdensome, notably in the case of a cross-border activity. Indeed, the SSL differ among members states that is why the oversight function and the prospection of information that it implies will entail some costs.</p> <p>PTK does not agree with the introduction of the whistle-blowing function for the depositary. The depositary should only inform the IORP if any breaches of national laws or IORP rules are revealed.</p>	<p>Noted.</p> <p>Noted. This function was only introduced as a possibility, not an obligation.</p>
265.	Railways Pension Trustee Company Limited (“RPTCL	87.	We have not considered this question.	
266.	TCO	87.	The list of oversight functions will be burdensome, notably in the case of a cross-border activity. Indeed, the SSL differ among members states that is why the oversight function and the prospection of information that it implies will entail some costs.	Noted.

			TCO does not agree with the introduction of the whistle-blowing function for the depositary. The depositary should only inform the IORP if any breaches of national laws or IORP rules are revealed.	Noted. This function was only introduced as a possibility, not an obligation.
267.	The Association of the Luxembourg Fund Industry (A	87.	The Respondents agree.	Noted.
268.	The Depositary and Trustee Association	87.	It seems appropriate given that it is based upon existing similar regimes.	Noted.
269.	THE SOCIETY OF PENSION CONSULTANTS	87.	The minimum list of oversight functions is a reasonable one, although it should be for member states to decide to what extent they should be included in their requirements for the appointment of a custodian or depositary.	Partially agreed. This possibility is foreseen under option 1.  Text revised as follows: "New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on

				this topic..."
270.	UK Association of Pension Lawyers	87.	CfA 21 (Custodian / depository): Do stakeholders agree that the list of minimum oversight functions that should be performed by a depository is appropriate?  See our responses to 83 and 84 above.	
271.	Universities Superannuation Scheme (USS),	87.	15. Do stakeholders agree that the list of minimum oversight functions that should be performed by a depository is appropriate?	
272.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	87.	IORPs governance structure and social responsibilities require already the performance of a tight oversight function. Depositories should not duplicate these tasks which are already performed by IORPs themselves.	Agreed. The following clarification will be added to paragraph 26.3.36:  " The appointment of a depository with oversight duties do not aim to duplicate any task (in particular, related to operational/internal control) already performed by the IORP itself, but to act as an additional external and independent control

				mechanism”.
273.	Whitbread Group PLC	87.	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.
274.	Zusatzversorgungskasse des Baugewerbes AG	87.	We refer to our answer on question 83.	noted
275.	Towers Watson	87.	<p>88. Do stakeholders agree that the list of minimum oversight functions that should be performed by a depositary is appropriate?</p> <p>The minimum list of oversight functions is a reasonable and necessary one, although it should be for member states to decide to what extent they should be included in their requirements for the appointment of a custodian or depositary.</p>	<p>Partially agreed. This possibility is foreseen under option 1.</p> <p>Text revised as follows: “New paragraph: As regards the appointment of a depositary EIOPA prefers to keep the flexibility under option 1, which was also supported by the majority of respondents of the consultation on this topic...”</p>
276.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	88.	The implementation of such general requirements will lead to an additional burden for IORPs. However, the impact is expected to be quite low insofar as these measures are generally implemented at the IORP level.	<p>Noted.</p> <p>In a certain way, this is already reflected in the</p>

				impact assessment.
277.	AbA Arbeitsgemeinschaft für betriebliche Altersver	88.	We believe that custodian/depository systems are required for an adequate separation of assets.	Noted.
278.	ABVAKABO FNV	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	Noted.
279.	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE IN	88.	In theory costs ought to be similar. EIOPA has proposed that in any instances where a depository is not required, the same level of safety should be provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.	Noted.
280.	AEIP	88.	We refer to our answer on question 83.	noted
281.	AFTI (Association Française des professionnels des	88.	88.What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depository is not appointed?  When a depository is not appointed this will result in a lower level of protection of members/beneficiaries as the depository plays an essential role in the external control environment.	Partially agreed.  In paragraph 26.3.35 the wording "same level of safety" was replace by "similar level of safety"

282.	AMONIS OFP	88.	<p>What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depositary is not appointed?</p> <p>We think that small IORP's may incur difficulties organizing the requirements in case there is no custodian. This might involve a risk for scheme members as the implementation of the general requirements depends on the scale of the fund.</p>	<p>Noted. The principle of proportionality is applicable. Nevertheless is imperative that some of these requirements are met. If an IORP do not have the capacity to comply with them (for instance that financial instruments are subject to due care and protection) then it will be appropriate to use a custodian.</p>
283.	Association of British Insurers	88.	The ABI has no further comments beyond our response to Question 83.	noted
284.	Assuralia	88.	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. The rules of Solvency II with regard to governance and other qualitative requirements and their applicability to IORPs are being

				<p>analyze in other sections of the CfA. Nevertheless SII rules do not cover issues related to the appointment and the role of depositaries and it has to be considered that insurance and pension sectors might not be entirely comparable.</p>
285.	Belgian Association of Pension Institutions (BVPI-	88.	<p>What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depositary is not appointed?</p> <p>We think that small IORP's may incur difficulties organizing the requirements in case there is no custodian. This might involve a risk for scheme members as the implementation of the general requirements depends on the scale of the fund.</p>	<p>Noted. The principle of proportionality is applicable. Nevertheless is imperative that some of these requirements are met. If an IORP do not have the capacity to comply with them (for instance that financial instruments are</p>

				subject to due care and protection) then it will be appropriate to use a custodian.
286.	BNP PARIBAS SECURITIES SERVICES	88.	<p>88.What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depositary is not appointed?</p> <p>In case a depositary is not appointed this will result in a lower level of protection of members/beneficiaries as the depositary constitute a major external control.</p>	<p>Partially agreed.</p> <p>In paragraph 26.3.35 the wording "same level of safety" was replace by "similar level of safety"</p>
287.	BT Pension Scheme Management Ltd	88.	We believe that a more complete impact assessment is require before it is possible to express a view on this issue.	Noted. In section 26.4 there is a final remark stating that a study to assess the real impact of the new requirements is needed.
288.	CMHF (Centrale van Middelbare en Hogere Functionar	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures	Noted.

			to that extent in place.	
289.	De Unie (Vakorganisatie voor werk, inkomen en loop	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	Noted.
290.	European Federation for Retirement Provision (EFRP	88.	The implementation of such general requirements will lead to an additional burden for IORPs. However, the impact is expected to be quite low insofar as these measures are generally implemented at the IORP level.	Noted.  In a certain way, this is already reflected in the impact assessment.
291.	Federation of the Dutch Pension Funds	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	Noted.
292.	Financial Reporting Council	88.	We have not formed a view on this question.	noted
293.	FNV Bondgenoten	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	Noted.
294.	PMT-PME-Mn Services	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	Noted.
295.	Institute and Faculty of Actuaries (UK)	88.	We have not been able to research the likely positive and negative impacts of the proposals in the time available.	Noted

296.	Italian Banking Association	88.	See answer to questions 84 and 85.	noted
297.	Mercer	88.	<p>In our experience, the majority of smaller IORPs are not currently required to appoint a depositary. We estimate industry average minimum fees to be in the region of €40,000 - €70,000 and therefore question whether the mandatory appointment of a custodian for IORPs fully invested in commingled investment funds constitutes value for money.</p> <p>However, if individual member states are able to implement the general principles in a proportionate way, reflecting the legal construct of the IORPs under their jurisdiction, and their relationship with the assets and the entities used as investment managers, it should be possible for the costs to be proportionate to the advantages achieved for scheme members.</p>	Noted.
298.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	88.	We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	Noted.
299.	National Association of Pension Funds (NAPF)	88.	What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depositary is not appointed?	
300.	Pensioenfondszorg	88.	We refer to our answer to question 87. Implementation of	Noted.

	en Welzijn (PFZW)		these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.	
301.	PTK (Sweden)	88.	The implementation of such general requirements will lead to an additional burden for IORPs. However, the impact is expected to be quite low insofar as these measures are generally implemented at the IORP level.	Noted. In a certain way, this is already reflected in the impact assessment.
302.	Railways Pension Trustee Company Limited ("RPTCL	88.	We have not considered this question.	noted
303.	TCO	88.	The implementation of such general requirements will lead to an additional burden for IORPs. However, the impact is expected to be quite low insofar as these measures are generally implemented at the IORP level.	Noted. In a certain way, this is already reflected in the impact assessment.
304.	The Association of the Luxembourg Fund Industry (A	88.	Please see above. It is not reasonable possible to provide a specific amount of the increase.	noted
305.	The Depository and Trustee Association	88.	In theory costs ought to be similar. EIOPA has proposed that in any instances where a depository is not required, the same level of safety should be provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.	Noted.

306.	UK Association of Pension Lawyers	88.	<p>CfA 21 (Custodian / depository): What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depository is not appointed?</p> <p>See our responses to 83 and 84 above.</p>	noted
307.	Universities Superannuation Scheme (USS),	88.	<p>What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depository is not appointed?</p>	
308.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	88.	<p>We refer to our answer to question 87. Implementation of these requirements for IORPs themselves are not expected to lead to high costs as IORPs in general will have many measures to that extent in place.</p>	Noted.
309.	Whitbread Group PLC	88.	<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.
310.	Zusatzversorgungskasse des Baugewerbes AG	88.	<p>We refer to our answer on question 83.</p>	noted
311.	Towers Watson	88.	<p>89. What do stakeholders anticipate in terms of cost and other consequences of the implementation of the general requirements that should be verified in case a depository is not appointed?</p> <p>No specific comment.</p>	noted

