

**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:

EEF

EEF is the representative voice of UK manufacturing. Around a quarter of the UK's manufacturing businesses are our members and many more use our services. We work with policymakers to create policies that are in the best interests of manufacturing, which ensure a high growth industry and boost its ability to make a positive contribution to the real economy.

The proposals in the draft advice of EIOPA will significantly affect EEF member companies, who have a long history of providing Defined Benefit pension schemes.

Disclosure of comments:

EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.

Public

*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**.*

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.

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- 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](mailto:CP-006@eiopa.europa.eu), in MSWord Format, (our IT tool does not allow processing of any other formats).**

Question	Comment	
General comment		
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18.	We urge EIOPA not to recommend to the Commission the additional solvency hurdle of a risk margin.	

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	EEF disputes the need for one; it is a concept more applicable to insurance than pension products, where the risk profile is significantly different. The risk profile of occupational pensions is more predictable than insurance products and there are other options for dealing with risk – cutting benefits, raising contributions, etc.	
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21.	EEF disputes the proposed approach and options regarding the interest rate to be used to establish technical provisions, involving the use of risk free interest rates. Given the diversity of schemes across the EU, it is inappropriate to search for one approach.	
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30.	<p>EEF disputes that there is a need to incorporate Article 85 of Solvency II into a revised IORP Directive. We dispute the suggestion that there is a need to create a level playing field across financial sectors such that IORPs should be required to raise the amount of technical provisions. The providers of IORPs are not in the same market as insurers; occupational pensions are accessed by the labour market, not the financial product market and generally operate on a not for profit basis. They also have a very different risk profile and there are mitigating mechanisms for managing that risk.</p> <p>We have had a number of years of highly prescriptive pension regulation in the UK based on the existing IORP Directive. Such have been the transformation costs that many employers have closed their DB</p>	

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	<p>schemes to future accrual.</p> <p>Further reform runs a real risk of an illusory 'pension security', as employers will close the remaining DB schemes to future accrual.</p> <p>Also, the financial impact on many companies, even those that have closed their DB schemes to future accrual, could be so severe that it may result in companies ceasing to be profitable, risking reduced investment in jobs and R&amp;D and even closure.</p> <p>For these reasons we believe a thorough impact assessment is necessary, covering the effect not only on pension security but also the wider economic implications – for jobs, investment and the financial markets should pension fund managers be required to avoid risk bearing assets. Unlike the capital solvency requirement proposal, the UK's pension regulatory regime has been very effective in holding the balance between raising the the level of scheme funding/ improving pension security and ensuring employers remain sustainable. There is insufficient acknowledgment in the proposed EIPOA advice of the need to carry out this balancing act.</p>	
31.	<p>No. EEF does not agree that the Commission should adopt level 2 implementing measures regarding the calculation of technical provisions. Member States have such different situations and priorities that such issues should firmly remain a matter of national competence. Given the impact on pensions, jobs and financial markets, these are issues that should remain subject to full political scrutiny and accountability.</p>	
32.	<p>No. A prohibition on Member States being allowed to tailor the calculation of technical provisions would be a direct contravention of the principle of subsidiarity; pensions remains a Member State competence. Such a proposal goes beyond matters connected with internal market policy and the scope of the IORP Directive.</p>	
33.	<p>Whilst we disagree with the direction of travel indicated in the draft advice of EIOPA (i.e. that there should be a solvency capital requirement in addition to technical provisions), to the extent that it becomes necessary, we agree that all forms of support from the sponsoring employer should be treated as an asset of the pension scheme and should therefore be treated as part of the risk-mitigation formula.</p>	

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38.	We dispute that there is a need to apply the Solvency II rules for the reasons set out at Q30 and Q31. Also, the solvency capital requirement approach takes no account of the broader perspective; that income security in retirement is best guaranteed by not undermining the security of the employer to provide jobs. Also it does not take account of the level of state pension available.	
39.	A review should be carried out three-yearly, as now in the UK, not annually. The transaction costs of carrying out a review of assets and liabilities are a significant burden and there is no material advantage in increasing the frequency of formal reviews.	
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44.	EEF welcomes EIOPA's acknowledgement that it is appropriate that the recovery periods for shortfalls in funding IORPs should be much longer than for insurance products. That said, we would not support any reduction in the amount of flexibility available for determining what the recovery period should be. This flexibility works well in the UK, under the supervision of the Pensions Regulator. It has helped the UK undertake the difficult task of balancing improved pension security but not at the risk of reducing significantly job security.	
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