

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:	Hungarian Financial Supervisory Authority (hereinafter referred to as: HFSA)	
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	As a general comment the HFSA recommends that the provisions of the Solvency II Directive referred to in the Call for Advice shall not apply to all IORPs. The Call for Advice itself refers to the "material	

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	<p>elements” of the Solvency II Directive, and emphasizes the significance of the principle of proportionality. Such principle is mentioned inter alia in points 2.6.7 and 2.8.3 of the Call for Advice. (2.8.3.: EIOPA wishes to highlight the importance of the principle of proportionality, in particular its application to small IORPs, in the whole of its advice.)</p> <p>Article 4 of the Solvency II Directive (Exclusion from scope due to size) also contains certain limits for insurance undertakings that fulfil the conditions specified in the Article. One of the conditions is that the total of the undertaking’s technical provisions, gross of the amounts recoverable from reinsurance contracts and special purpose vehicles, as referred to in Article 76, does not exceed EUR 25 million.</p> <p>According to Article 5 of the IORP Directive with the exception of Article 19, Member States may choose not to apply this Directive, in whole or in part, to any institution located in their territories which operates pension schemes which together have less than 100 members in total.</p> <p>There is a gap between the limit specified in the IORP Directive (less than 100 members) and that specified for insurance undertakings. Even the application of the material elements of the Solvency II Directive would mean the application of (some) provisions of the Solvency II Directive that insurance undertakings that fulfil the conditions specified in Article 4 of the Solvency II Directive do not have to apply at all.</p>	
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3.	<p>The HFSA does not support the extension of the IORP Directive to 1st pillar bis schemes and personal DC schemes for the reasons mentioned in the Call for Advice.</p> <p>In Hungary and in other Central- and Eastern European countries that introduced 1st pillar bis schemes membership in such schemes is compulsory. 1st pillar bis schemes are part of the social</p>	

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	<p>security system.</p> <p>The extension of the scope of the IORP Directive would involve the inclusion of pension schemes where there is no role for the employer since these schemes are personal.</p>	
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38.	<p>The HFSA supports the revision of the IORP Directive in order to make it consistent with the Solvency II Directive taking the following into consideration. Without prejudice to Article 4 of the Solvency II Directive (Exclusion from scope due to size) the regulations of the Solvency II Directive – including capital requirements – shall apply only in case of IORPs which operate DB schemes /that undertake biometric risk.</p> <p>Pensions are specialized insurance products, in many countries insurance undertakings provide pension service, therefore it is desirable to have the similar regulations for insurance undertakings and for IORPs exceeding a certain size. (This is an answer to questions 40 and 42 as well.)</p>	
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50.	The HFSA strongly supports the application of the proportionality principle in case of the geographical criterion as well. Without the proportionality principle the application of the geographical criterion for IORPs with about 200 members would be a provision which insurance undertakings that are excluded from the scope of the Solvency II Directive shall not apply.	
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