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:	Groupe Consultatif Actuariel Européen.	
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	**General / high-level comments**	

The Groupe Consultatif Actuariel Européen (the 'Groupe Consultatif') is a non-political organisation, representing the associations of professional actuaries in Europe. The issue of whether, and if so the degree to which, to base a "proper system of solvency rules for IORPs" on the Solvency II Directive for insurance companies is necessarily a political question. The Groupe Consultatif does not consider that its role is to take a political stance on the issue of principle, preferring to adopt a technical standpoint in responding to this consultation.

That said, in formulating this response Groupe Consultatif has sought to build a consensus across the actuarial professional associations of Member States and has drawn upon the assistance of many individual professionals from those associations.

The majority view is that Solvency II may be an appropriate basis for **some** of the risk-based supervision elements to underpin a new IORP Directive, but **not** for all. There are strong views as to the degree to which Solvency II should be read across from insurers to IORPs. Actuarial associations in some countries are firmly of the view that Solvency II is entirely the wrong starting point – preferring to see a review of the existing IORP Directive in its own right, to consider where there may be 'gaps' and then for proposals to be brought forward to bridge those gaps. The Instituto de Actuarios Españoles, in particular, has set out its point of view, which we summarise as follows:

> - Pension plans cover different risks from insurance contracts, some of the risks in pension plans are not insurable, and so Solvency II is not considered to be the best starting point when designing a European framework for supervising pension funds. Although in an insurance contract, it is necessary to require solvency capital to ensure a sufficient probability that the insurance company will fulfill its obligations, this is not the case in a pension plan because, in a pension plan, the benefits and/or contributions are adjusted from time to time in order to restore equilibrium. If the employer has guaranteed to cover future deficits of the pension plan, this could be subject to actuarial control in the employer, and there could be many variations regarding whether the employer has given such a guarantee, or a partial guarantee subject to a limit".

By contrast, one association would prefer to see far greater harmonisation of the IORP regime with that for insurers than most member associations of the Groupe Consultatif would consider appropriate. However, that view principally reflects local jurisdictional concerns, arising from the fact that most domestic retirement provision is through entities covered by the Life Directives and,

therefore, directly affected by the introduction from January 2014 of Solvency II and its capital requirements. (The country in question avails itself of the Article 4 derogation in the IORP Directive. Some other countries have done likewise, at least for certain elements of pension provision, and it may well be that they share a similar view, though we cannot confirm or refute this point at this stage.) The concern is that, from January 2014, there will not be a 'level playing field' and unfair competition will develop between domestic providers and those pension institutions covered by the IORP Directive. If a way could be found to reverse pension provision (by entities covered by the Life Directives) from the Solvency II Directive into the (revised) IORP Directive, then it is likely that this country would also support a less rigid application of, in particular, the solvency capital (Pillar 1) provisions of Solvency II to IORPs.

The majority of our member associations generally consider that there is no unique solution which will cover all types of IORPs. Some IORPs bear very little similarity to insurance undertakings and the risks they face can also be quite different. Other IORPs have many similarities with insurers. For the latter, far more of the elements of Solvency II – duly adjusted – would appear to have merit in being used as the basis for a risk-based supervisory regime than would be the case for the former.

In the detailed responses below to the questions in the consultation document, the majority view of Groupe Consultatif is given. It should be noted that some member associations take different views, or have country-specific points to make, and may, accordingly, respond separately to this consultation, in addition to supporting the Groupe Consultatif's submission.

Other general points

Timescale

It is acknowledged that the timescale for consultation has been short. This has presented difficulties in ensuring that issues have been adequately considered and aired. The Groupe Consultatif believes that many of the proposals need to be thought through further and, in some cases, made the subject of additional research and technical analysis. Although we accept that many of the proposals may appear to have merit from a technical perspective, it is essential that the desire to achieve a technically 'neat' solution does not outweigh practical challenges and trigger unforeseen consequences.

Quantitative impact assessment

To counter this the Groupe Consultatif considers that it is essential to test proposals for technical solutions (and greater harmonisation between insurers and IORPs) by detailed cost benefit analyses which consider the wider macroeconomic effect as well as the specific effect on IORPs and, where applicable, the employers and employees financing them.

Proportionality

The majority of Groupe Consultatif members consider that many of the pillar 2 and pillar 3 proposals appear to have merit, subject to the aforementioned impact assessment. However, even here it is essential that technically attractive proposals do not have adverse practical consequences. We are pleased that EIOPA has acknowledged that proposals must be proportionate, but again this is simple to say but complex to implement. It is likely that there will be different measures as to what constitutes 'proportionate' – for example, in relation to a particular proposal proportionality could be considered in terms of 'cost' to IORPs (where this could threaten viabilility), whereas in another it might be more directly related to the size of the IORP (its liabilities) or the 'risk' it represents.

Terminology

Throughout this document the term 'member' is used to denote those who are either actively accruing rights under an IORP, those who have accrued them but not yet brought them into payment and those who are in receipt of benefits under the IORP. We are aware that different terminology is used in different countries in relation to these categories of people and have therefore used 'member' in an all encompassing way.

General points relating to specific Calls for Advice
Valuation of assets, liabilities, technical provisions and security mechanisms

As the preamble to CfA 5 and CfA 6 makes clear, answers to the questions posed in CfA 6 are heavily dependent on the proposed introduction of the Holistic Balance Sheet (HBS) concept. We believe further research is needed on how the HBS might work – particularly as there could be 'knock-on' effects that we have been unable to analyse within the short timescale permitted for the consultation. We would also welcome greater clarity over exactly how EIOPA envisages that the HBS would be used. In particular we would welcome clarification over what types of HBS results would be expected to lead to specific actions, especially actions by supervisors, and what those actions might be. These

clarifications should also include proposed transitional arrangements. We believe that, to the extent that any new requirements may impose additional capital burdens on IORPs or their sponsors, suitable transitional arrangements would be necessary to reduce what might otherwise be a significant impact on capital markets. The issues are of such significance that we would not expect any new requirements to be implemented without further consultation, supported by an impact assessment as well as credible research on whether, and if so how, items like sponsor covenant would be valued in a consistent way across sectors and Member States.

In case it is not clear, our understanding of the HBS is that it would involve including in the balance sheet as assets (or liability offsets) values ascribed to security mechanisms in addition to those that would be recognised in a conventional balance sheet. Examples of security mechanisms that might be incorporated in an HBS include sponsor covenants, insolvency protection schemes, penalties on sponsors for solvent 'walk aways' and conditional benefit structures. An IORP that would otherwise be deemed 'insolvent' because it had insufficient tangible assets to meet its liabilities according to a conventional balance sheet might therefore be deemed 'solvent' according to an HBS if the additional security mechanisms were deemed sufficiently strong and valuable to the IORP members. Unless otherwise stated, we have assumed that the HBS would be drawn up from the perspective of the IORP members, and thus the additional components that it would include would involve mechanisms that relate to the security of their benefits.

Information to members / beneficiaries

In our report 'Security in Occupational Pensions' (May 2010) we stated that

"There is generally a higher standard of transparency to the supervisor than to other stakeholders (like sponsors and members); most supervisors also have the power to demand extra information. A large gap can exist between expectations and delivery, partly due to insufficient understanding by members of risks taken on their behalf and their potential consequences.
We think the greatest room for improvement is in providing more transparency to stakeholders other than supervisors in how the various components of pension security have been reconciled overall, what this means in terms of the ongoing risks being run on behalf of members, and communication of the potential impact of these risks on members' expectations in a language that they can

	understand. Whilst some countries are making some progress in this area, we perceive a major need in all countries for better communication and pension education." We are therefore encouraged by Question 23 in the Call for Advice (CfA). We agree with EIOPA that information about pensions should be correct, understandable and not misleading. Communications to the members should also explain in simple and clear terms the principal risks implicit in the financial arrangements, how they are managed and the potential consequences of failure. Such communication is essential, not just for proper accountability by those charged with taking decisions on behalf of members, but also to make clear to members that the concept of security in IORPs may not be the same as that in other financial products. Better communication about the purchasing power of the benefits is also essential and should, we think, be an important element of disclosure. Transparency should lead to better communication with all stakeholders, not only with members, but also with employers, supervisors, etc. More discussion with stakeholders is not of course a goal in itself, but it should be encouraged in the interests of better security and better understanding of the complexities and risks in IORPs. Amongst other things, such discussions could lead to better alignment of the expectations from various parties about the outcomes and the risks involved. We agree with EIOPA that a new KID-like document should be introduced and should be extended with information on contribution arrangements, practical information and cross-references to other documents. Whilst harmonisation of such communication may have benefits for the member, at an EU-level it would be very difficult to achieve because of the significant differences between IORPs in the different countries. In the interests of transparency about the level of security of pension promises, we consider that it would be appropriate for the HBS to be made public and communicated to stakeholders, especially to plan members (present employees, retired and contingent beneficiaries), so that stakeholders will be able to understand better the nature of the promise being made to members, the financial aspects of the plan sponsor`s covenant and the extent of members` dependence on it.	
1.	This is not an issue on which the Groupe has detailed expertise and some of the issues raised are primarily political in nature. We note that the Commission has stated that it does not wish to consider extending the Directive to include arrangements which are currently explicitly excluded by	

	the Directive. However, with an HBS it would become technically feasible to cover some types of pension arrangement which are left out of the current IORP Directive. We agree with EIOPA's statement in 4.3.21 that Article 4 should be reviewed to adapt references to the Solvency 2 directive (and possibly some adjustment may be needed to the Solvency 2 Directive to accommodate the revised IORP Directive. In respect of the ring-fencing rules, there is an argument that the member state options should continue to exist in order to allow insured pensions to follow the set of rules best adapted to the nature of IORPs in that jurisdiction. Having said that, we do not have any comment on the analysis of the options laid out.	
2.	This is a political issue.	
3.	This is a political issue.	
4.	This is a political issue.	
5.	There is no disagreement that the home state is where the IORP is established and prudentially regulated, but there are different approaches to defining the host state (which may lead to the same conclusion in practice): 1. the states whose Social and Labour Law applies to the members 2. the state where the sponsoring employer is established 3. nationality of the IORP We agree that the different interpretation has led to some difficulty in practice, and that clarity is desirable, although we would question the view expressed in paragraph 7.3.2 that this has had a major negative impact on the establishment of cross border IORPs (as is recognised in paragraph 7.3.13). The Call for Advice explicitly requested that the Directive be amended to define cross border activity by reference to the location of the sponsoring undertaking i.e. approach 2 above. The draft response notes that approach 1 considers the position from the perspective of the members, whereas approach 2 is looking at it from the employer's perspective. Difficulties will arise when the IORP is in country A, the sponsoring employer in country B and the members in country C. Under option 2, the social and labour law applicable to the members would be that of B, although they are working in C.	

	In our view, approach 1 is the most appropriate basis for determining the host state or states in relation to an IORP operating cross-border. We agree with the response in relation to the need for clarity around the sponsoring employer i.e. is it the parent company, or the subsidiary or branch in the country where the members work – and we support the proposed amendment to Article 6(c) in this regard.	
6.		
7.		
8.		
9.		
10.	We agree with the analysis and impacts as laid out, including the preference for option 2	
11.		
12.	With one overarching caveat (and a minority view expressed at the end of this section), we support the concept of the holistic balance sheet (HBS), subject to further research and development and clarifications about its use, and provided it is not used as an automatic trigger for driving capital allocation decisions. The caveat, as mentioned in the general commentary, is that we have not been able to consider, within the brief period permitted for the consultation, all possible 'knock-on' effects of introducing an HBS. In the same way that an IAS19 balance sheet does not directly drive funding decisions, the HBS should not do so either – this fundamental aspect is not clear from the consultation and needs to be considered further. Amongst other things, any regulation for IORPs needs to recognise that there is almost always a legal demarcation between the roles and responsibilities of the sponsoring company and the managing board of the IORP; decisions about funding require cooperation of both parties. Additionally, the consultation does not give sufficient information to consider the interaction of the HBS and the Solvency Capital Requirement and therefore our response to question 38 must be tempered by the view that this aspect too needs further thought. ➢ ***Potential use of HBS*** • We envisage this to be a useful management tool for the board of the IORP, showing	

the development of the various components of liability, the backing provided by assets of varying quality and the risk implicit in the board's management policies.

- We also envisage it to be a useful tool by which the board of the IORP can communicate to the regulator/supervisor, and potentially to other stakeholders, about their plan for achieving balance between assets and liabilities (assuming it was not already in balance), including decisions about the level of risk and its affordability, as well as the expected flow of new contributions and the time horizon involved. This could happen on the basis of a commonly agreed methodology at the European level.
- We would expect the HBS to be a mechanism to inform and communicate capital allocation decisions between the sponsor and the IORP.
- However, potential use of the HBS as a driver for capital allocation decisions should be decided only after impact studies and with suitable political input, since capital allocation decisions between the sponsor and the IORP depend on reconciling many complex factors, including social preferences which may determine the nature and type of benefits and the balance between cost and security.

➢ ***Structure of the HBS***

- We have a preference for technical provisions to be shown at two levels (paragraph 9.3.90) in the balance sheet
  - Level A determined on a harmonised basis by the application of market consistency principles to reflect what might be the value of the liability on a winding up or buy-out basis (or for very large IORPs, a practical low-risk run-off strategy).
  - Level B determined on a going concern basis may reflect decisions at the IORP level as to how the liability is expected to be financed over a suitable period of time.
  - The Level A technical provisions should reflect the nature of the pension promise and would be independent of the investment strategy pursued by the IORP, whilst the Level B technical provisions (more appropriately referred to as the funding target) may incorporate some advance credit for expected future investment returns (as well as future salary increases if appropriate), with a requirement (via the ORSA) for the board

of the IORP to show how they are managing the gap.

- We consider that an ORSA should be an essential feature of an holistic balance sheet that is structured in this way. The ORSA would consider issues not routinely picked up within the HBS, encourage more proactive management than might be implied to the snapshot position considered within the HBS, and encourage the management of the IORP to show how they had balanced all the moving pieces in a risk management context.

- On the asset side, we would suggest an additional explicit item to show the present value of contributions expected from the deficit recovery plan. In many countries these may take the form of a contractual debt agreement and therefore represent better quality than uncommitted assets of the sponsor.

Solvency capital and risk margin

- We support the principle behind the SCR, which is to demonstrate the level of risk implicit in the IORP's investment strategy and other management policies. However, risk is just one element of a number of components of security and due to social and other preferences each Member State (MS) places different emphasis on the various elements (*Our paper 'Security in occupational pensions" sets out how security can be viewed in a holistic manner to incorporate elements from the full range of Pillars I, II and III*). Accordingly, the majority of our member associations do not think that it would be appropriate to impose a harmonised security level across the EU for just the technical provisions. Instead, it would be more appropriate for each MS to have the flexibility to set the level of the effective SCR which best reconciles the support mechanisms in place within the MS (such as legally enforceable sponsor covenant, insolvency protection funds, penalties for solvent walk-aways etc). It might even be more appropriate to set the level of the effective SCR at plan level. This would provide employers and employees the freedom to choose the level that best reflects the risks that they accept in their agreement.
- The majority of our Member Associations do not see a specific need for a risk margin – an allowance for the uncertainty of cash outflows can be incorporated in the SCR, or in the technical provisions assessed on a suitable prudent basis. However, it is possible that for presentational purposes the risk margin may need to be shown separately but this will depend

on which policy option is chosen. Accordingly, we suggest that the concept of a risk margin for the specific purposes of IORPs should be examined again within the context of the chosen policy option.In IORPs, the primary trigger for corrective action should be when there is a shortfall of financial assets against the relevant capital requirement.

- ***Further development needed for HBS to be turned into a practical and useful tool***
  We believe more work is needed before the concept of the holistic balance sheet can be turned into a practical and useful proposition:
  - Further work is necessary to establish what should be taken as the appropriate measure for the risk-free rate for the calculation of level A technical provisions (the swap rate curve may be a useful starting point and for longer durations a blend with the ultimate forward rate may be supportable, with further adjustments for the inclusion of illiquidity and matching premia).
  - On the valuation of sponsor covenant, we suggest commissioning some external research in this area, studying especially what is already done in respect of security of reinsurance recoveries.
  - On the allowance for insolvency protection schemes, we think an adjustment to insolvency probabilities might work for insolvency protection schemes in some MS (see answer to Q41). However, the ways and means of taking into account such last resort mechanisms (for which there appears to be no previous experience) requires further research.

  We believe further clarification is needed in the following areas:
  - The extent to which intangible assets (sponsor covenant, contingent assets and insolvency protection schemes etc.) should be allowed to provide cover for technical provisions, and SCR.
  - The CfA is silent about transitional arrangements. We believe that, to the extent that any new requirements may impose additional capital burdens on IORPs or their sponsors, suitable transitional arrangements would be necessary to spread the burden over a reasonable period, in order to reduce what might otherwise be a very significant impact on capital markets and economic growth in the EU.

A minority view expressed by one or our member associations is that harmonisation and mutual recognition will not be achieved if the level of security (even if set at a low level), is not stated clearly

	in the directive. This is particularly a concern where article 4 has been applied to the regulation of IORPs, as indicated in the preamble to our submission. For the protection of plan members they would argue that it is important for the minimum level of security that is sufficient to provide pensions to consumers to be stated in the EU legislation. This view reflects a concern about liabilities being presented in a different way in insurance and pensions and would favour harmonisation of technical provisions with an explicit risk margin in the liabilities in order to ensure sufficient quality and security in all cases. The HBS should not hide the varying levels of quality and security provided by the different HBS components and disclosure of the HBS to plan stakeholders should make this clear.	
13.	Yes	
14.	The concept of a transfer to a third party exists in some Member States, but not all, and where it does exist there may be practical limitations for large IORPs. The market consistency principle can, however, be applied (subject to comments made in our answer to Q17). In Solvency II, the concept of a transfer to a third party (and the one year time scale) appears to have arisen from considerations of the practical courses of action open to insurance regulators in the event of a breach of solvency rules. We would suggest that the starting point for pensions should be to consider what the equivalent actions would be for IORPs (especially IORPs whose holistic balance sheet is not fully in balance). The outcome of such consideration should, in our view, inform not just the overall structure and components of the holistic balance sheet, but also the detailed questions regarding the valuation of the liabilities and the other support mechanisms. According to a minority view of one of our member associations, the concept of transfer to a third party was a conceptually useful tool in Solvency 2 to simulate a market consistent valuation of the liabilities. As such, it has enabled regulators to split the risk deviation reserve between risk margin and SCR and give a market valuation for the risk margin. If this idea is useful for valuing the liabilities of IORPs, it should not be omitted.	
15.	On the basis that it is the nature of the promise between the IORP and the member that is relevant when valuing liabilities, rather than the strength of the IORP, we agree that the own credit standing should not be taken into account.	

16.	Alignment should be encouraged where possible but not pursued as an objective since the purpose of accounting standards is different.	
17.	There does not appear to be any universally accepted definition of market consistency – even in insurance (for Solvency II) the definition has been blurred by frequent amendments to accommodate numerous practical features which were not within the scope of the pure definition of market consistency. We would therefore encourage a similar, but separate, bespoke development of a practical definition of market consistency for IORPs, given the generally much longer average time horizon of the liabilities and other differences compared with insurance.	
18.	The majority view is that we do not see a need for a specific and separately identifiable risk margin; an allowance for the uncertainty of liability cash flows can be incorporated in the SCR, or the technical provisions assessed on a suitably prudent basis. (See comments on Solvency Capital and Risk Margin on page 10 above)	
19.	Future accruals should only be taken into account in the calculation of technical provisions if there is a commitment which is other than voluntary, for example if all future contributions are pre-defined and contractual, with no possibility of their cessation.	
20.	Yes	
21.	We think that Option 3 (two tier technical provisions) would be a sensible starting point for a gradual and measured process of harmonisation which respects the flexibility required by Member States to control capital allocation decisions. See the answer to Q12 and the more detailed explanations in our paper "Security in Occupational Pensions".	
22.	Yes, if expenses are met from the IORPs resources. Where expenses are met directly by IORP sponsors then they should be treated in a manner consistent with the inclusion (or not) of sponsor covenant on the balance sheet.	
23.	Level A technical provisions should be defined to reflect the nature of the pension promise and include accrued benefits only: ➢ If the pension is fully guaranteed then the technical provision would be the value of the guaranteed pension cash flow discounted at an appropriate measure for a 'risk-free' rate	

(to be defined specifically for pensions to include concepts such as an illiquidity and matching premia)

- Discretionary benefits (where the discretion lies with the sponsor) should not be included – otherwise they would cease to be discretionary!
- If the pension is conditional, or a "soft" promise, we would see two possible approaches to valuing such cash flows:
  - The preferred approach would be to project the pension cash flow under a large number of possible economic scenarios (or handled in an economically equivalent manner) taking into full consideration the conditionalities and/or the "softness" of the promise and then discount them back at an appropriate measure for a risk-free rate (inclusive of matching premium)
  - If the pension cash flow is not easily available, or the conditionalities/softness cannot be translated into concrete decision rules, then it would be possible to envisage the valuation being done on the basis of an appropriate measure for a risk-free rate (inclusive of matching premium) plus an appropriate adjustment that reflects the uncertainties in the pension promise. This would, however, raise a number of complex questions about the extent to which decisions are conditional/soft under a given legal framework for a given IORP member, and also would have implications when it comes to developing cross border IORPs as per the wishes of the European Commission.

Level B technical provisions are funding reserves which may be defined on a going concern basis and measured using the long term return expected on the IORPs assets. Accordingly, they may include advance provision for future salary increases, or an element of pre-funding for discretionary benefits.

24.	Yes, subject to materiality.	
25.	Such segmentation is only necessary where different groups within the same IORP have different rights and/or commitments (eg DB v. DC, or segregated sections for different employers in multi-employer IORPs, or different calls on the assets of the IORPs)	
26.	If technical provisions are to be shown gross (see answer to Q 20) then reinsurance recoverables could either be shown as separate offsets against technical provisions or as assets. Often the type of	

	reinsurance may determine the most appropriate treatment.	
27.	Yes, subject to materiality.	
28.	Yes, subject to practical constraints.	
29.	Yes, but such requests should be subject to a reasonableness test.	
30.	We think the supervisor should have the power to challenge the adequacy of technical provisions. Whether the power should extend beyond this (eg to requiring the IORP to change technical provisions) is essentially a political question; if such a power is granted, then there should be suitable checks and balances built into the legislation.	
31.	Yes, to the extent necessary to ensure consistency of application, but the measures should be clear and simple to implement without imposing undue burden on IORPs. The amount of detail that has emerged at Level 2 for implementing the Solvency II directive is considered by most to be excessive and we would wish to see this avoided for IORPs.	
32.	Under our preference (see answer to Q 21) we would envisage Member States continuing to have the power to set additional rules in relation to Level B technical provisions in order to reflect the unique circumstances of social and labour law in each Member State.	
33.	For sponsor-backed IORPs the sponsor covenant is a key support mechanism. As yet no accepted methods exist for valuing sponsor covenant – the difficulties of developing suitable methods and gaining widespread support for them should not be underestimated. Whether the sponsor covenant needs to be explicitly quantified depends on how the holistic balance sheet will be used, for example, if an insolvent balance sheet is going to require some specific action such as a reduction in benefits, then quantification of sponsor covenant would be necessary. If, on the other hand, the intention is to present all items supporting the pension promise on a single balance sheet for reasons of clarity and transparency, then it should be sufficient to show the "sponsor covenant required" as the balancing item and a qualitative judgement made, or some	

	formal reassurance obtained if appropriate, as to whether the sponsoring company is capable of delivering this level of support.	
34.	We think that some further thought is needed on what is the intended meaning of 'own funds' and it may be desirable to adopt a different terminology. Some member actuarial associations think that the concept of 'own funds' is largely irrelevant for most types of IORPs, if 'own funds' is meant to be something akin to the share capital of a business (as most IORPs do not operate with such a capital structure). Conversely, 'own funds' is meant to be the value ascribable to support mechanisms (which we might then call 'support capital') and if the HBS concept is introduced then Articles 87-99 of Solvency II may form an appropriate starting point. However, as EIOPA have already noted, these articles would need some amendments before being suitable for application to IORPs. In particular, it may be necessary to amend some articles to allow for inclusion within the HBS of values ascribed to security mechanisms other than tangible assets, e.g. sponsor covenants, insolvency protection schemes and conditional benefit structures. We assume that in most or all cases these values would contribute to basic own funds or involve liability offsets. This means that they would increase the surplus as per Article 91. Such an approach would avoid imposing undue burdens on supervisors to give advance approval (as would be the case if they were only available as ancillary own funds) and would allow such components to contribute to coverage of the MCR, should an MCR type element be considered necessary. Although EIOPA indicate that they think that Articles 93-96 and 98 should be retained largely as currently worded, we think that some simplification of the proposed approach to tiering own funds may be desirable. We think that the need for such tiering is less strong for an IORP than for an insurance entity because: - There is less practical differentiation between risk absorbency on a 'going concern' basis versus a 'gone concern' basis. Most IORPs have no equivalent of the franchise value that is a primary differentiator between the value of a business (such as an insurer or bank) on a going concern basis and the value on a gone concern basis. - IORPs less commonly issue subordinated debt of the sort that would be classified as lower tier if it were issued by insurers and banks. - The 3 tier approach proposed under Solvency II seems to be more complicated than is now being proposed for banks under Basel III.	

	We also think that it should be possible for sponsor capital (even if assessed qualitatively) to contribute to coverage of the technical provisions (as long as the characteristics of the associated sponsor covenant meet suitable criteria), which would limit the need for tiering. However, we think that agreed deficit correction plans that have the status of legally enforceable debts should be specifically carved out from more general potential access to additional sponsor contributions as such plans are likely to be of better quality than uncommitted sponsor capital.	
35.	Yes, subject to appropriate limits on the extent to which they might be taken into account in the HBS.	
36.	We agree with EIOPA that any decision to introduce a uniform security level for IORPs across the EU, and the exact level at which it is set, is primarily a political question and we do not express a view on it. It might be argued that the security level is to be determined and agreed upon by the social partners that agreed the IORP. We should not forget that the pension from an IORP is (only) an element of a broader rewards package and may interact with social security provision. The level of security might therefore depend on other elements of the reward package and does not necessarily have to be the same for each IORP. Our paper "Security in Occupational Pensions" analyses in greater detail what might be meant by harmonisation in the context of a comprehensive definition of pension security, and the issues associated with any attempt to apply a simplified rule to equalise only a part of the pension package. Factors to consider include weighing up the benefits of adopting harmonisation across the EU versus the challenges of accommodating significantly different member state based last resort protection mechanisms in any such harmonisation, as well as handling issues of subsidiarity in terms of Social and Labour law. If harmonisation is not to be adopted then consideration will need to be given to how cross-border IORPs are handled and how best to formulate a regulatory framework that includes differences across member states but still achieves a suitable level of harmonisation within individual member states.	
37.	We think that this is a reasonable approach, subject to the general comment noted above that greater clarification is needed over what action might be mandated depending on what position is revealed by the HBS.	
38.	Again we think that this is a reasonable approach, subject to the general comment noted above that greater clarification is needed over what types of HBS outcomes would be expected to lead to what	

	types of action.	
39.	We think that some evaluation of the SCR, even if only approximate, on a one year basis by larger IORPs is likely to provide the most effective foundation for any industry-wide supervisory framework. However, we think that the need for proportionality and the additional cost burdens more frequent valuations might involve need to be carefully thought through, given the large number of relatively small IORPs that exist in the EU. We would suggest that focus should primarily be on a simple methodology to be set out by EIOPA (and carried out by the IORP at a frequency that is tempered by the need for proportionality for smaller IORPs) that involves standard simplified stress tests, to ease the compliance cost for the majority of IORPs. However, there might also be scope as per Solvency II for organisations to adopt more sophisticated internal models if they so wished (if this was felt likely to encourage adoption of better risk management practices by the industry).	
40.	From a pure actuarial point of view there is no need for an MCR. The SCR covers already all the risks. The MCR is "just" a level that could trigger (further) supervisory action. Again we note the need to clarify what types of HBS outcomes would result in what types of action especially actions by supervisors. Presumably, the primary trigger for corrective action for an IORP will be if the HBS shows too low a margin of assets (including elements linked to applicable security mechanisms) over liabilities. The merits of having several potential intervention points that rely on different calculations and are computed at potentially different time frequencies (and thus of having an MCR as well as SCR) seem to us to depend very heavily on how it is expected that the HBS will be used. However, our presumption is that corrective action is likely in the first instance to involve some sort of deficit recovery plan with the MCR / SCR being the point at which the position becomes sufficiently noteworthy to need such action, so we are doubtful about the likely usefulness of having more than one trigger point computation methodology. Please also note that: - inclusion of an absolute floor in the calculation may disproportionately affect very small IORPs which by overall value may not be large but which may form a substantial proportion of IORPs across the EU by number. - for the HBS to be workable, values ascribed to different security mechanisms will need to be eligible to cover the MCR, as otherwise many IORPs will start in breach of their MCR.	

41.	We think that this should be the subject of additional research. It is clear that, in some member states, state-wide pension protection schemes form a very important component in the provision of benefit security to IORP members. It is therefore likely to be necessary politically to take some account of this security mechanism within the HBS. If such a security mechanism were provided by a suitably creditworthy private sector insurance arrangement then its existence would be allowed for, within limits, within Solvency II. However, Solvency II does not generally take into account corresponding state-wide insurance protection schemes, probably on the grounds of the additional moral hazard that this might introduce. Some balancing between these two perspectives is therefore likely to be needed. Some of this moral hazard can fall to other industry participants and can be reduced by appropriate pricing of coverage provided by the protection scheme, but some may fall to the state itself, if the shock to the industry is large enough (as we have seen with bailouts during the recent banking crisis). Allowing for a pension protection scheme in the HBS by an appropriate reduction in the assumed sponsor insolvency risk may be a practical option if the protection scheme covers the whole of the liabilities included in the HBS but is less easy to justify if it only covers part of these liabilities. Formulating the precise reduction to use is likely to require additional research. For example, all other things being equal, an IORP with a sponsor that has a high assumed insolvency risk may be charged more by the protection scheme than an IORP whose sponsor has a low assumed insolvency risk, so might also be exposed to greater future loss given default unless its contributions are correspondingly greater.	
42.	In principle it is logical to allow for operational risk whenever it exists. However, care may be needed to avoid double-counting if the risk would actually fall onto another party, as is hinted at in 10.3.165. For example, if the DC IORP is administered by an insurance company or asset manager, then the insurance company or asset manager rather than the DC IORP may carry the risk of operational failures such as contributions and investment returns being allocated to an incorrect account (as would generally be the case for allocations between unit-linked policies of the same insurer or units in a single UCITS). This favours capital requirements tailored to actual risk profiles, if practical, as these could take account of which types of risk were retained by the IORP and which had been outsourced. In such a framework, there would be no explicit need to differentiate between DC and	

	other types of IORP, as differentiation would then automatically arise depending on the types and level of operational risk to which each IORP was exposed.	
43.	We broadly agree with EIOPA's analysis, but as noted above strongly recommend greater clarity over what types of HBS results would be expected to lead to what types of actions, including actions by supervisors. The current document sets out clearly an expectation of a graduated response as the financial position appears to be deteriorating, but provides less guidance on exactly how graduated the response would be or exactly what would be relevant trigger points.	
44.	Before finalising any decision on this, we recommend that EIOPA consider carefully what such recovery plans are trying to achieve, what they might involve and what requirements it would be reasonable to place on the IORP (or other parties) whilst they were in place. With an insurance company, a recovery plan triggered in such circumstances would normally involve some short term adoption of a strategy that was expected to raise additional capital and/or reduce risk (e.g. by stopping new business) with the aim of improving the stand-alone financial position of the insurer so that it could eventually return to being a going concern, or so that it could be run off in an orderly fashion. In the meantime, the insurer would typically be restricted in what it might do that could make the situation worse. Some control mechanisms available to the IORP, e.g. changing investment strategy and/or stopping new benefit accrual, might be equally amenable to short term change and might thus be expected to be implemented to timescales similar to those applicable to insurers. However, many control mechanisms are not, or an attempt to implement them quickly may have a disproportionate impact on some parties to the arrangement. For example, the option to raise additional capital is not normally available to IORPs except in relation to asking sponsors to contribute more, which then links back to how any sponsor covenant might be included in the HBS and issues relating to pro-cyclicality.	
45.	See answer to Q44. Whilst the concept seems sound, it is worth first clarifying what is meant by 'free disposal of assets'. In an insurance context this might typically involve payment of dividends or the equivalent to shareholders, but for an IORP there are several possible interpretations. For example, would it prohibit providing any indexation to benefits if the IORP benefit structure included conditional indexation? If so, this may influence how such security mechanisms need to be included in the HBS and how the HBS is to be interpreted when determining whether this power has been triggered.	

46.	See answer to Q44. We think that it would be desirable to specify some elements of what a recovery plan needs to include as the term is currently used to mean different things in different contexts. However, we would suggest only finalising what this involves following the further research suggested in our answers to Q43 – Q45. For example the subdivision in Article 142(1)(b) seems of little relevance to IORPs. However, perhaps instead it would be appropriate to have the plan specify whether benefits were continuing to be accrued during the plan and/or whether conditional benefit improvements were being provided in excess of the minimum possible contractual level. It might also be appropriate to include comments on investment strategy expected to be adopted and on contributions being sought from the sponsor and/or members (and in what form these contributions were expected to be paid). We would also be cautious about prescribing too much in relation to a recovery plan. The circumstances could vary significantly and dependent on the circumstance we would envisage that the supervisor would require more or less specific elements. Generally there is no one-size-fits-all solution.	
47.	Although the underlying prudent person principle is a good general basis for IORP investment, we believe there is merit in some additional specific provisions. To this end the general thrust of EIOPA's revised wording under option 3 seems appropriate. However, we think additional consideration should be given as to whether the precise wording of article 132(2) of the Solvency II Directive is appropriate. In particular, the wording suggests that the managers of the IORP must 'control' the investment risks. Many of the risks are outside the control of those managers but are an inherent element of the particular investment (for example, some asset classes are at risk in inflationary times and managers cannot control that risk). EIOPA should either consider removing the word 'control' from the proposed revised wording or amend the wording to say that the IORP must be "in control" meaning the IORP knows and understands the risks and is capable of managing them when they occur. Furthermore, we do not believe that this should be in relation to the assessment of its overall solvency needs. Rather we think this should be changed to "funding needs". We broadly support the continued specification of a quantitative limit(s) to investment in the sponsoring undertaking (and in a group of associated undertakings) in particular, and the need for diversification in general. However, recent events have illustrated the peril of permitting Member States to derogate from the diversification requirement in relation to investment in government bonds. We strongly urge EIOPA to consider recommending that this easement (and that relating to	

	the 'self-investment' in sponsoring undertakings) is removed. Furthermore, we support EIOPA's contention (in the text, if not the 'blue box' advice) that it is important to distinguish between direct investment in the securities of a sponsoring undertaking and the operation of the employer covenant. We believe that it is appropriate to retain article 18(1)(d), though there should be no special provision for the valuation of derivatives 'on a prudent basis'. All assets should be valued on a market consistent and prudent basis. Finally, we agree that introduction of a specific provision to avoid geographical concentration is a welcome adjunct to the 'prudent person' principle.	
48.	We agree with EIOPA that it is appropriate to permit Member States to impose more restrictive requirements only in relation to cases where the members/participants bear the investment risk. However, there are existing issues that the IORP Directive (as worded now and as proposed in the draft response to the Call for Advice) does not address. In particular, in some countries there is a requirement that IORPs guarantee a return that is at least the average return in all IORPs (in that country). This tends to lead to a herding mentality with larger IORPs in effect driving the investment approach of smaller ones – given that the risk of being out of line with the IORP average in that country is too great for them to absorb. We would observe that the value of such guarantees under a market consistent framework may be problematical, and other guarantees may be shown to be very expensive. We do not consider it necessary to retain article 18(6), on the proviso that the power given in article 14(2) is either retained or not materially changed under EIOPA's review of supervisory powers. Notwithstanding our statement that we agree that Member States should be permitted to impose more restrictive requirements in 'DC' arrangements, it needs to be borne in mind that this **is likely to impede rather than facilitate cross-border activity**.	
49.	In the round, we have sympathy with EIOPA's aim to allow Member States to impose more restrictive investment provisions where the members/participants themselves bear the investment risks. However, as mentioned in responding to question 48, it must be borne in mind that anything that leads to separate compartmentalising of different Member States' membership will impede cross-border activity. In particular, we note that EIOPA is consulting on four possibilities in relation to multi-funds, default	

	options and life-styling – although there is not a specific question in the template relating to this aspect. In brief the possibilities concern the degree of permitted or required European/Member State (supervisory) control as to whether, for example, a default is "adequate for members risk appetite and that its risk profile is appropriate". Generally the Groupe Consultatif favours individual Member States being able to specify requirements in relation to their domestic IORPs, although (once more) we raise the potential barrier that could apply to cross-border provision if Member States are permitted to require these same restrictions to apply to Home State IORPs in cases of cross-border activity. We also believe that there must be much greater clarity as to what is meant by terms such as "low risk". It is questionable that a 'cash' fund is low risk in the context of pension provision – particularly over the longer term. We agree that a VaR limit would not be beneficial. In the text of the EIOPA draft advice, mention is made that in several jurisdictions there is no reference to technical provisions for DC IORPs. This is not addressed in the 'blue box' summary of advice. If steps are taken to ensure that reference is made to technical provisions for DC IORPs, then it might be sensible to confirm that – for 'pure' DC IORPs, the technical provisions equate either to (i) assets or (ii) assets plus provision for operational risk (if that route is pursued) or (iii) assets plus provision for expenses and any guarantees.	
50.	Within the constraint imposed by the short consultation period, we have not thought in detail about other impacts that should be considered. It is clear, however, that the key aspects in the Call for Advice relating to the capital adequacy requirements for IORPs will have a profound effect on IORP investment strategies. Most notably, under the Solvency II Directive capital requirements for government bond investments are such that there is a drive from equity (and other asset classes) in favour of Government bonds. Notwithstanding the geographical concentration issue, this has proven to be a significant problem and one that is likely to exacerbate not ameliorate pro-cyclicality problems.	
51.	We do not believe it necessary to retain article 18(2). Rather, this is a matter that can be left to the prudent person principle. The origins for the inclusion of this prohibition in the first IORP Directive are not clear to us. On the	

	face of it the current use of subordinated loans is either in direct breach of this requirement or, for some reason, considered not to be. (In other words, there is no current exemption for subordinated loans, so it is unclear why it is now required.)	
52.	We agree with the EIOPA assertion that IORPs are different from banks and insurance companies due to the longer term duration of their liabilities. Accordingly it is not necessary to have a harmonised approach to pro-cyclicality between all financial institutions. The determination of the discount rate can provide some counter-cyclical measures by taking into account a matching premium for the valuation of guaranteed pension liabilities and including a counter-cyclical premium as is currently proposed for Solvency II. Experience with risk based supervision for IORPs clearly indicates that supervisory flexibility is of utmost importance for sustainability, and that long (and flexible) recovery periods should be permitted. Hence we support the proposal to include a provision similar to the Pillar II dampener in Solvency II. We agree that there is less justification for the inclusion of a Pillar 1 equity dampener, and we suggest that needs further analysis, particularly as this relies on the presumption of mean reversion which is not universally accepted. Accordingly we would support Option 1 in 12.3.21.	
53.		
54.		
55.	We note that EIOPA has the obligation to develop EU wide stress tests for IORPs, as well as for insurance undertakings. We strongly support EIOPA's comments regarding the importance of proportionality given the large number of small IORPs for whom the cost of carrying out such stress testing could be excessive. We consider that the detail of the stress tests to be undertaken be left to each Member State, subject to high level principles established by EIOPA, and we would support the inclusion in a revised IORP Directive of text similar to that in Article 34(4) of the Solvency II Framework Directive, suitably amended to allow for the specificities of IORPs.	
56.		

57.		
58.		
59.		
60.	We do not consider that supervisors should have the power to order capital add-ons for IORPs as other tools (recovery plans, benefits reduction mechanisms etc) can be used to address "extraordinary circumstances" which are not generally available in the case of insurers. In practice additional capital is not usually readily available to IORPs. In some Member States, a requirement for additional capital may lead to reduction of benefits, including pensions in payment, if there are no other means available.	
61.		
62.		
63.	We are supportive of the need for "an effective system of governance which provides for sound and prudent management" of the IORP as described in Article 41 (1) of the Solvency II Framework Directive. However, we would emphasise (as has been recognised in the draft response) that there are three key aspects where it may be necessary to depart from the way in which Solvency II is applied to insurance undertakings: 1. The heterogeneity of IORPS (and other arrangements not currently covered under the Directive) across Europe, so that a one-size-fits all solution may not be possible 2. The vital importance of proportionality given the small size of many IORPS. Under the current Directive, Member States are permitted to excuse "small" IORPS (fewer than 100 members) from some of the supervisory/reporting requirements, but this approach may not be appropriate in any new regime, given the focus on risk management i.e. a "small" IORP satisfies one of the three criteria set out in Article 41 (2) of the Solvency II Framework Directive for the exercise of proportionality ("scale") but not necessarily the other two – "nature" and "complexity". 3. The fact that many IORPS (and in practice almost all medium/small IORPS) outsource most or all of their functions to third parties. We support the proposed response that Article 41 of the Solvency II Framework Directive should be	

	amended to a. permit (but not require) member representation in the management of the IORP, b. require the legal separation between IORP and sponsoring employer c. provide for "regular" rather than "annual" reviews of written policies which must be approved by the "management body" of the IORP – not by the supervisory authority. We note the comment in 10.3.21 that EIOPA does not see any major differences between DB and DC IORPs in relation to governance requirements. We accept that the principles of good governance apply equally to both types of arrangement but since risks are apportioned differently between employers and employees, there should be appropriate differences in how good governance is implemented, interpreted and by whom. We note the comments in 10.3.22 and 10.3.23 that EIOPA does not expect a high (cost) impact from the introduction of general governance requirements as proposed, but that an impact study is required and that the application of the proportionality principle is important. We strongly support the need for an impact assessment before any decision is taken to introduce the general governance requirements proposed, and that proportionality must be taken into account appropriately.	
64.		
65.	We support the recommendation that the fit and proper requirements be applied to the management board and key function holders, many of whom will in practice be outsourced functions and may be required to meet fit and proper criteria in order to offer the service. In our view, the decision as to whether a member of the management board meets the criteria should not be left to the IORP (i.e. the management board) but should be the subject of pre-approval by the supervisory authority (even where "registration" of the IORP is required rather than "authorisation"). We also support the proposal that supervisors have power to investigate whether individuals in management/key functions are "fit and proper" at all times, and to take action if they find that this is not the case.	
66.		

67.		
68.	We agree that IORPs should have an effective risk management system which should cover all risks to which the IORP is exposed. We would repeat our comments in relation to other governance requirements that there are three key reasons why it may be necessary to depart from the way in which Solvency II is applied to insurance undertakings (see answer to Q63). We note (20.3.16) that EIOPA considers that sponsor risk can be subsumed under other headings – it is our view that sponsor support is such an important feature in many IORPs that it should be considered as a category of risk in its own right. The response to CfA 19 proposes that the actuarial function should "contribute to the effective implementation of the risk management function" as currently incorporated in Article 48(1)(i) of the Solvency II Framework Directive. We strongly support that view and we believe that in IORPs the actuarial function should play a lead role in developing and implementing the risk management system.	
69.	We support the requirement for an ORSA, provided that there is flexibility for components/requirements appropriate to individual Member States. The support stems from the fact that the ORSA should instil discipline on the IORP trustees/management board to take more of a holistic view, pulling together issues that might otherwise be considered in isolation (for example, where these have been considered by different sets of appointed advisers and possibly different committees of trustees/the board). Issues of proportionality could be addressed in appropriate streamlining to assist compliance by smaller IORPs. The ORSA could also encourage more regular (possibly even ongoing) assessment, as opposed to the snapshot position that might be considered within the HBS and give opportunity for the management of the IORP to show how they had balanced all the moving pieces in a risk management context.	
70.	In principle, we support the proposal to require DC IORPs to undertake an ORSA, although the scope of this will be limited, particularly where functions and activities are outsourced.	
71.	We consider that an ORSA should be required if the holistic balance sheet is introduced. The ORSA	

	would consider issues not routinely picked up within the HBS, for example • where an IORP is using a standard model, the extent to which it is suitable for the IORP • the possibility of granting discretionary benefits which have not been included in the HBS • extraordinary matters such as the potential impact of the collapse of a national protection scheme The ORSA could also encourage more regular (possibly even ongoing) assessment, as opposed to the snapshot position considered within the HBS annually (or any other period) and give opportunity for the management of the IORP to show how they had balanced all the moving pieces in a risk management context.	
72.		
73.		
74.	We would repeat our comments in relation to other governance requirements that there are three key reasons why it may be necessary to depart from the way in which Solvency II is applied to insurance undertakings (see answer to Q63). We note the comment in 23.4 that EIOPA that "the introduction of an internal audit function could have the potential to be overly burdensome without a corresponding increase in benefits on the IORP, with potential adverse cost impacts for members if the principle of proportionality (cf. the above remarks) is not taken into account". We would share this concern. We recommend that an impact assessment be undertaken before any decision is taken to introduce an internal audit function, and that proportionality must be taken into account appropriately.	
75.		
76.	We agree with the analysis as set out in 24.3.1 to 24.3.28 as far as it goes. In particular: • the "actuarial function" should perform the role currently undertaken for IORPs by the actuary (or similar qualified specialist) referenced in Articles 9 and 15 of the IORP Directive i.e. execute and certify calculation of the technical provisions	

	• We would support the view that executing and certifying the technical provisions should ideally be two independent functions. On grounds of cost we agree that these functions can be performed by one function if sufficient measures are in place as to ensure independent review • the actuarial function can be an internal or an external (out-sourced) appointment • the definition of the actuarial function should be sufficiently flexible to deal with the wide variety of IORPs in Member States An actuarial function should, as a minimum, be required for all IORPs which bear biometric or investment risk i.e. all but "pure DC" IORPs (and perhaps for all IORPs given other types of risk that actuaries typically consider in an insurance context), although actuaries can perform other tasks in such IORPs e.g. advice on investment options, member communications, risk management. We would prefer to see a more comprehensive role for the actuarial function, as is already the case in a number of Member States with large numbers of IORPs. This would include providing a professional judgement on the financial position of the IORP, the consistency and sufficiency of financing, the execution of the prudent person principle, the adequacy of governance of the IORP and the adequacy of the information provided to beneficiaries.	
77.	The list set out in Article 48(1) is appropriate with the amendments suggested in relation to • underwriting policy • reinsurance as these issues may not arise in many IORPs. We agree that the actuarial function should have whistle-blowing responsibility to the Board of the IORP and to the supervisory body. We strongly support the inclusion of the reference as in Article 48(1)(j) in relation to contributing to the risk management function. We agree with the comment in 24.3.16 that the actuarial function should be required to advise on the adequacy of future expected contributions to meet the benefits to be provided for future service, or where the IORP is established on a "balance of cost" basis, to recommend contribution rates to	

	support the future accrual of benefits.	
78.	We strongly support the view set out in 24.3.24 that the actuarial function should provide competent, appropriate and independent advice to the IORP. We agree that the actuarial function should have "operational independence" so that it can discharge its duties objectively without being inappropriately influenced, constrained or controlled by the IORP, the sponsoring employers or other stakeholders in the IORP, in relation to the data used or the methods or assumptions adopted in undertaking its work, and without any conflict of interests. The framework within which the actuarial function operates may differ from IORP to IORP, but there should in all cases be appropriate safeguards against the independence of the function (and the advice provided) becoming prejudiced. We agree that the actuarial function should be subject to fit and proper requirements. We note the possible criteria set out in 24.3.26 in relation to the qualifications required to perform the actuarial function. We believe that actuaries who are members of their national associations and are therefore subject to the professional (technical and ethical) standards of that association and indirectly of the GCAE are best placed to fulfil the actuarial function in relation to IORPs. Indeed a number of countries currently require the actuary to an IORP to be registered with, or hold a practising certificate issued by, the national actuarial association. In general, such actuaries will satisfy the 3 criteria listed in this paragraph. We would be supportive of any requirement (either in the Directive or by the national regulator) to require the actuarial function holder to be a member of the national professional association of actuaries, as we believe this would enhance the operation of IORPs and the security of their members, in addition to making it easier for regulators to satisfy themselves that fit and proper requirements are met, although we understand that it may not be possible to impose such a requirement in certain Member States. As an alternative, Member States could be permitted to impose such additional requirements in their own jurisdiction: indeed not to permit this would weaken the governance of IORPs in countries where this is currently a requirement. International standards promulgated by either or both of the International Actuarial Association and the Groupe Consultatif can very valuably support consistency and transparency of practice on the part of holders of the actuarial function if they are members of professional associations.	

79.	We agree with the analysis and options as laid out, and with EIOPA we support Option 2. We agree that this should not have a major cost impact as IORPs are already required to have an actuary (or similar qualified specialist) to compute and certify the technical provisions.	
80.		
81.		
82.		
83.		
84.		
85.		
86.		
87.		
88.		
89.		
90.		
91.	Informing members is not a matter of providing lots of information, but is a matter of considering what the goal of information provision is and deciding what information members really need and can absorb. The purpose of information requirements in the IORP directive is clearly defined in 29.2.1. In order to decide what information to send to the member, IORPs should define what they want to accomplish with the information. Apart from what pension experts think is useful information for members, it is necessary (and more important) for IORPs to examine the members' need for information (content and format) and share these findings among other IORPs. This is the best way to decide what information is needed for the member and should be decided on a national level due to cultural differences and differences in pension systems. One of the most important developments concerning the revision of the IORP directive is the shift towards a risk based approach for pensions. Risk in pensions is divided among <u>all</u> stakeholders involved including IORP members. As stated in our detailed remarks to 29.2.5, in almost every IORP	

the members have to bear at least a minimum amount of risk. Policy rules on benefit accrual, indexation and contributions tend to be more complex in DB products compared with DC products. We think that all stakeholders should be informed about those risks and the impact they have as far as these stakeholders bear the risks. The information requirements should therefore not be limited to DC IORPs.

Detailed remarks

29.2.9 Apart from the difference between pre-enrolment and ongoing information there should be a distinction between personalized and general (or better: IORP specific) information. The latter can be used at any time (also before commencement) to compare IORPs so that one is able to make a decision whether to participate in the IORP or not. Personalised information is only applicable to members who participate in the IORP in order to give them the ability to have an overview of their future financial situation. Because personalised and general information serve a different goal this distinction should be added to the current advice.

Table 23.1 Difference between IORP-specific and personalised information as an extra dimension to pre-enrolment and ongoing information.

	pre-enrolment information	**ongoing information**
IORP specific Information	KID	...
Personalised Information	...	annual benefit statement

29.2.5 In our view the distinction between DC- and DB-IORPs is not as straightforward as it used to be some 15 years ago. Nowadays there is a variety of IORP designs within DC and DB IORPs. There are even DB-IORPs where most of the risk is shifted towards the member. Within DC-IORPs guarantees can provide more security to members than some DB-IORPs. This means that there is no clear line between DC and DB IORPs on the basis of the risks that members bear. Moreover in almost any kind of IORP members have to bear some risk. A more appropriate distinction between

	IORPs can therefore be made based on the amount of risk to which members are exposed. Information about risks is essential to have a clear view about the quality of the benefit. The introduction of a holistic balance sheet could be very helpful to distinguish between IORPs. In this holistic balance sheet the various risks are presented. The big challenge is how to communicate to different stakeholders about these risks. Clearly IORP members and beneficiaries need different information about risks than do those responsible for managing the IORP. 29.2.27 (first bullet) In conjunction with our remarks on 29.2.5 we want to state that, even when the member is exposed to few risks within the IORP, (s)he has to be able to obtain information about these risks. A KID would be a great leap forward for the members of a pension IORP. However, the text in the advice suggests that a KID will only be useful and applicable for DC IORPs. Because every IORP member has to bear some risk we would like EIOPA to consider applying a KID to all IORPs.	
92.	A KID is an important document for (especially future) IORP members. With a KID members are able to compare their current and (possible) new IORP as a very important part of their individual labour agreement. We should keep in mind that the information should not be too difficult to understand. For employers this document will be important as well. With the KID they will be able to compare the quality of their IORP with that of their competitors.	
93.	As a general remark more information is definitely not always better information. Pensions are a complex financial arrangement and providing too much or overly complex information may turn members of IORPs completely away instead of doing the job of informing them about their prospects (see the literature on behavioural finance). When a risk/reward profile is set, the outcome of scenarios should reflect the risk that is being taken. The use of a fixed time horizon would be helpful to show the impact of the chosen risks. How to communicate about scenarios to different members has to be examined thoroughly, because different groups of IORP members probably have to be informed differently, e.g. to use a fixed time horizon of say 15 years for a 30-year old member is different from a 64-year old member who is awaiting his first pension payments. The effect of a risk/reward profile would preferably be set as a personalized outcome over a fixed time horizon. Hence this outcome cannot be put in a KID that deals with IORP-specific information	

	(see table 23.1). The outcome should apart from the expected value show the downward risk and upward potential due to the chosen asset mix. The spread of the downward risk and upward potential is risk information that has to be provided in our view. The downward risk and upward potential assumptions about, for example, risk levels have to be set at EU level so that the information is comparable. ***Detailed remarks*** 29.2.23 When a member is informed throughout all phases of his/her membership with the IORP we would like to emphasize that not only the expected (value of) benefits are projected, but also the risks that are involved. In order to make clear to which risks members are exposed, the CfA should define: - what risks are to be taken into account; - how to measure the risk impact; - what the level of risk is that we think of as 'risk free'. 29.2.42 What financial assumptions have to be made to deal with scenarios?	
94.	Every IORP member should be entitled to receive details on request about his/her accrued benefits, although Member States should be permitted to restrict the frequency with which members have a right to receive such information, to forestall frivolous or vexatious enquiries. Active IORP member (employee) should be informed more frequently than so-called inactive IORP members (former employees with vested benefits) because the accrued benefits of active members will change more rapidly due to contribution payments. Currently some countries already have national legislation in place concerning the frequency of personalized statements. Costs should be included in a KID, because this is essential information for the member at least before joining a pension IORP. If IORP members are not able to make choices based upon costs, costs should not be mandatory on the annual overview. Apart from this, information about costs should always be available to IORP members.	

	Detailed remarks 29.2.70 The market assessment does not work in the same way for IORPs as for insurance companies through member communication. On the other hand IORPs could be influenced by such an assessment. Costs are an important factor for comparing IORPs. By comparing each other along a benchmark IORPs have to explain why they have a certain level of service for a certain price. This can also trigger the employer to ask for higher service levels and awareness that higher service levels mean higher costs.	
95.	Harmonization of information is important if it is intended that members should be able to add up different accrued benefit entitlements. This would improve members' understanding of their total 'consolidated' retirement benefits. The information also has to be understandable and comparable. Different countries have different pension systems, which would imply that it will be very difficult to fully harmonize pension information in practice. Harmonizing the definition of some parts of the content (e.g. what term to use for the annuity from your retirement age, in order to be able to add up benefits from different provisions) would improve the possibility of adding up different benefits from different pension arrangements. At the EU-level EIOPA should propose a definition of key elements of pension provisions. These key elements are retirement pension, spouse pension and disability pension. The rest of the information should be set at national level because of the variety of pension provisions throughout the EU. To compare risks between pension IORPs, confidence levels as a means to inform IORP members about risks should be set at EU-level. ***Detailed remarks*** 29.2.81 Providing information by digital means should indeed be encouraged. A few remarks have to be added to this: - Digital information would be best developed through a common approach at national level. This would mean that costs are being distributed over a large amount of participants and would therefore be relatively low. - Digital information would give the opportunity to give information on request, which would mean that information can be tailor made according to the needs of the individual member. Some members want to have a basic view on what they probably will get when they retire. Other members	

	want to know everything about the risks that are involved, about possible choices they have at the retirement age, etc. - Digital information in itself is only a matter of a different way of presentation compared to the current distribution on paper. The information can be extended with modelling. Modelling can provide extra information about scenarios, for example about the impact of early retirement. With digital information accompanied by modelling, members will be able to make deliberate choices about his or her pension.	
96.	We agree with EIOPA's impact assessment. In our view information should be available to and tested by the stakeholders involved, to make sure that the informed stakeholder is able to understand the information. Above all the benefits of adequate information provision will by far outweigh the costs.	