	Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation	Deadline 02.01.2012 18:00 CET
Company name:	Charles CRONIN – Member of the Occupational Pensions Stakeholder Group	31st December 2011
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. *Please indicate if your comments on this CP should be treated as confidential, by deleting the word* ***Public*** *in the column to the left and by inserting the word* ***Confidential***.	Public
	The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006). **Please follow the instructions for filling in the template:** ⇨ Do **not** change the numbering in column “Question”. ⇨ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty. ⇨ There are 96 questions for respondents. Please restrict responses in the row “General comment” only to material which is not covered by these 96 questions. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. **Please send the completed template to *CP-006@eiopa.europa.eu*, in MSWord Format, (our IT tool does not allow processing of any other formats).**	
Question	**Comment**	
General comment	I should like to thank EIOPA for the opportunity to submit my comment as a contribution to the drafting of their response to the European Commission’s Call for Advice (CfA) on the review of	

Directive 2003/41/EC (The IORP Directive).

The European Commission (EC) has shown a strong interest in using the Solvency II Directive, for the insurance sector, as the framework for the revision of the IORP Directive. While as there is some overlap between the insurance and occupational pensions businesses, in substance this is only at one end of the range of activities conducted by IORPs. The objective of the review of the insurance legislation was financial stability and policyholder protection. This was achieved through the application of capital requirements and risk management standards. The review of the occupational pensions business should focus on the parallel objective of protecting scheme members and beneficiaries, but also promoting the sustainability and development of these organisations. Hence the current IORP Directive is the best starting point for revision, rather than the Solvency II Directive. There are certainly areas from Solvency II where the text could comfortably fit into the revised IORP Directive, with the aim of promoting harmonisation, and reducing the opportunity for adverse regulatory arbitrage.

There are a number of significant features that differentiate occupational pension schemes from insurance companies that support the above opinion. They are mostly not-for-profit organisations that perform a social function, they do not engage in leveraged finance and they have very long investment horizons. Hence the issues of excessive risk taking and leverage in pursuit of a short-term profit that characterised the financial institutions who contributed to the financial crisis are largely absent in occupational pension schemes. Therefore is it unnecessary, indeed it would be detrimental, to impose solvency capital requirements on these organisations for insolvency risks that they do not face. However there is one exception to this opinion and that is for schemes that guarantee benefits at their own risk.

The EC has also expressed an interest in integrating the Key Investor Information Document (KIID) from the UCITS IV Directive into the revised IORP Directive (CfA 23). Given the growth in defined contribution schemes, I see merit in expanding the scope of the KIID as a pre-enrolment document where members are investing at their own risk. I would discourage framing the KIID around the

whole scheme, but would focus it on the investment products that are offered within the scheme. This makes the document comparable with UCITS products and facilitates the integration of information for the benefit of the scheme member's whole portfolio.

An aspect that deserves serious consideration is that the occupational pension scheme is the only structure where the interests of contributors and the managers of the scheme are aligned. There is generally no conflict over the pursuit of a profit by the scheme at the expense of its members and beneficiaries. The IORP, with its bulk purchasing power and access to investment expertise, probably provides society's most cost effective wealth management vehicle for people on low and middle incomes. In most cases it probably provides for the vast majority of their needs. Therefore regulation should be directed towards promoting these organisations and bolstering their contribution to society by making sure they conduct their business with a high level of professionalism. They should have robust risk management and governance systems. They should be resourced by suitably qualified people and they should be transparent. Lastly while we hold the IORP management to act in the best interests of the members and beneficiaries, because of their unique position in society, we should hold them accountable to a higher standard. I suggest that the new Directive introduces the requirement that they act with loyalty to scheme members and beneficiaries. This is not unlike the obligations placed on trustees under English Trust law, where a trustee has a fiduciary obligation to a person who is vulnerable and places reliance and good faith on the actions of that trustee to look after his/her best interests. I believe this is entirely consistent with the growing circumstances of Europe, where its citizens are increasingly being made responsible for their retirement provision, but totally lack the knowledge and skills to exercise that function.

I strongly support the prudent man principle, but believe that its current description in Article 18(1)a of the IORP Directive could benefit from expansion. I believe that the preamble of the recently revised Regulation 28, of the South African Pension Funds Act 1956, would make a good replacement.

In rounding off the investment rules section (CfA 7), I am concerned that many IORPs themselves

are short of professional investment expertise. This can lead towards sub-optimal investing activities, such as short termism, which does not match the long-term investment horizon of the scheme. They can become captured by the principal-agent conflicts of their outsourced providers. This commonly manifests itself as herding behaviour, supported on the premise that if your investment knowledge is limited then it is prudent to follow the crowd. Naturally this is not in the best interests of scheme members and beneficiaries and could pose a systemic risk. Progress to resolving this problem would be through the requirement of having at least one senior person within the IORP, loyal to the IORP, who has the professional investment knowledge and experience to effectively challenge the advice of outsourced service providers (CfA 20).

With regards to quantitative requirements (CfA 5 and 6), I cautiously support the introduction of a holistic balance sheet. To move it from being a concept to a functional reality it will require further development and a thorough impact assessment, to make sure that it is not detrimental to IORPs. As stated above, I see no need for solvency capital requirements, with the exception of self-guarantying IORPs. The burden of solvency capital will fall directly on the scheme participants without a corresponding benefit. Indeed solvency capital requirements could accelerate the closure of defined benefit schemes. One of the potential strengths of the holistic balance sheet, as a prudential instrument, is that it could be used to formalise smoothing mechanisms in the valuing of assets and liabilities, and thus promote counter-cyclical behaviour in a significant area of the financial markets.

Finally I should like to thank EIOPA for the opportunity to serve on the Occupational Pensions Stakeholder Group, which I have found a rewarding and stimulating experience. Please feel free to get in touch if you seek any further clarification to my response. I can be reached via email at charles@cronin.cc or by telephone on +44 (0)20 7323 5311

Yours sincerely,

	Charles Cronin, CFA	
1.	Yes, I agree with EIOPA's analysis of the options laid out in its draft advice.	
2.	No I cannot think of any other options. I would support greater clarification to establish what an Occupational Pension Scheme is. From a regulatory standpoint I believe it would be helpful to develop clear divisions in the interpretation of Pillar 1, 2 & 3 schemes.	
3.	At this stage I support Option 1, to leave the current scope of the Directive unchanged, subject to further clarification of what is an occupational scheme. There is an opportunity in the revision of the current Directive to produce a highly harmonised successor. However this goal becomes more distant if the scope of the Directive is increased. I support EIOPA's suggestion (para. 4.3.18) that the European Commission explores regulatory and supervisory regimes outside occupational pensions, and proposes legal initiatives where it feels the protection offered is inadequate.	
4.	I believe there is a border line issue concerning Group Personal Pension (GPP) plans on whether they are Pillar 2 or Pillar 3 schemes. These are Defined Contribution (DC) schemes, common to the UK, where the employer and the employee make contributions to a scheme managed by an external investment firm. The only two factors that differentiate a GPP from Personal Pension Plan are that (i) the employer contributes to the scheme and (ii) negotiates a discount on that firm's management charges. These discounts can disappear if the employee leaves the employment of the employer. In effect the employer acts as a wholesale distributor for the investment firm, which seems to be outside the spirit of employee expectations in a scheme covered by the IORP Directive.	
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.	I cautiously support the introduction of a Holistic Balance Sheet (HBS). There is merit in producing a high-level construct that lists and approximately values all the elements in the risk assessment of a pension fund. However my support is tempered by a serious concern that if the HBS follows	

	insurance company solvency parameters, it will have extremely adverse consequences on DB pension provision. Insurance company style solvency would substantially reduce the risk/return characteristics of IORPs, to cover against insolvency risks which they do not face. In order to fill the investment return deficit, both employers and employees would have to significantly increase their contributions to the scheme, in order to achieve the previous pension promise. Indeed insurance style solvency could needlessly close many Defined Benefit (DB) schemes. Hence I do not agree with the introduction of risk buffers, Minimum Capital Requirements (MCR) and Solvency Capital Ratios (SCR), except where the IORP provides its own guarantee. If on the other hand the objective of the HBS is to provide a prudential framework, which is fully sympathetic to the term structure of IORP liabilities then I am supportive of that goal. A key feature of the HBS for DB schemes will be smoothing features for both the calculation of assets and liabilities. My answers below set out suggested smoothing models for both assets and liabilities, while I recognise these are not consistent with IFRS 19 (mark to market valuation), I believe they are prudent given the characteristics of IORPs. If the HBS is designed for benefit of the members, then reducing volatility in asset values and smoothing of liabilities for long lived schemes will reduce member, sponsor and scheme manager angst. Given the mean reverting nature of markets this approach would not create a mirage of solvency. There is a high chance that it would contribute to better outcomes for all stakeholders, as the scheme would be managed to reflect the term structure of its liabilities, rather than on today's market values. Whilst market values are important, the efficient market hypothesis (discussed below) is not suitable as a yardstick for pension funds, with long investment horizons. As regards current Articles 17(1) and 17(3) concerning 'regulatory own funds', I support EIOPA's option 2, to review the Directive in a way that is flexible enough to allow for all kinds of IORPs through the HBS approach, subject to the concerns raised above.	
13.	For the purposes of a HBS, I do not believe that IORP assets should be valued at market price, but do believe that a market consistent basis is achieved by applying a model if only for DB and hybrid schemes. I suggest the use of Discounted Income Value method that was in general use in the UK and Ireland before the introduction of IFRS 19. The desire to value scheme assets at market view is perfectly proper if markets are efficient. However this is not the case, the Efficient Market Hypothesis has been challenged on many	

occasions, so many as to question its utility for valuing pension assets. The volatile movements that have characterised the equity markets over the last 10 years have greatly exceeded changes in the underlying economic value of the companies they describe. The downward trend in government bond yields to historic lows is a product of extraordinary intervention by governments to create economic stimulus. It is not an accurate reflection of the supply and demand for government debt.

Equity market volatility and government intervention in the debt markets has had an adverse effect on DB pension schemes. Equity market volatility has made equities appear too risky for scheme sponsors and managers. With the result that both have sought to reduce volatility through a reduction in equity investments, which sadly are one of the few asset classes that are capable of generating long term real returns. The reduction in equities has led to the purchase of bonds trading on extraordinary low yields, which in the long run do not provide long term real returns. The shortage of long term government paper, low yields and an aversion to equities has forced DB schemes to acquire synthetic instruments to cover specific risks: inflation, interest rates and longevity. These instruments carry an unknown degree of counterparty risk and could contribute to systemic risk.

The Discounted Income Value method came to my attention on reading a paper published by the European Actuarial Consultative Group titled "Actuarial Methods and Assumptions used in the valuation of retirement benefits in the EU and other European countries" edited by David Collinson, published in 2001. The interesting feature about this paper is that it discusses the methods and assumptions used pre and post the introduction of IFRS 19. Prior to the introduction of IFRS 19 pension fund assets in the UK and Ireland were commonly measured under the Discounted Income Value method, where:

> "The value placed on the assets is the present value of the expected future income and capital proceeds from the assets held. This might be done **individually** for the assets held or a **model portfolio** may be assumed with a market value equal to the market value of the actual assets held. For investments with variable proceeds (e.g. equities, property) this will involve assumptions as to the future development of the dividend/rental income", see Appendix 2 para. 4.1.3.

Given that pension fund actuaries use assumptions for all the factors that value a scheme's liabilities

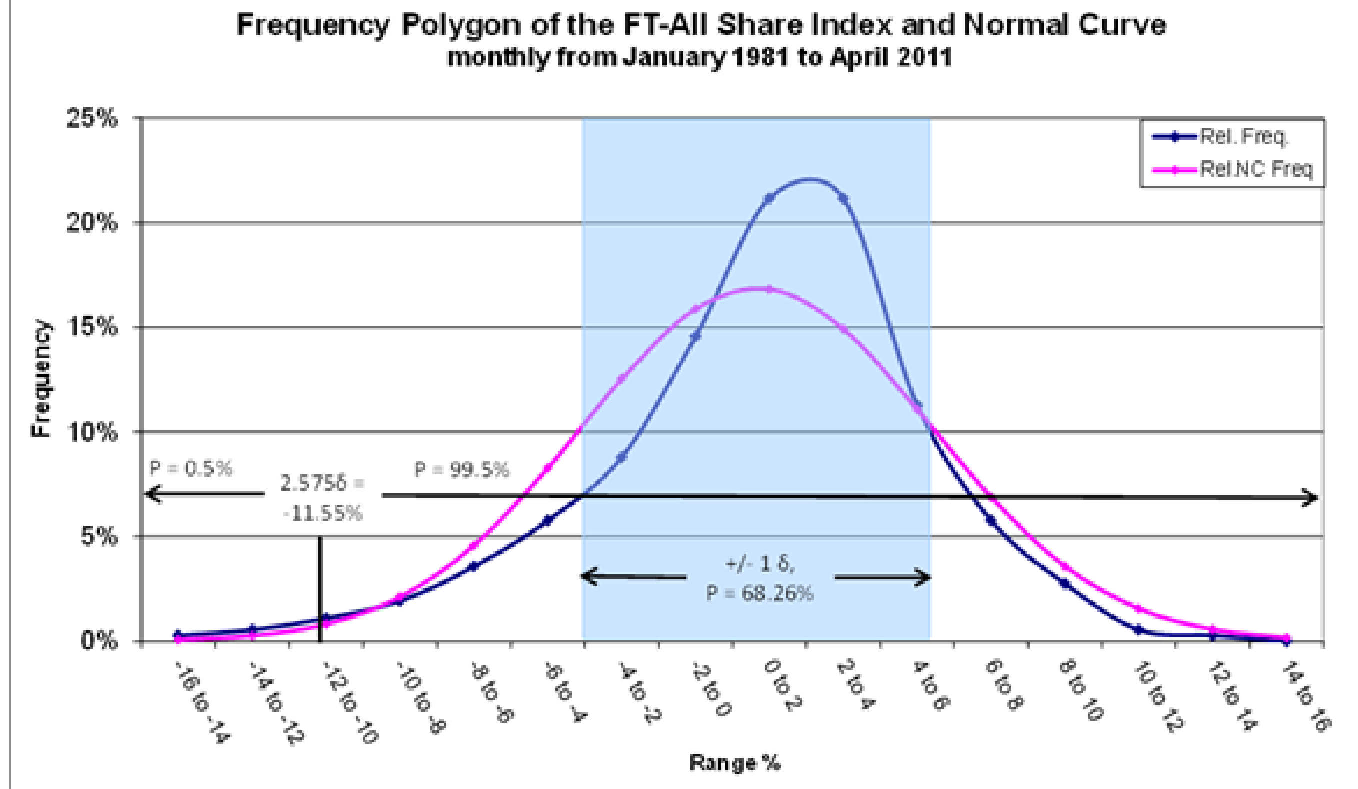
	and the path of asset growth to fund those liabilities, it seems that one gains false comfort from building ones calculations on the market value of a portfolio, given the failings of the efficient market hypothesis. The attractions of valuing assets at market value are obvious when market value exceeds intrinsic value. However when security values exceed their fundamental value, there is a risk that their value will fall toward fundamental value and below. The existence of overvaluation should send a signal to scheme managers to adjust the portfolio to lock in gains and protect against adverse price movements. Currently this transmission mechanism is missing to detriment of scheme member interests (forgone investment return). If such a transmission mechanism was in place, it would exert a counter cyclical force on the price development of the markets. Though not strictly related to the revision of the IORP Directive, I do believe there is a link between the change in valuing pension assets from the Discounted Value Income method to market value and rising public concern on short termism by institutional investors.	
14.	I do not agree that the liabilities of a scheme should be valued at their transfer value, for reasons related to my answer in question 13. That is the current yields on debt instruments are very much distorted by government policy. Further the duration of government yields does not generally match the duration of pension fund liabilities, except for mature schemes. Therefore my preference is to support option 1, to leave the IORP unchanged and not value liabilities at transfer value, with details developed in other Articles of the revised Directive, please note my answer to question 21 as a suggested methodology.	
15.	I agree with EIOPA's advice to use the Solvency II requirement, stating that no adjustment should be made to take account of the own credit standing of the IORP when valuing liabilities.	
16.	I would not support the insertion of text similar to recital 46 from Solvency II to promote consistency between the rules to establish prudential balance sheets of IORPs and the rules for general accounting purposes. I am concerned that certain aspects of IFRS 19 methodology are inappropriate for the calculation of IORP assets and liabilities. Given the long term structure of IORP liabilities and the remarks above concerning market efficiency and bond yields, I believe it would not be in the interests of scheme members to absorb the IFRS accounting conventions into the prudential standards.	
17.	I support the proposals to the adopt Articles 76(1), (4) and (5) relating to general technical provisions from Solvency II into the new IORP noting the amendments to replace the word "insurance, reinsurance and policy holders", with "IORPs and members" in part 1, the removal of the	

|---|---|---|
	word "prudent" from part 4, and appropriate amendments in part 5 following correct references relevant Articles elsewhere. As regards the inclusion of Article 76(3), I support EIOPA's option 1, amending the Article to read "The calculation of technical provisions shall make use of information provided by the financial markets and generally available data on underwriting risks".	
18.	I believe that the introduction of a risk margin would be a positive enhancement to the calculation of IORP technical provisions. The risk margin could be the sum of single risks, such as an adverse investment return, certain conditional liabilities (see answer to question 23) and risk of sponsor default (see answer to question 33). Of EIOPA's three options on the existence and method for calculating a risk margin I would support option 1. Extending the thoughts offered in my answer to question 21 that calls for a smoothed discount factor in the valuing of liabilities. If the best estimate of the discount factor was based on an average yield described below, the risk margin could be developed by using an adverse standard deviation factor on that average. The overall effect would be to produce a larger risk margin for schemes with long life expectancies, which declines as the average life expectancy decline as certainty increases. Other material issues need to be considered, (1) There is a shortage of cash debt instruments that can replicate the duration of cash flows for many schemes, hence the use of synthetic instruments by these schemes which carry counterparty risk. (2) Using the 'current' risk free rate is not compatible with scheme investment strategies and not practical given the current interest environment.	
19.	I agree with EIOPA that future accruals should not be taken into consideration for IORP technical provisions.	
20.	Yes, I agree with EIOPA that the best estimate of liabilities should be calculated gross without deduction for amounts recoverable from reinsurance contracts and special purpose vehicles. These can be accounted for under financial contingent assets on the HBS.	
21.	I do not support either option offered by EIOPA, option 'A' is open to upward bias and option 'B' does not adequately reflect the nature of IORP liabilities, nor does it address the current distortions in the government bond markets. I do support the consistent measurement of liabilities for IORPs across Europe but would suggest the introduction of a market consistent smoothing methodology. Whilst the delineation of the details would be an exercise for the Level 2 Directive, hypothetically smoothing of the discount rate on liabilities could take the form of an average of 10 year high quality corporate bond yields. The length of the average would be determined by the remaining life	

	expectancy of the scheme Members & Beneficiaries (M & B), less 10 years to reflect the approximate duration of the underlying discounting factor. Naturally where schemes are closed or coming to the end of their lives, the remaining life expectancy declines. This shortens the average which trends to market value as the remaining life expectancy falls to 10 years. Hence this dynamic approach to the discount rate provides smoothing around a long term expected return on one hand, while progressively recognising market values on the other.	
22.	Yes, I agree that expenses incurred by the IORP in servicing the accrued pension right should be taken into account in technical provisions as introduced by Article 78 of Solvency II.	
23.	As concerns the prudential measurement of unconditional, conditional and discretionary benefits in the HBS, I support EIOPA's option 3; including discretionary benefits in technical provisions with the exception of surplus funds. I would suggest one final refinement with regards conditional benefits. The probability weighted expectation of payment of conditional benefits could be placed in the best estimate of liabilities, in the HBS.	
24.	I agree with EIOPA's advice that Article 79 of Solvency II should be included in the new IORP directive, amended to take account of the inclusion of financial guarantees and contractual options in the calculation of technical provisions.	
25.	In the desire to promote cross border provision of IORPs then option 1 is a prudential necessity. The inclusion of text from Article 80, requiring the separation of risk groups. However this will impose an additional cost on cross border IORPs and is perhaps highlight one of the problems of cross border IORPs, they produce additional complications, which limit their utility.	
26.		
27.	Yes, I agree that it would be useful to introduce Article 82 from the Solvency Directive into the new IORP Directive. Article 82 recognises the use of approximations in the calculation of best estimates, which is consistent with the current Article 15. Substituting Article 15 with Article 82 would promote consistency across the Insurance and IORP Directives.	
28.	Yes, I agree that it would be appropriate to introduce Article 83 from the Solvency Directive into the new IORP Directive. The Article recognises the value of comparing assumptions with experience in the calculation of technical provisions. Insertion of the Article would be an act of common sense.	
29.	Yes, I agree that it would be appropriate to introduce Article 84 from the Solvency Directive into the new IORP Directive. The Article would require the IORP to demonstrate to its Supervisor the	

	appropriateness of its technical provisions and the applicability of the methods used. This is a sensible prudential requirement.	
30.	Yes, I support the introduction of Article 85 from the Solvency Directive into the new IORP Directive. The Article would empower supervisors to compel IORPs to raise their technical provisions to correspond with supervisory requirements stated elsewhere in the Directive.	
31.	Given my concern with the adverse effects of accounting standards on the provision of DB pension schemes, I could not support the Commission in developing implementing measures at level 2 regarding the calculation of technical provisions, if they relate to the valuing of assets at market value and an unsmoothed market discount rate for liabilities.	
32.	I agree with EIOPA's advice that Member States should not be permitted to set additional rules in relation to the calculation of technical provisions. I support the approach for greater harmonisation and hence the deletion of the current IORP Article 15(5).	
33.	I believe EIOPA's analysis of sponsor support is comprehensive. I support Option 1, to value all forms of sponsor support as an asset on the balance sheet of the IORP, but deleting the words "and impacting on the calculation of the solvency capital requirements where these are required". Providing that the claim on the sponsor's support is legally enforceable and that risk allowance is included in the value of those sponsor derived assets to the IORP in proportion to the risk of the sponsor's default. Deletion of the last half of the sentence reflects my opposition to imposing solvency capital requirements on IORPs, except where they are responsible (and not a sponsor) for guarantying benefits.	
34.	I support EIOPA's recommendation to change the IORP Directive by applying Articles 87-99 from the Solvency II Directive, with the minimum necessary wording amendments.	
35.		
36.	I do not believe it will be useful to introduce a uniform security level for IORPs across Europe. Complex financial mathematics as predictor of outcomes hopefully reached its peak in 2007 with the structured loan crisis. Allegedly what occurred was a 6 sigma event, totally beyond bounds of reasonable probability. The principle behind this is that the volatility of securities corresponds to the shape of a 'normal distribution curve'; adoption of this assumption suggests that the risk of a portfolio is manageable to a finite degree of confidence, such as 99.5%. However my studies and experience challenge this assumption and suggest that comfort drawn from VaR specified levels of confidence is misplaced. While the mathematics behind the normal curve function when rolling dice	

	or drawing cards, there is something innately different in the trading behaviour of securities, be they cash instruments, bonds, equities or alternative assets. Though security trading behaviour generally follows the normal curve formula, the match is far less than perfect, probably on account of human intervention (psychology) when it comes to pricing assets. The chart below illustrates the difference between predication and observation. In this study I collected the monthly percentage returns of the FT All Share Index from January 1981 to April 2011. The sample size, with 364 items of data, is large and hence distribution of observations and their difference from the predicted outcome is significant. The **blue** curve contains the observations and the **pink** curve the predications under normal curve analysis. The results would not surprise statisticians, they have observed for many years that security distributions are negatively skewed (weighted to the right) and leptokurtic (more peaked than a normal curve). However it is rare for this data to be presented before non-statisticians.	



In the context of VaR at the 99.5% level of confidence, we are interested in the area under the left tail of the normal curve, an area with less than 0.5% probability. This point is 2.575 standard deviations (δ) below the mean return, or an event that exceeds a monthly fall of 11.55%. The probability of this event is less than 1 in 200 (0.5%); however there are 5 observations in 364 where this has happened (Oct 1987 -30.9%, Sep 1981 -18.4%, Sep 2008 -14.4%, Oct 2008 -12.9% and Sep 2002 -12.7%). Therefore observations exceed expectations 5 to 1, and account for 1.37% of

	the sample data. As can be appreciated, the reliability of VaR as a measure of risk is questionable. A further criticism is that conceptually it forces the user to focus on the threshold of loss. "Under normal market conditions, what is the worst case loss that can happen over a given time horizon, at a specified confidence level?" Risk managers and supervisors are probably more concerned about abnormal market conditions and the absolute loss that could occur. VaR is a popular form of risk measurement; the concept appears in Directive 2009/138/EC (Solvency II), which raises harmonisation issues for the revision of the IORP. Whilst I would not advocate for the disposal of VaR as a risk management tool, I believe there is now sufficient and extensive observed 'electronic' data in existence that would permit more confident risk modelling based on observation, rather than theoretical interpretation of observed data.	
37.	For the reasons stated above I would not support using a confidence level over any time frame. Given the nature of flows in and out of IORPs it is difficult to place a mathematical construct around so many variables. I would suggest that a better approach is for the IORP to annually answer two supervisory questions. i) How does it intend to fund its liabilities over the next ten years? ii) Of the remaining funds what expected return does it require to meet the remaining liabilities? The answer to the second question directs the supervisor to what is feasibly possible (through what combination of assets is this possible, the asset allocation to be provided by the IORP). Hence if the required return is 'significantly' more than the historically achieved return, say by ½ a standard deviation, then the fund could be described as underfunded. If a half standard deviation is the supervisory threshold (this could be an EU wide threshold) then this would initiate obligations on the IORP and its sponsor to put in place measures to return the fund to equilibrium status.	
38.	The imposition of a SCR would have a highly adverse effect on nearly all types of IORPs. This is a good illustration of why the starting point of the revision of the IORP Directive, should be the IORP Directive and not Solvency II. Though I support the harmonisation with Solvency II text where appropriate. A SCR is entirely appropriate for insurance companies, as these companies are for profit organisations, with shareholders and other creditors; they can become insolvent and dissolved at the request of their creditors. IORPs are not-for-profit and its creditors are the M & B, providing it does	

	not engage in issuing debt. It is quite possible to envisage a dismissal and replacement of an IORP board for mismanaging the scheme, but it is unlikely, given the complex nature of payments and receipts that the scheme M & B will act together to wind up the scheme. As paragraph 10.3.40 (last third) states, "… If an insurance company's assets are lower than its liabilities it is technically insolvent and the way to restore solvency is to raise new capital. If an IORP has assets lower than liabilities it is indeed underfunded, but underfunded does not mean insolvency when ex-post benefit adjustment mechanisms, based on solidarity, exist". Further as my answers to questions 36 and 37 state, I believe that the comfort of VaR as a security mechanism is misplaced. Secondly the complexities of flows in and out of an IORP, coupled with the presence or not of a sponsor, make a universal SCR very difficult to apply. In the end would the imposition of a SCR provide any value or give any comfort to scheme M & B? Given the uncertainty around the mathematics would it be a useful tool for supervisors? It suggests a more pragmatic approach to security and funded status is required for IORPs, possibly one based on the two suggested questions mentioned in my answer to question 37.	
39.	I do not believe that IORPs should be subject to SCRs for the reasons stated above. However I do believe that IORPs should undergo a thorough assessment of assets versus liabilities every three years. IORPs should monitor annually and plan using the tri-annual assumptions. However, as discussed above (my answer to question 13) valuing assets mark to market creates problems due to issues of market volatility. Hence the need for smoothing of asset values through the discounted income value method and mean reversion of bond yields in calculating liabilities. SCRs are more appropriate where the IORP acts as guarantor. Ideally the capital requirement should expand in a linear fashion with the size of the guarantee. However isolating the size of the guarantee and its associated risk is difficult. Hence I would suggest a level set as a percentage of total liabilities, without recourse to confidence levels. A three year assessment of the SCR would seem appropriate, subject to smoothing of the technical provisions (assets and liabilities).	
40.	I do not support the imposition of a MCR for IORPs, due to the difference between IORPs and insurance companies, highlighted in my answer to question 38, except where the IORP is acting as guarantor. In which case the frequency of calculation should be consistent with the SCR – every three years.	

41.	I support EIOPA's option 1, to include Pension Protection Schemes (PPS) in the solvency framework as a contingent asset in the balance sheet and with effects in the calculation of capital requirements. However I agree with the moral hazard issue, concerning risky activities, mentioned as a negative impact to that option. Hence an improvement may be not to include PPS as a contingent asset, but conceptually as an asset (described as the PPS), but not included in the sum of assets in the HBS. Visually a value placed adjacent to the sum of assets (financial assets, contingent financial assets and sponsor's covenant, but not included in the sum of assets).	
42.	Capital requirements place an extra cost on scheme M & B and administrative burdens on both scheme boards and supervisors. Given the not-for-profit status of all IORPs, there is no personal or corporate interest from IORP board members to pursue a risk seeking strategy in order gain a profit. The two main operational risks are fraud and incompetence, where in my opinion the board collectively and severally should be liable. Rather than fund this risk through capital requirements, I suggest that the board ought to insure itself against these risks. Whilst an annual insurance premium would be a cost on the scheme, the administrative and supervisory costs would be reduced to providing proof of adequate cover (to be determined at level 2). The size of the premium would be market determined by the scale of the scheme and the quality of its people and governance structure. This maybe a more effective solution, given the limited resources available to supervisors. This solution would include all schemes, DB and DC.	
43.	EIOPA's analysis on the duties of IORPs and the powers of supervisors under deteriorating conditions with respect to Articles 136 to 141 of Solvency II are fairly presented. However they highlight the significant operational differences between IORPs and Insurance companies. In my opinion Articles 14 and 16 of the existing IORP Directive adequately cover the issues raised on supervisory intervention and recovery plans.	
44.	In view of the answer above, I do not support using Articles 138 and 139 from Solvency II as the basis for developing recovery plans and maintaining minimum capital ratios, with possibly the exception of IORPs that guarantee benefits without recourse to a sponsor. The key point is that the nature of IORP liabilities is very different from the liabilities of insurance companies. This means that IORPs can have much longer duration recovery plans, in the order of 15 years as mentioned in paragraph 10.3.190 of EIOPA's draft advice, as opposed to six months as required under Article 138(3) of Solvency II.	
45.	I see no point in introducing restrictions on the sale of assets, as described in Articles 137 and 140 of	

	Solvency II, this could interfere with the functioning of the IORP with respect to current obligations. However I do see scope for the supervisor, in the circumstances where a recovery plan is not feasible, to apply restrictions on pension payments and discretionary indexation, equitably across all M & B. This amounts to an extension of the existing IORP Article 14.	
46.	I agree that what constitutes a recovery plan should be specified in the revised IORP Directive. Article 142 from Solvency II forms a convenient template, with the following modifications: Part A to refer to operational expenses including fees of outsourced services, Part B to refer to estimates of flows into and out of the IORP including in increases in service and interest cost etc., Part C refer to the HBS, possibly using two balance sheets, one mark to model, the other mark to market. Comparison between the two should give an indication whether the financial markets are overly cheap (if financial markets were the cause of the distress), which in turn could increase the flexibility of the recovery plan. Delete Part D as not applicable with respect to IORPs. Part E modified to reflect access to sponsor covenants and pension protection insurance. Lastly delete section 2, as not applicable, IORPs should continue to receive contributions, though perhaps those contributions should be ring fenced as being ex-post the problem and not necessarily part of the solution, unless changes in past service cost are required (benefit adjustment mechanisms).	
47.	Article 18 of the current IORP Directive is in need of modernisation to reflect the increased complexity of the markets and the growth of dependency by IORPs on their outsourced service providers in the field of investment services. My concern is that due to a lack of resident investment knowledge within the IORP that it can and in some cases probably has become captured by the latent agent/principal conflicts of outsourced service providers. I suggest tackling this issue through three measures: 1. Introduction of a duty of loyalty 2. Greater guidance on prudent investing 3. Agreeing with EIOPA's advice to require a raising of investment expertise at IORPs through option 2. The prudent man standard needs to be balanced with a duty of loyalty (i.e. to act in the sole interest of M & B), in order to act effectively in the best interests of scheme M & B. Regrettably the benchmark of prudent behaviour has fallen to the measurement of conforming with the crowd. Apart from creating systemic risk, this does not serve the 'best interests' of M & B. For example to offer	

the defence that you acting prudently by following the crowd, as your portfolio falls off a financial cliff, does not demonstrate that you were acting in the M & B best interests. Using conformity to illustrate prudence neglects the expected duty of controlling conflicts in the delegation of duties to third parties. Hence the need to introduce the concept of loyalty.

Loyalty and prudence are an instrumental couplet in the phrase fiduciary duty under English Common law. It describes the trust relationship between those who run the pension scheme and its M & B. I believe that it is important to include the word loyalty in this Directive because pillar II pension schemes are probably the only investment vehicle where people on low to middle incomes can have some assurance that the people in charge of the scheme are indeed acting in their best interests. Note that the term best interests appears in MiFID and covers a multiple of service providers including independent financial advisors. Hence given the special circumstances of IORPs, I believe it is important to hold the managers of IORPs to a higher standard through the inclusion of the word loyalty. This could be further expanded to mean that in the presence of a conflict the boards of IORPs must act in the sole interests of scheme M & B.

In addition to problems of IORP crowd following (herding), many investment strategies encourage short term investment behaviour, which naturally does not match the investment horizon of the scheme. The investment rules section of the IORP could benefit from the preamble of the recently adopted revision to Regulation 28 of the South African Pension Funds Act 1956[1]. The preamble below titled "Asset spreading requirements" could substitute the current text in Article 18(1)a of the current IORP Directive.

> A fund has a fiduciary duty to act in the best interest of its members whose benefits depend on the responsible management of fund assets. This duty supports the adoption of a responsible investment approach to deploying capital into markets that will earn adequate risk adjusted returns suitable for the fund's specific member profile, liquidity needs and liabilities. Prudent investing should give appropriate consideration to any factor which may materially

[1] Government Gazettes of South Africa, p3 http://greengazette.co.za/notices/pension-funds-act-no-24-of-1956-amendment-of-regulation-28-of-the-regulations-made-under-section-36_20110304-GGR-34070-00183

	affect the sustainable long-term performance of a fund's assets, including factors of an environmental, social and governance character. This concept applies across all assets and categories of assets and should promote the interests of a fund in a stable and transparent environment. The above text does not endorse any particular investment style, it emphasises the need to consider the longer term interest and draws in consideration of environment, social and governance issues. Though not perfect, I believe it goes a long way to addressing my concerns on herding, systemic risk and short termism, thereby delivering better outcomes for scheme members. Given my concerns on the deficit of investment expertise within IORPs, I support EIOPA's option 2 where the IORP is made responsible for its investments through the text, "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 …"	
48.	I do not agree that Member States should be able to impose additional limitations on scheme investments, as this does not encourage harmonisation of a single market. But I do believe it is prudent that investment limits should exist at a European level. Therefore I support EIOPA's option 4, to "delete Article 18(5) but permit restrictions to investment to be agreed at EU level, where the member bears the investment risk for the purpose of member protection".	
49.	Providing there is a management board at the DC IORP which is actively involved in the due-diligence of selecting investment products for their suitability and value for money then there is no need for differences in the investment provisions between DB and DC schemes. However where this is absent, I am not convinced that such schemes could classify as IORPs, they are more akin to retail investment products, such as GPPs (see answer 4). If they are within the scope of the IORP Directive, they fall short in terms of investor protection, as the Directive assumes a functioning body looking after the best interests of members. Hence these schemes/products should be outside the scope of IORP Directive as they are more at home in MiFID or PRIPS, where investor protection is a core feature of the legislation.	
50.	I agree with EIOPA's analysis of the options (including the pro and cons) concerning Investment Rules, in its draft advice. I would add the comments made in my response to question 47, referencing inclusion of the word loyalty and the enlarged definition of prudent investing.	
51.	Yes, I agree that IORPs should not be allowed to borrow funds other than for liquidity purposes, with	

	the exception of where the IORP is acting as guarantor and possibly making use of sub-ordinated loans. This prohibition should be retained in the revised Directive. The prohibition is one of the defining characteristics of an IORP that separates it from insurance companies and banks. It is a key feature which reduces default and investment risk for scheme M & B. It concerns me that this prohibition could be deliberated circumnavigated through the use of derivative strategies. EIOPA should consider this matter further to make sure that IORPs cannot leverage their assets through covert strategies.	
52.	As concerns the first part of this two part question I support EIOPA's view that the main of objective of supervision for the IORP Directive is to protect the interests of scheme M & B. However I feel this definition is too narrow, given the not-for-profit status of IORPs and their positive contribution to society, I believe that an equal supervisory objective is to promote their development and sustainability. Unlike insurance companies there is no profit incentive to engage in this activity, hence they need other forms of encouragement to promote and sustain their existence. With regards the second part concerning measures to take account of pro-cyclicality, I support the principle, but would recommend the alternative measure of valuing assets (Discounted Income Value method) discussed in my response to question 13, and the mean reversion method using average corporate bond yields for liabilities as described in my answer to question 21. IORPs differ from insurance companies and banks because the expected stream of benefit payments is fairly predictable and extends along way into the future. Their inability to borrow means that IORPs are unlikely to be forced into liquidation by an external creditor. Hence the need for risk capital is minimal relative to financial institutions that engage in leveraged business. Given the supervisory aim of protecting the interests of M & B, I suggest that the approaches outlined above are consistent with that objective and illustrate a very limited, and in most cases no need, for reserve capital. As discussed above, where assets (Equities, Bonds, Property and Alternatives) are valued at intrinsic or fair value, they are not inflated or deflated by speculative excess or excessive depression in market prices. The underlying value reflects the economic value of the investments. If assets are valued at fair value, then where there are discrepancies between fair value and market value these discrepancies, if they become significant, send a signal to the scheme managers and investment managers to consider realigning asset weightings in recognition of market risks. The effect is counter-cyclical, when markets become overviewed there is pressure to reduce exposure to overvalued assets, when they are undervalued there is the opportunity to increase	

|---|---|---|
	exposure to undervalued assets. Such a value methodology increases the adjusted risk/return potential of scheme's the assets, to the benefit of M & B. With respect to liabilities, interest rates have a very strong history of being mean reverting; hence it seems appropriate, where the burden of liabilities is distant, to value them on an average yield, reflecting the mean reverting nature of the underlying discount factor. Given the differences between IORPs and insurance companies, I do not support the pillar II dampener approach to valuing assets, nor the suggested capital charge requirements for equities.	
53.	Yes, I agree in principle to the material elements of the Solvency II requirements in respect of the general principles of supervision, and in relation to transparency and accountability should also apply to IORPs.	
54.	Yes, I agree that EIOPA has correctly identified the issues concerning the need to enhance benefit protection, the differences between insurance and IORP supervision, IORP diversity, and where there should be differences between insurance and IORPs on supervision and transparency and accountability.	
55.	Yes, I agree with the recommendation that supervisory authorities should have broadly the same powers to require IORPs to conduct stress tests as it has in respect of insurers. However with 140k IORPs allegedly in existence it seems that the supervisor's ability to effectively monitor a significant sample of IORPs will be problematic. The situation calls for standardised reporting at the very least at national level, but preferably at an EU level to allow electronic entry, coupled with computer driven risk enquiry to minimise the cost of effective supervision.	
56.	Yes, I agree with the measures to reinforce the sanctions regime for IORPs using regulation No. 1060/2009 for credit rating agencies as the basis for the new standard.	
57.	I am a firm advocate for the public disclosure of sanctions for individuals found falling short of their duties, acting criminally or incompetently. I do not believe they can cause disproportionate damage to the parties involved, providing disclosure is accompanied with a fair summary of the infringement and remedies. Aside from reinforcing deterrence, the difference in wealth between Member States makes it difficult to levy monetary fines with consistent effect across the EU, particularly in a single market encouraging the free mobility of labour. However the value of person's good name (good repute and integrity), see EIOPA's remarks on proper in CFA 14 'fit and proper', is universal. Hence	

	public disclosure is probably the most proportionate and dissuasive sanction that can be levied across the EU.	
58.	I support the view that host states should be able to impose sanctions on IORPs without going through the home state. In an environment of greater harmonisation, this should not create a problem due to greater communality in the articles of regulation. There is certainly an attraction if this provision can speed up the time required to remedy an irregular situation.	
59.	Best practice would suggest that the supervisory review process of insurance companies should apply to IORPs. However as mentioned above, due to the sheer number of IORPs, it will be difficult to implement such a process without some form of standardised report that can be read and analysed by computer.	
60.	I do not believe that capital add-ons should be applied to IORPs. Capital add-ons are a punitive instrument to remove the profit incentive to pursue an excessively risky strategy. Whereas insurance companies seek to reward their management's remuneration and their shareholders returns by maximising the price of their shares, possibly through using an excessively risky strategy to enhance short term profitability, this is not the case with IORPs. They are effectively mutual organisations, where the M & B share in the returns and losses of the scheme. The imposition of a capital add on has the effect of tying up funds in ultra-safe assets, which may aggravate the economic position of the fund, where remedy is found by correcting issues of investment strategy and or governance.	
61.	Yes, I agree with EIOPA that the material elements of the requirements on insurers in respect of supervision of outsourcing (Articles 38(1) and 38(2)) should also apply to IORPs.	
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 subcontractee as they do with the outsourced service provider.	
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.	
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.	
65.	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 remmunerated part-time role, details could be developed at Level 2. My colleague John Mellor and I co-wrote a report into Stewardship[2] (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[3] because they lacked the knowledge to act as 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. 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	

[2] "An investigation into Stewardship – Engagement between investors and public companies: Impediments and their resolution," June 2011 http://www.eurocapitalmarkets.org/node/563

[3] Ibid, see p 18, para. 4.2.1

	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. Outside these two points, I support EIOPA's draft advice to the Commission, which is to include the same fit and proper requirements for IORPs as were introduced in Article 42(1) of the Solevency 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.	
66.	a) Yes I agree that 'Fit and proper' should apply at all times. b) Yes, I agree that there should be effective procedures and controls to enable supervisory authorities to assess fitness and propriety.	
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 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.	
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.	
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.	
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 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.	
71.	If the HBS approach is adopted, much of the purpose of ORSA 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.	
72.		
73.	In principle I support the internal control proposal, however I am concerned that for smaller IORPs the internal control function would be a heavy burden for scheme M & B.	
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.	
75.		
76.	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 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.	
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 recognises the variety of IORPs and the need to incorporate sufficient flexibility into the text describing the actuarial function.	

78.	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.	
79.	Yes, I agree with EIOPA's analysis of the options laid out by its advice, subject to the observations made above.	
80.	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 & B, because of the shortage of internal investment expertise. Given the comments above I suggest an amendment to EIOPA's advice with the following *additional text*; *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.* 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.	
81.	Yes, I support the standardisation of the outsourcing process in order to promote harmonisation and cross border activity.	
82.	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 & B. These should be included in the revised IORP Directive.	

	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. 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. 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: *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. <u>IORPs must provide, in a timely manner, an annual return to national supervisors detailing</u> ~~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.* Alternatively after the first sentence above, the remaining text could fall under the information to supervisors section – see CfA 22, reference question 90.	
83.	I support the approach that IORP depositories 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 to oversight and safekeeping.	
84.	I agree with EIOPA's observations on the positive and negative aspects of the proposals.	
85.		
86.		
87.	Yes, I agree with the proposed list of depository oversight functions.	
88.		
89.	I support option 1 that the current IORP requirements are the appropriate starting point for defining the information provided to supervisors and not Article 35 from the Solvency II Directive. The information that is to be provided to supervisors is the product of all that comes before. Given the	

	differences between IORPs and insurance companies and differences within IORPs, it does not seem appropriate to use Article 35 of the Solvency II Directive as the template to the revised IORP Directive. I believe it is more appropriate to start with Article 13 of the existing IORP Directive and add additional features as appropriate.	
90.	I believe that there is a basic menu of items that should be reported to supervisors on an annual basis, which gives scope for some convergence ((ii) in certain fields). This basic menu appears in Article 13(c) of the current IORP Directive, though additional items may be included as a product of its revision, see remarks in my answer to question 82. I also believe that Member State supervisors should have the power to request additional information and this provision appears to exist in Article 13(a).	
91.	I agree with EIOPA's draft advice that there needs to be an improvement of information made available to members of DC and DB schemes. I support EIOPA's three basket approach to improving information provision: pre-enrolment, ongoing and payout phase. All three being applicable to DC schemes, the last two being applicable to DB schemes. I also support the use of digital medium as a supplement to conventional printed documents, but not as a substitute.	
92.	I strongly support the introduction of a KIID as a pre-enrolment document for DC plans. Before delving into the detail of its construction I suggest that EIOPA consider these two macro issues. First there is some merit in promoting the KIID brand and to discourage its fragmentation when considering that the KIID is being introduced into UCITS and PRIPS. Functionally it is a document that allows investors to compare a range of retail products to help plan their entire wealth portfolio (UCITS, PRIPS in addition to DC IORPs). Hence I discourage using the terminology KID, when KIID is used in the other two Directives. This leads onto the second point; EIOPA raises a number of complexities in constructing a KIID for IORPs. I believe that if the document is limited to a description of the investment vehicle(s) rather than the scheme, the construction becomes a much simpler task. Naturally information on contributions, employer interest, social and labour law, etc., which are not to do with the investment vehicle can be referenced elsewhere. All the KIID has to do is reference one point of contact where all this information can be provided. Specifically for DC schemes; investors carrying the investment risk will be offered a number of investment vehicles and commonly a default vehicle. They may have the option to invest in other vehicles. In either case, the choice of the most appropriate investment vehicle is one of the most key decisions. Hence ready comparison between IORP investment vehicles is extremely helpful.	

	Turning to EIOPA's specific observations, paragraph 29.2.30, contribution arrangements do not have to appear on the KIID, if it is purely conceived as a descriptor of the investment vehicle(s). With respect to the Statement of Investment Policy Principles in the case of a DC scheme, where the member makes the choice of investment, these drop down at the investment strategy of the specific investment vehicle. Past performance in DC investment vehicles should appear where available with dotted line breaks on a graph referencing where the investment policy/strategy has changed. The temptation to permit performance scenarios should be strongly resisted. One criticism that I have of the KIID, which I strongly urge EIOPA to try to remedy, is that in the spirit of making the document comprehensible to the widest population, the document will contain descriptive text common to all KIIDs, which comes at the cost of reducing the opportunity to provide unique information about the underlying investment vehicle to the potential investor. Hence I strongly recommend the production of a document of generic descriptions (a key for KIID) to be published alongside the KIID, possibly produced at a European Supervisory level. I estimate that this would free up an additional two-thirds of a page, for investment vehicle specific information, on this two page document.	
93.	If the KIID was restricted to a description of an underlying investment vehicle, rather than presented as a scheme, the risk/reward indicator, though certainly not perfect for UCITS, can be translated from the UCITS. It is highly probable that the scheme member's choice of investment vehicle will be based on an underlying UCITS product and hence the risk/reward indicator should be easily translated. With respect to the time horizon of the risk/reward indicator, this should be consistent with UCITS. Scheme members will have the option to switch between investment vehicles to suit their own circumstances and indeed make their own choices on their best collection of assets given the economic situation and current value of the financial markets. As stated above performance scenarios should be strongly resisted.	
94.	I support EIOPA's proposal for ongoing disclosure through the introduction of a personalised annual statement. This needs to be distinct from the KIID, as it is a pre-enrolment document; it can work sympathetically with ongoing disclosures (on a request only basis). For instance the annual statement might provoke the scheme member to rearrange his/her portfolio. This could provoke a request to see the KIIDs of other investment vehicles of the scheme, in order to inform his/her	

	choice. The personalised annual statement should contain the itemised cost structure that resides in the KIID: entry and exit fees, ongoing fees and performance related fees (plus any changes levied by the IORP). As the statement is personalised, charges should be portrayed in actual monetary terms as well as percentage of fund value.	
95.	I believe that there is good scope increasing harmonisation of disclosure for the ongoing and payout phases of pension schemes, in addition to the comments made specifically for pre-enrolment in DC schemes. Besides those mentioned by EIOPA, I cannot think of any that have been overlooked. I am supportive of an annual statement of financial solidity in place of the insurance style solvency document, referred to in paragraph 29.2.79	
96.	Yes.	