

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:	Deutsche Post Pensionsfonds AG	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>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.</i>	Public
<p>The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006).</p> <p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Question". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>. ⇒ 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. <ul style="list-style-type: none"> ○ 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. <p>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).</p>		
Question	Comment	
General comment	Deutsche Post Pensionsfonds AG is a corporate pension fund providing pensions to approx. 16.000 former employees of Deutsche Post AG. Total assets under management amount to approx. €570m. Over €40m of payments were, for instance, be made in 2011 to beneficiaries.	

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We would like to state that we regret that the time for consultation was very short. Even with the postponement of the deadline to the beginning of January, we feel that the time for a proper analysis of over 500 pages has been too short. In addition, we doubt that EIOPA itself will have enough time to properly analyse the answers of the stakeholders given that it has to present its final advice already mid-February.

Please find below some general remarks:

1) IORPs should be regulated by a regime designed for pensions but not for insurances. Insurance companies act commercially, whereas IORPs provide social benefits to active and former employees of a company as a consequence of their employment. Applying an insurance-style solvency regime to IORPs is wrong in principle.

2) We are very concerned that it appears to be EIOPA's intention to provide advice to the Commission without any qualitative and/or quantitative impact study. Such a study should analyse the impact on the IORPs (significant increase of costs), the future and design of pension schemes (less generous, no more DB) and on the wider economy (as a result of the necessary change in the schemes' asset allocation).

3) The lack of cross border activity – as being complained by the Commission - is partly due to a lack of demand and partly due to differences in local labour law and taxation but certainly not due to a lack of harmonized supervision.

4) Looking at the scope and the impact of that review, we note that the countries that will be most affected by the review are countries with large funded corporate pension schemes with defined benefit characteristics. The countries where those schemes form a large part of retirement provision do in our opinion already have a sufficient and well established national safety net. However those countries would be faced to maximum harmonization pressure, whereas countries with no or a

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	<p>limited occupational pillar and/or safety net would face a significantly reduced harmonization pressure.</p> <p>5) Applying a solvency regime would lead to massive increase in costs for sponsors. Future generations of IORP members may pay the price in terms of lower pensions for the excessive security being provided to current members of defined benefit IORPs. This is intergenerational unfair.</p> <p>Given the limited time and resources at our disposal to respond to this consultation we have decided to answer at least part of the 96 (!) questions. This does not mean however, that we agree to the other questions or that we agree to the basic premise of this consultation, i.e. that a regulatory regime based on Solvency II should be imposed on IORPS. We explicitly do not agree to that premise. The Solvency II framework is not the right framework for IORPs!</p>	
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12.	<p>We recommend maintaining a clear distinction between Article 17(1) IORPs, 17(3) IORPs and sponsor-backed IORPs, i.e. we support "policy option 1".</p>	

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	<p>The central assumptions underlying the holistic balance sheet approach are taken from the Solvency II model i.e. market consistent valuation of assets and liabilities, one year time horizon, 99.5% confidence level etc.</p> <p>In the current environment where interest rates are kept (politically) extremely low due to artificially low reference rates and exceptional quantitative easing measures, a Solvency II approach would lead to unaffordable capital requirements. We do not see any argument why this should be considered as risk-oriented.</p> <p>As a consequence we reject the undifferentiated usage of the holistic balance sheet approach as a catch-all approach because it doesn't fit the diversity of European IORPs: In our opinion, the holistic balance sheet approach doesn't meet the characteristics of sponsor-backed IORPs and to some extent Article 17 (3) IORPs. A reasonable holistic balance sheet model implies that the value of the employer covenant (backed by a pension protection scheme) will have to be determined by the gap it is supposed to fill. This will be the gap between the financial assets on the one hand and technical provisions. IORPs should only be bound to hold additional assets above the technical provisions to the extent they are not sponsor-backed.</p>	
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14.	<p>We agree that no reference should be made to transfer value. The transfer value concept does not reflect the reality and purpose of an IORP at all. There isn't any need to anticipate a change of ownership in advance, as it happens with quite a low probability at all. In addition the transfer price may depend on whether e.g. the liability is transferred to an insurer or to another IORP.</p> <p>We think that the insistence on market-based consistent valuations is misplaced. We also note that the term 'risk-free' is undefined, with the selection of a risk-free rate having recently become much harder, as the assumption that sovereign debt represents the lowest risk may no longer be true in many countries. It may be that schemes invested in corporate bonds are exposed to lower risk than</p>	

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	those holding the sovereign debt of many countries.	
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16.	We see no need to make sure that supervisory standards are compatible with accounting standards. We agree with EIOPA's remark that the objective of the 2 bases is too different to achieve convergence. We are in favour of option 1 not to change the current IORP Directive on this point.	
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21.	<p>We reject both options being presented by EIOPA. The use of a market-consistent risk-free interest rates or "modified" risk-free rates results in heavy volatile figures that are inappropriate for the management of an institution that deals with and covers long-term obligations spanning generations. It would also not make allowance for the specific investment policy of the IORP. The possibility to use an interest rate based on expected returns on assets to calculate technical provisions must be maintained.</p> <p>However, in the circumstances in which it has been determined that a risk-free interest rate is required to be used, then we would prefer option 2 under which there would be two levels of technical provisions, Level A calculated on a risk-free basis and Level B with a discount rate calculated by reference to the expected return on assets. We believe that the Level B technical provisions should be the required level on which funding requirements would be based, with Level A technical provisions existing simply as an item for disclosure both to supervisors and to members.</p> <p>It should not be assumed that Level B technical provisions will converge to Level A technical provisions over a transitional period as stated in the consultation.</p>	
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30.	No.	
31.	We are deeply concerned about laying down the full set of technical measures with respect to the holistic balance sheet in Level 2 implementing measures. We feel that this new instrument is so new, complex and far reaching for the day to day management of a pension fund that a first impression of the concrete consequences is in order. We advise to undertake at least both a Qualitative and a Quantitative Impact Study regarding the holistic balance sheet before Level 1 measures are decided upon.	
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33.	<p>For sponsor-backed IORPs with an additional pension protection scheme (PPS), Component 7 (i.e. contingent assets such as employer covenant or PPS) should not be interpreted as a calculated (by evaluation) asset position, instead it has to be interpreted as a flexible compensation position. Regardless of the definition of capital requirements, Component 7 has to be regarded as an asset to fulfil any solvency capital requirement the IORP might face. In any event component 7 has to be qualified as an equivalent to financial assets.</p> <p>Otherwise we would be concerned with the complexity involved and the subjectivity regarding the determination of certain parameters necessary. This subjectivity may lead to substantial differences in the assessment of the sponsor support between the IORP and the supervisor that may prove difficult to resolve.</p> <p>Or simpler: Our view is that the existence of sponsor support means that a solvency regime for pensions is not necessary at all.</p>	

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38.	<p>We strongly oppose the proposal of applying the Solvency II-rules for calculating a SCR to IORPs. We do not see any need tot harmonize solvency requirements at the EU level. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p> <p>For sponsor-backed IORPs, holding assets to cover technical provisions (including the concept of recovery plans where necessary) is sufficient protection.</p>	
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