	Comments on EIOPA-CP-11/006 **Response to Call for Advice on the review of Directive 2003/41/EC: second consultation**	**Deadline** **02.01.2012** **18:00 CET**
Company name:	**Predica** 50-56 rue de la Procession 75015 – PARIS France	
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Comments on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation		Deadline 02.01.2012 18:00 CET
Question	**Comment**	
General comment	Predica is a major life insurance company in France, subsidiary of Crédit Agricole Assurances, the Crédit Agricole holding company for insurance: Predica is the second life insurer in France in terms of premiums and mathematical provisions. Predica considers that regulation should ensure the same consumers protection in Europe and a fair competition among companies. That is the reason why Predica appreciates the consultation on the revision of the IORP directive, considering that occupational pension providers should have the same regulatory frame, without any distortion linked to their legal form or to their registration country. The products offered by different occupational pension providers such as pension funds or long-term life insurance companies are similar but the regulatory environment in which they operate is quite different: this issue is especially accurate in case of cross border activities either operated through right of establishment or freedom to provide services. This could allow unfair competition, and encourage business transfers to countries according to their regulation. In our view, the first level of consumers' protection is to ensure the solvency of the occupational pension providers : that is why we suggest that the Solvency II approach (in terms of solvency requirements and internal control) could be taken as a general starting point, even if adjustments (applied to IORP's regulation or to Solvency II) may be necessary so that the same risks are supervised with the same rules. These considerations have prevailed in answering this consultation which was established in connection with Fédération Française des Sociétés d'Assurance (FFSA) and Groupement Français des Bancassureurs (French Bank-Insurers Association - FBIA).	
1.	Predica wants to point out that the Directive should apply to any IORP providing occupational pension schemes. Any institution that offers products for occupational retirement provisions should be regulated	

	not on its legal form, but rather according to product risk profile. The protection of members/beneficiaries should not depend on the legal form. Regarding retirement schemes, we cannot assume that pension funds and occupational retirement provision run by insurance companies have nothing in common. There is a concrete and direct competition between these two pension benefits providing systems, competition that will be more accurate as the cross-border activity will develop. Level playing field between stakeholders therefore implies a consistent prudential approach that might be undermined by the upcoming introduction of Solvency II. Indeed, as pointed out by the EIOPA, institutions that are regulated under Article 4 of the Directive *2003/41/CE* will fall under Directive 2009/138/EC. According to Article 4, Member States are not allowed to apply Article 17 of the regulatory own funds. Accordingly, Article 4 IORPs activities that, as of today, fall under the Directive 2002/83/EC will be repealed upon the entry into force of Directive 2009/183/EC. Predica asks the Commission to examine this issue as suggested by EIOPA. A transitional solution could be provided by the adoption of the Amendment No. 463 of the Omnibus II Directive Predica is fully supportive of a Quantitative Impact study (QIS) and strongly asks for an extension of the impact assessment to French life insurance products. The future directive should indeed reinforce occupational pension internal market across Europe and French life insurance is a huge retirement market within Europe. The study should address the following questions: fair competition among stakeholders and regulatory arbitrage avoidance.	
2.	Not only occupational pension institutions but also any pension scheme that operates on a funded basis	

	should be treated the same way. It would ensure that the rule "same risk, same capital" is respected. To ensure a real level playing field between stakeholders, Solvency II directive should be amended to fit to the future IORP's regime.	
3.	If we must answer between option 1 and 3, option 3 should apply whether they are regulated or not.	
4.		
5.	Yes and in any case, the possibility of any regulatory arbitrage should be avoided.	
6.		
7.		
8.	Predica believes that ring fencing should be avoided as much as possible as it could lead to less risk spreading. However in particular cases and to safeguard the interests of scheme members and to ensure compliance with Host Member State rules in case of cross border activity, one ring fenced fund for all cross border activities could be sought.	
9.	We support the introduction of privilege rules. Similar privilege rules are applied in article 275 and 276 of the Solvency II Framework Directive. Moreover, in Article 275(1)(b)(i) claims by employees arising from employment contracts and employment relationships have the absolute priority. These articles should be implemented in the revised IORP Directive.	

10.	Predica fully supports option 2 which includes an article in the revised Directive describing the scope of prudential regulation as assigned in the home member state. Predica agrees that assigning the mentioned list of prudential domains to the home member state will avoid regulatory arbitrage because of the 'social and labour law in the host member state' and would strengthen protection for cross-border members. It should be made clear that the relationship between the employer and the employee is subject to the social and labour law, whereas prudential regulation in this context should regulate IORPs.	
11.		
12.	Predica considers that the Holistic Balance Sheet could be a good tool for the assessment of the overall financial statement of the IORP. It would be seen as a prudential supervisory solvency assessment tool. In Predica opinion, the Holistic Balance Sheet goes in the direction of greater transparency and disclosure, and would make comparable all the institutions together. This approach would acknowledge the existing variety of occupational pension systems and yet would capture all these systems into a single balance sheet. In a competitive environment, the beneficiaries could then make their choice knowing precisely who bears the risk. The protection of beneficiaries should be strengthened by disclosure requirements under Pillar III of the future IORP directive. HBS will only be relevant if based on a fully harmonised risk's measurements. For instance, there must be consistency between interest rates, pension protection scheme and insurance Guarantee Scheme... The HBS should be made public.	

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13.	Predica agrees that assets of IORPs should be valued on a market-consistent basis and that article 75(1)(a) should be copied directly in the revised IORP Directive.	
14.	Predica considers the evaluation of liabilities should be carried out on a market consistent basis. The reference to transfer value, as developed in the Solvency II Framework should apply to IORPs. Insurance liabilities are very rarely transferred and still transfer value applies in the Solvency II regime. The existence of a deep and liquid market for IORP's liabilities is not a necessary condition for the application of the concept of transfer value. The absence of such a market does not invalidate the application of the principle. In a fair, transparent and members protective objective, same rules should apply to IORPs. Applying the same principles would contribute to a level playing field. The evaluation of liabilities based on market consistent approach would give a careful and objective view of future cash flows. Consistency with the method of valuation of assets must be retained. The liability cash flows that cannot be replicated in a risk-free way using "deep and liquidly traded financial instruments" should be included in a risk margin to cover the cost of capital of those liabilities.	
15.	Predica agrees that the own credit standing of IORPs should not be taken into account when valuing liabilities. As such, the proposal of EIOPA with reference to article 75 should be included in the revised IORP Directive.	

16.	Predica agrees with EIOPA's proposal in option 2, to include a recital – consistent with recital 46 of the Solvency II Directive - in the IORP Directive mentioning that supervisory valuation standards should, to the appropriate extent, be compatible with accounting standards. This can, as EIOPA indicates, ensure that rules relating to accounting standards do not inappropriately impact on solvency rules.	
17.	Predica agrees with EIOPA's view to adopt Articles 76(1) and 76(5) with the appropriate amendments into the revised IORP Directive. Consistent with Predica preference for option 2 in question 14, Predica has a preference for option 2 requiring IORPs to calculate their technical provisions on a market consistent basis. As such, Predica agrees to include Article 76(3) in the revised Directive without amendments.	
18.	Predica supports option 2, to include a risk margin in the technical provisions, calculated according to Solvency II, Article 77(4). This is consistent with Solvency II-type transfer value approach. As EIOPA indicates, this measure will allow for a better comparability of technical provisions between IORPs and between IORPs and insurance undertakings and as a result increase harmonization.	
19.	Predica is supportive of amending article 77(2) of the Solvency II Directive as proposed by EIOPA. However, Predica invites EIOPA to clarify the possible cases "where there is no direct link between the contributions paid to the IORP and the pension rights accrued in a certain period".	

	In all cases the same principle should apply for retirement schemes provided by the insurers	
20.	Predica fully agrees with EIOPA that the best estimate of IORPs should be calculated gross without deduction of the amount recoverable from reinsurance contracts and special purpose vehicles. As such, no amendment should be made to article 77(2) subparagraph for of the Solvency II Framework Directive when including it into the revised IORP Directive. In all cases the same principle should apply for retirement schemes provided by the insurers	
21.	As pointed out by the Commission in its Call for advice, the lessons learned from the adoption of Solvency II especially regarding long term guarantees should be taken into account. Many of the challenges are very similar for insurance and IORPs. As a result Predica militates for an approach consisting in solving these problems and introducing appropriate solutions in both IORP and Solvency II directives. In any case, prudential rules and principles should be the same among Member States without leaving any option to each MS. Predica favours option 2. Option 2 will lead to more consistency between different IORPs in different countries. Predica suggests excluding option 3 since it appears too complex and burdensome for IORPs to deal with. In addition, this option would certainly lead to differences in interpretation and generate many discussions to come. Besides, option 3 is not in line with what the Commission wishes on the common	

	level of security (cf. 8.3.1). The high volatility of results when dealing with a market consistent valuation could be absorbed using lengthy recovery periods.	
22.	Predica agrees that expenses incurred by the IORP in servicing accrued pension rights should be taken into account in technical provisions as introduced by article 78 of solvency II. This will lead to adequate technical provisions. However, clarification is needed on the scope of contracts in which the costs related to future accruals should not be considered. In all cases the same principle should apply for retirement schemes provided by the insurers	
23.	Predica favours option 3. According to Predica, the technical provisions should present an overall view of all benefits to be expected. Predica agrees that discretionary benefits should be included in the best estimate of technical provisions. Predica is not in favour of including the option of the Member State to treat discretionary benefits as surplus fund in a consistent approach with Solvency II regime. In all cases the same principle should apply for retirement schemes provided by the insurers.	

24.	Predica fully agrees with EIOPA's view of introducing Article 79 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive. In all cases the same principle should apply for retirement schemes provided by the insurers.	
25.	Predica agrees with EIOPA's view of introducing Article 80 of the Solvency II Directive.	
26.	Predica believes that an introduction of Article 81 of Solvency II in the revised IORP Directive with minor amendments in order to address IORP specificities is the most appropriate. The use of reinsurance contracts is widely spread e.g. to cover against death benefits. Predica supports the EIOPA proposal regarding the expected losses due to default of the counterparty. In all cases the same principle should apply for retirement schemes provided by the insurers.	
27.	Predica fully agrees with EIOPA's view of introducing Article 82 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive. In all cases the same principle should apply for retirement schemes provided by the insurers.	

28.	Predica agrees that introducing Article 83 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive is necessary. There no reason why this article should not be applicable to IORPs. In all cases the same principle should apply for retirement schemes provided by the insurers.	
29.	Predica fully agrees with EIOPA's view of introducing Article 84 of the Solvency II Directive including the amendments as proposed by EIOPA in its Advice in the revised IORP Directive to demonstrate to the supervisor on request, the appropriateness of the level of their technical provisions and the applicability of the methods used. In all cases the same principle should apply for retirement schemes provided by the insurers.	
30.	As EIOPA correctly indicates, it is important that supervisors are able to ensure that IORPs set an appropriate level of technical provisions. As such, Predica fully agrees that Article 85 of the Solvency II Framework Directive should be included in the revised IORP Directive without the need for specific amendments. In all cases the same principle should apply for retirement schemes provided by the insurers.	

31.	It is necessary to maintain a level playing field with providers of similar risks and to ensure greater and consistent members/beneficiaries protection. Predica agrees that the new IORP Directive should allow for the Commission to adopt level 2 implementing measures regarding the calculation of technical provisions as introduced by Article 86 of the Solvency II Framework Directive.	
32.	As the aim should be to facilitate cross border activities and, as addressed by the Commission, to attain a level of harmonization where EU legislation does not need additional requirements at national level (paragraph 7.1 of the CfA), article 15(5) is no longer required otherwise the HBS would be questioned in the development of cross border activity.	
33.	Predica does not support treating the sponsor support as an asset but suggests treating sponsor support and sponsor covenant as ancillary own funds. Sponsor support should not be seen as reinsurance since the sponsor is out of the scope of IORP directive whereas reinsurer is itself regulated under Solvency II type regime. Predica believes that the treatment of the sponsor covenant as ancillary own funds is the best approach as the availability of cover has to be proven to the authorities. Articles 89 and following of the Solvency II Directive Framework provide a definition of ancillary own funds that perfectly match with sponsor covenants. The current EIOPA proposal seems dangerous in that it tends to value an asset (without any compensation on the liability side in the sponsor accounting statement), and lower the SCR.	

	An IORP, even under funded, would easily meet its capital requirements and would even be encouraged to do so. If sponsor covenant were to be considered as an asset, assessment should be similar to reinsurance (cf. article 81 of the Solvency II Directive). Default risk should be taken into account.	
34.	In general, Predica agrees that the articles 87-99 of the Solvency II Framework Directive on own funds should be applied to IORPs. A tiering system with quantitative limits could ensure an overall good level of protection for IORPs.	
35.	Predica agrees with EIOPA that subordinated loans from employers to IORPs should be allowed in the revised IORP Directive.	
36.	Predica favours a market maximal harmonisation approach as this will lead to equal member/beneficiary protection, independent of the Member State, the security mechanisms or the pension provider. This would also lead to increased comparability and consistency across the different Member States. Predica does not share EIOPA analysis regarding the difference existing in the adjustment mechanisms between insurers and IORP. When an IORP is underfunded, the scheme relies first on the sponsor covenant before ex-post benefit adjustments mechanisms. The adjustment mechanism is very similar to the raise of new capital. In both cases, for insurers and IORPs, to reduce benefits is a last resort measure that should be avoided by implementing an adequate prudential regime.	

	Quantitative requirements are meant to guarantee a level of security to pension beneficiaries and this should be the main concern regarding pension benefits provided by insurers or IORPs. The different security mechanisms should be taken into account in the calculation of the Solvency Capital Requirements. Mechanisms to reduce benefits could easily be included in this calculation. However, the situation of the company should be made public and strong disclaimers will be needed in the information to members and beneficiaries to inform people of the likelihood that benefits could be reduced in the near future. In case no harmonization was to be found, it would be a problem regarding cross border activity. As such transparency regarding the final confidence level can be obtained while not touching upon the VaR of 99.5%.	
37.	As mentioned in the general comments, the current calibration of Solvency II is not suitable for long-term commitments, particularly in retirement. The adoption of a time horizon longer than a one year horizon would reduce the level of SCR but would also - if linked to the recovery plan - reduce the excessive volatility that Solvency II could produce when dealing with pension schemes. In all cases the same principle should apply for retirement schemes provided by the insurers.	
38.	The form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles.	

	Predica believes that the process for insurers and IORPs should be similar. This would lead to increased consumer transparency and confidence. The risk-based approach of calculating the required solvency capital used for insurance companies as stated in Articles 100 to 127 and 304 can also be made applicable to IORPs. The promises made to members and beneficiaries by IORPs and/or employers are comparable to those made by life insurance companies to policy holders.	
39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, Predica supports an annual calculation. A lower frequency of assessment would imply a slower identification of a possible problem and also a slower response.	
40.	Predica believes that the process for insurers and IORPs should be similar. As such the Minimum Capital Requirement should also be applied to IORPs. Imposing a MCR would allow the supervisor to step in progressively and adequately regarding the potential breach respectively of the SCR and MCR. In all cases the same principle should apply for retirement schemes provided by the insurers.	
41.	In general, protection schemes should not be taken into account as taking them into account could lead to "moral hazard" problems. The inclusion of protection schemes was not taken on board in Solvency II.	

	Similar arguments apply for pension protection schemes. In all cases the same principle should apply for retirement schemes provided by the insurers.	
42.	Predica fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members. In all cases the same principle should apply for retirement schemes provided by the insurers.	
43.	Predica agrees with EIOPA that Article 136 and 141 of Solvency II measures are suitable for IORPs. In all cases the same principle should apply for retirement schemes provided by the insurers.	
44.	The general principles of the Articles 138 and 139 of the Solvency II Directive should apply to IORPs. However, the recovery period should be consistent with the time horizon (see Q33). It should also be made a distinction between recovery plans regarding SCR, MCR and technical provisions, these situations does not require the same response. In all cases the same principle should apply for retirement schemes provided by the insurers.	

45.	Predica agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive. In all cases the same principle should apply for retirement schemes provided by the insurers.	
46.	Predica strongly supports EIOPA's view that the content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive. In all cases the same principle should apply for retirement schemes provided by the insurers.	
47.	In general Predica believes that the prudent person principle and other investment requirements as in the Solvency II Framework Directive are sufficient. In this context – given that solvency II regulations should be the basis – we believe that the prudent person principle together with the freedom of investment principle, as introduced in the Solvency II Framework Directive, are sufficient to protect the consumers assets in pension funds. However, the combination of these two principles without limitations will only be adequate under the condition that the valuation of assets and calculation of the technical provisions follows a solvency II like approach. Riskiness of the assets should be taken into account in the capital requirement.	
48.	There should be no exception of the freedom of investment principle, as long as the prudent person	

	principle is retained.	
49.		
50.	Predica suggests taking the investment principles as described in the Articles 132 – 135 of the Solvency II Directive as a basis. These could be amended, where appropriate, with the specificities of IORPs. More detailed measures should be included in the level 2 implementing measures.	
51.	We agree with EIOPA that the current prohibition on borrowing should be retained including its current exception. However, as EIOPA correctly indicates, it should be made clear that subordinated loans are exempted from the prohibition of borrowing.	
52.	Predica strongly agrees that the main objectives of supervision, as stated in Article 27 of the Solvency II Framework Directive, should be applied to the reviewed IORP Directive. As EIOPA correctly indicates, it is important to clearly define the goals set by this Directive and implemented by the Supervisory Authorities as they will result in strengthening the protection of the members and beneficiaries. Regarding the measures to avoid pro-cyclical behaviour, Predica agrees with EIOPA that Article 28 of the Solvency II Directive, which obliges supervisors to consider the potential impact of their decisions on the stability of the financial systems and to take into account the potential pro-cyclical effects of their actions in case of extreme stress, should be included in the revised IORP Directive. In addition, Predica agrees that at least Pillar I and Pillar II dampeners of the Solvency II Directive should be included in the revised	

	Directive.	
53.	The Commission has correctly indicated in its call for advice that effective pension fund regulation should be based on supervision that is prospective and risk based, proportionate as well as transparent and accountable. Predica is fully supportive of applying the proposed articles of the Solvency II Framework Directive also to IORPs.	
54.	The aim of the revised Directive must be to increase harmonization of practice and therefore result in reporting in a common format that would be both useful and comparable across Member States. Predica strongly disagrees with EIOPA's view on the fact that the differences of IORPs across Europe are much higher than in the insurance sector. According to EIOPA this diversity would justify a less ambitious prudential regime for IORPs. Predica rejects this idea and as regarding France, high level harmonized prudential rules (Solvency II framework) have been adopted by very different entities such as private insurance companies, mutual and cooperative insurers and paritarian institutions.	
55.	Predica believes that Article 34(4) of the Solvency II Framework Directive should apply directly to IORPs.	
56.	Predica agrees on using article 36 as a starting point.	
57.	Predica believes that knowledge of the imposition of penalties should be public. This is consistent with a better transparency in the members/beneficiaries best interest.	

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58.	Predica agrees with EIOPA to include the articles 155(1), 155(4) and 155(8) of the Solvency II Framework Directive in the revised IORP Directive. In the context of article 155(1) this will allow the Host supervisor to immediately and directly approach the IORP to request stopping a breach to its legislation. This could shorten the time needed to remedy the irregular situation. Finally, articles 155(4) and 155(8) are necessary to allow the host supervisor the additional powers to conduct its supervision and interfere directly in case of emergency.	
59.	Predica agrees with EIOPA that a supervisory review process needs to be in place to check the compliance of IORPs with the regulations of the revised IORP Directive. Therefore, Predica believes that article 36 of the Solvency II Framework Directive should apply to IORPs as it clarifies what supervision is about. Predica can agree on the suggestion made by EIOPA to include the reference to security mechanisms in article 36.	
60.	According to Article 37 of the Solvency II Directive, the possibility for capital add-ons shall exist only in two cases: “risk-profile add-ons” (i.e. if the risk profile deviates significantly from the assumptions underlying the Solvency Capital Requirement) and “governance add-ons” (i.e. the supervisory authority concludes that the system of governance of an insurance or reinsurance undertaking deviates significantly from the standards). This restriction should also be retained for IORPs. In addition, similar requirements should also be applied to the level of funding of technical provisions according to Article 85 (increase of technical provisions) of the Solvency II Directive. This inclusion implies those solvencies II like (risk based) quantitative requirements are imposed to IORPs. For DC schemes where members bear all the risks, Predica suggests having a treatment comparable to the one for unit-linked life insurance products.	

	In all cases the same principle should apply for retirement schemes provided by the insurers.	
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 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.	
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	
63.	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. 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. As a general approach, pillar 2 and 3 principles should be used at least as a basis. 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.	
64.	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. 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. Furthermore, consistent with solvency principles; Predica believes that written policies should be subject to prior approval by the administrative management or supervisory body.	
65.	Predica strongly suggests including the full solvency II framework Directive article 42 in the revised IORP Directive.	
66.	Yes	
67.	The powers should be substantially the same as the powers used under the Solvency II regime.	

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".	
69.	Predica 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. 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.	
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.	

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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.	
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. 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	
73.	The fact that the compliance function should include all regulatory legislation relative to the operations of the IORP would be a real improvement.	
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	
75.	Internal audit function should apply the same way for insurers and IORPs.	

76.	Predica 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.	
77.	Predica agrees that Solvency II is a correct starting point for the actuarial function.	
78.	Independence is necessary for the actuarial function. Furthermore, Predica considers reporting lines, segregation of duties, avoiding conflict of interest as necessary criteria.	
79.	Predica agrees on the analysis and prefers option 2.	
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.	
81.	Predica agrees on EIOPA's with the standardisation of outsourcing process in order to enlarge the cross border activity.	
82.	The minimum outsourcing contract elements should at least include: - requirements to safeguard continuity,	

	- obligation to inform the IORP in case of problems, - necessary powers for the IORP to issue instructions and obtain information, - requirements on exit provisions, - minimum data protection requirements - explicit or implicit costs ceilings. - confidentiality clause, - information duty and cooperation with auditor and Competent authority,	
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90.	Predica suggests using article 35 of the Solvency II Framework Directive also for IORPs. Moreover, the provisions in article 35 should apply without amendments as they generally make sense and apply to all types of pension schemes, e.g. to DB; DC and hybrid schemes.	

91.	Predica is supportive of greater information to members / beneficiaries to capture the relevant features of IORPs to enable members / beneficiaries to understand their pension product and the level of protection they have. Predica is of the opinion that even though there are some articles on information requirements already in the IORP Directive, they are far from complete.	
92.	Predica would support the introduction of a unique format for DC schemes, which would provide identical information for all schemes and make them comparable. However the KIID for UCITS funds does not provide an appropriate starting point for information members and beneficiaries of IORPs.	
93.	Predica considers the synthetic risk indicator used by UCITS-Funds as inappropriate for the following reasons: • Too many classes • Unstable classification • Wrong risk measure (Volatility -> return above average is considered as a risk)	

	• No consumer perspective	
94.	In this regard, Predica would suggest that IORPs at least provide their members with the information requirements of article 185(5) of the solvency II Framework directive. This information should be consistent between the different providers and easily understandable by the scheme members.	
95.	Public disclosure requirements are important to enhance market discipline, if appropriate, and complement requirements under Pillars I and II. In the Solvency II framework the rules on public disclosure are addressed in Articles 51-56. These provisions should apply to IORPs without amendments.	
96.	Predica can agree on the impact assessment.	