

**Summary of Comments on Consultation Paper: Response to the Call for Advice on  
the review of the IORP Directive 2003/41/EC: second consultation - EIOPA-CP-  
11/006  
Q34-Q46**

**EIOPA-BoS-12/016  
15 February 2012**

EIOPA would like to thank OPSG; AbA; ABI\_IT; ABI\_UK; Abvakabo\_FNV\_NL; ACA\_UK; ACT; ADEPO\_ES; AEIP; AFG; AFPEN; AFTI; Alecta; ALFI and ALFP; AMICE; AMONIS; ANIA; Aon\_Hewitt; APL\_UK; Association of Pensioner Trustees in Ireland; Assoprevidenzia IT; Assuralia; ATOS\_FR; Atradius; Balfour Beatty plc; BASF; BAVC; Bayer; BDA; BIPAR; BlackRock; BNP Paribas Cardif; BNP Paribas SS; Bosch Group; Bosch Pensionfonds AG; BP; BT Group plc; BT Pension Scheme Management Ltd; BusinessEurope; BVCA; BVI; BVPI-ABIP; BW; CBI; CEA; Charles Cronin from OPSG; Chris Barnard; CMHF; CNV NL; CWC; DATA; De Unie; Derek Scott of D&L Scott; Deutsche Post AG; Deutsche Post Pensionfonds AG; DG Treasury FR; DHL NL; DHL Services Limited UK; DHL Trustees; DIIR Germany; Dutch Labour Foundation; Dutch Ministry of Social Affairs; EAPSPI; ECB; ecie vie; ECIIA; EEF; EFAMA; EFI; EFRP; ESY FI; European Metalworkers Foundation; EVCA; FAIDER; FairPensions; FBIA; German Federal Ministry of Finance; Federation Dutch Pension Funds; FFSA FR; Finland; Finnish Centre for Pensions; FNMf; FNV; FNV Bondgenoten; FRC; Gazelle; GCAE; Generali Vie; Gesamtmetall; HM Treasury; Hundred Group; Hungarian Financial Supervisory Authority; HVB; IBM Germany Pensionskasse and Pensionsfonds; ICAEW; IMA; ING; Institute and Faculty of Actuaries; IVS DE; Keills; KPMG; Le cercle des epargnants; LTO Netherlands; LTTP; LV 1871 Pensionfonds AG; Macfarlanes; MAN Pensionsfonds AG; MAN SE; MCP; Mercer; MHP; NAPF; NEST; Nordmetall; OECD; PEIF; Pensioen Stichting Transport NL; Pensionskasse der Mitarbeiter der Hoechst Gruppe VVaG; PFZW NL; PMT\_PME\_MnServices NL; Predica; Prof.Pelsser Maastrich University; PSV aG; PTK; Punter Southall; PwC LLP UK; Reed Elsevier Group; Rio Tinto; RNLI; RPTCL; RWE AG; Sacker and Partners LLP; SAI; Siemens AG; Social Partners Bosch Group Germany; SPAG; SPC UK; Standard Life plc; State Street; TCO; TESCO; Transport for London; TUC; TW; UNI Europa; USS UK; vbw DE; VFPK; VHP2; VvV NL; Whitbread; ZIA; ZVK Bau.

The numbering of the paragraphs refers to Consultation Paper No. EIOPA-CP-11/006

No.	Name	Reference	Comment	Resolution
1.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	34.	<p>The OPSG considers that the concept of a holistic balance sheet approach is intellectually attractive and we are happy that EIOPA recognises that the steering instruments should be recognised in the supervisory framework. However, we think that the concept should be researched more in depth and developed further before one can decide whether it can and should play a role in European supervision of IORPs. The concept is too difficult to implement as the primary European supervisory instrument, certainly with the current status of knowledge. The calculations needed for a holistic balance sheet are complex, especially with conditional elements. For small and medium sized pension funds, the supervisory costs would be disproportionate relative to the value of the benefits if they need to calculate the balance sheet on a regular basis. Conversely, for very strong companies, it may be clear that the value of the sponsor covenant will be far in excess of that needed to meet the IORP capital requirements, and hence the need for complex calculation should be avoided in those cases.</p> <p>The OPSG accepts that a holistic framework would enable supervisors to handle all kind of various steering instruments and align them (using market consistent valuation) and suggests that IORPs should be allowed to use the the holistic framework as an internal model. The option to use it as an internal model should be expected to provide improved risk management, better understanding of the steering instruments and their impact by all stakeholders, leading to better informed decision making and supervision.</p> <p>The OPSG also sees many shortcomings in the HBS. The first is that the objective is not clear. If and when this is not set out</p>	<p>Noted.</p> <p>The final response has noted that the HLB requires considerable further investigation, and that the potential complexity of the approach is not yet known.</p>

			<p>clearly, any discussion on the HBS seems premature. The second is that the impact is unclear, as mentioned earlier. Without proper impact assessment and QIS, it is unclear what the consequences of the HBS will be. The third is that a HBS preferably needs a complete pension deal, which means that all measures that the IORP will take should be clear ex-ante, in all situations. Next to the fact that a pension deal never can be complete for all (unforeseeable) situations, this also will imply that social partners and trustees will have less freedom in steering the IORP versus the current situation. The HBS will breach the discretionary freedom they currently have and they have to abandon the option to decide (discretionary) on the appropriate measures in the event of a crisis. The fourth is that the calculations are too complex (see below for more explanation). The fifth is that it will lead to pseudo security. The HBS brings back supervision to a couple of numbers, each based on a set of assumptions. The few numbers in the balance sheet can give the impression of full understanding of the benefits and the steering instruments, not recognising all uncertainty around these. The sixth and final is that it is disproportionate, implying severe supervisory costs and span of control by trustees at the (possible) expense of the benefits.</p> <p>The difficulties in calculation the OPSG sees are:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The HBS requires using complex valuation techniques, like option models and ALM Monte Carlo simulations, to be able to calculate the value of contingent assets and liabilities;</li> <li><input type="checkbox"/> Markets are incomplete; <ul style="list-style-type: none"> <li>- There is no (developed) market for (ultra) long dated liabilities. This is already an issue for guaranteed benefits with maturities of 30 years and over, also using other forms of supervision than the HBS.</li> </ul> </li> </ul>	
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		<p>- There is no market for longer dated options, needed for the valuation of contingent assets and liabilities.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Pension schemes are incomplete – and thus not all the cash flows of the (contingent) assets and liabilities are known – and it is therefore not possible to calculate the present value of (contingent) assets and liabilities;</li> <li><input type="checkbox"/> It is unclear what to do with discretionary benefits;</li> <li><input type="checkbox"/> An assessment is needed of sponsor risk to be able to calculate the value of contingent assets like future contributions and sponsor covenant.</li> </ul> <p>Conclusion</p> <p>The OPSG thinks that the holistic balance sheet – the OPSG would prefer ‘holistic framework’ – is intellectually attractive, but there are too many open issues to conclude whether it should be applicable to IORPs. An impact assessment and quantitative impact study are needed before any decision can and should be taken at level 1. Next, that it is too early to tell whether a holistic framework would have added value, the concept is also very complicated and would possibly be too prudent. Currently and with the knowledge of today the holistic framework is not considered suited for supervision of IORPs.</p> <p>The OPSG is of the opinion that a set of common principles should apply at EU level for both the holistic framework and for the valuation of assets and liabilities, but that the responsibility for setting the detailed rules for calculating these should remain at Member State level. Discount rates should be market consistent, but be adapted for the long term nature of pensions by applying modifications, the volatility should be smoothed</p>	
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			and the recovery periods should be flexible and sufficiently long.	
2.	AbA Arbeitsgemeinschaft für betriebliche Altersver	34.	As described above, we do not believe that risk-based capital requirements are appropriate for IORPs. Moreover, we consider own funds to be unnecessary in a system where IORPs have sponsor support coupled with an insolvency protection scheme.	Noted. The HLB could be used to give credit for sponsor support and other security mechanisms.
3.	ABVAKABO FNV	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).</p>	Noted.
4.	AEIP	34.	75. Taking the aim of the three tier system into account - to cluster different levels of security (SCR / MCR) by applying different kinds of own funds - we find the whole approach artificial. Usually IORP's do not provide of tier 2 or tier 3 capital. The sponsor covenant - provided on legal or	Noted. EIOPA agrees that the specificities of IORPs should be reflected in

			<p>contractual basis - is sufficient. We therefore do not welcome the application of Articles 87-99 of Solvency II to IORPs.</p> <p>76. However, if it would be decided to apply the concept of own funds to IORP's, the solvency II rules should at least be altered to take the specificities of IORP's into account.</p> <p>IORP's have no own shares, neither do they have subordinated liabilities. This brings the definition of basic own funds to the excess of assets over liabilities. Moreover, the concepts of ancillary own funds surplus funds, and tiering of own funds are irrelevant and not applicable to IORP's. Only in case the holistic approach is adopted (what we regard as only the second best solution) the differences between unconditional, conditional and discretionary liabilities could be expressed in some form of tiers.</p>	any Directive applying to IORPs.
6.	AMICE	34.	AMICE agrees with EIOPA's proposal to apply Articles 87-99 on own funds to IORPs and, subject to further analysis, with the amendments proposed by EIOPA.	Noted.
7.	AMONIS OFP	34.	<p>Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?</p> <p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule and their implementation in the holistic balance sheet.</p> <p>Therefore AMONIS OFP is opposed to the application to IORPs of articles 87-99 of the Solvency II Directive on own funds.</p>	EIOPA supports a market based valuation of assets and liabilities.

			IORPs have no equity capital, neither do they have subordinated liabilities. The additional concepts of ancillary own funds and surplus funds seems therefore superfluous for IORPs. The same holds for the tiering of own funds. This concept is not applicable for IORPs.	
8.	ANIA – Association of Italian Insurers	34.	<p>In general, the ANIA agrees that the articles 87-92 &amp; 97-98 of the Solvency II Framework Directive on own funds should be applied to IORPs. The ANIA supports the proposed amendments.</p> <p>However, the ANIA is hesitant about including the articles on the classification of own funds (articles 93-96 of the Solvency II Framework Directive). On these articles the ANIA can only take an informed decision after the outcome of a carefully executed QIS.</p>	Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis
9.	Association Française de la Gestion financière (AFG)	34.	No. AFG don't support the idea that Article 87-99 of Solvency II should apply to IORPs/Pension schemes.	Noted.
10.	Association of British Insurers	34.	The ABI believes that applying these articles of the Solvency II Directive in the context of an IORP seem rather extreme. IORPs are not insurance companies with claims and reinsurance treaties. Only if and where appropriate should these be applied and certainly should only be applicable to IORPs if they are running biometric risks.	Noted. These are intended only for IORPs bearing risks.
11.	Association of Consulting Actuaries (UK)	34.	No. "Own funds" is not a concept that maps onto many IORPs, particularly sponsor-supported IORPs in the UK. The sponsor has a legitimate interest in any "excess" funding, particularly because it can be (to an extent) symmetrical to its acceptance of the risk of underfunding. We have already made the point that the IORP is not and does not bear comparison with an insurance company. The sponsor does not bear comparison with the insurer's shareholders. The undertaking (of providing	Noted.

			pensions) is not a competitive one. A risk-free SCR, above which own funds can be defined, is inappropriate. By extension therefore, the concept of own funds itself is inappropriate within the context of an IORP with sponsor support.	
12.	Association of French Insurers (FFSA)	34.	In general, the FFSA agrees that the articles 87-99 of the Solvency II Framework Directive on own funds should be applied to IORPs. A tiering system with quantitative limits could ensure an overall good level of protection for IORPs.	Noted.
13.	Association of Pensioner Trustees in Ireland	34.	See response to question 12.	Noted.
14.	Assoprevidenza – Italian Association for supplementen	34.	<p>Taking the aim of the three tier system into account we find the whole approach artificial. Usually IORP's do not provide of tier 2 or tier 3 capital. The sponsor covenant - provided on legal or contractual basis - is sufficient.</p> <p>However, if it would be decided to apply the concept of own funds to IORP's, the solvency II rules should at least be altered to take the specificities of IORP's into account. In case the holistic balance sheet approach is adopted the differences between unconditional, conditional and discretionary liabilities could be expressed in some form of tiers.</p>	<p>Noted.</p> <p>EIOPA agrees that the specificities of IORPs should be reflected in any Directive applying to IORPs.</p>
15.	Assuralia	34.	<p>CfA 6: SECURITY MECHANISMS</p> <p>The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of</p>	Noted.

			response to this question must not be regarded as a lack of interest or opinion.	
16.	Belgian Association of Pension Institutions (BVPI-	34.	<p>Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?</p> <p>BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule and their implementation in the holistic balance sheet.</p> <p>Therefore BVPI-ABIP is opposed to the application to IORPs of articles 87-99 of the Solvency II Directive on own funds. IORPs have no own shares, neither do they have subordinated liabilities. The additional concepts of ancillary own funds and surplus funds seems therefore superfluous for IORPs. The same holds for the tiering of own funds. This concept is not applicable for IORPs.</p>	Noted.
17.	BNP Paribas Cardif	34.	In general, BNP Paribas Cardif agrees that the articles 87-99 of the Solvency II Framework Directive on own funds should be applied to IORPs. A tiering system with quantitative limits could ensure an overall good level of protection for IORPs.	Noted.
18.	Bosch Pensionsfonds AG	34.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
19.	Bosch-Group	34.	See under "General comment": "Sui generis" supervisory	Noted.

			system for IORPs.	
20.	BT Pension Scheme Management Ltd	34.	While these Articles consider structures for IORPs with which we are not familiar, we see no reason why the proposal is not appropriate.	Noted.
21.	BVI Bundesverband Investment und Asset Management	34.	BVI disagrees with the proposal.	Noted.
22.	CEA	34.	In general, the CEA agrees that the articles 87-92 & 97-98 of the Solvency II Framework Directive on own funds should be applied to IORPs. The CEA supports the proposed amendments.  However, the CEA is hesitant about including the articles on the classification of own funds (articles 93-96 of the Solvency II Framework Directive). On these articles the CEA can only take an informed decision after the outcome of a carefully executed QIS.	Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis
23.	Charles CRONIN	34.	I support EIOPA's recommendation to change the IORP Directive by applying Articles 87-99 from the Solvency II Directive, with the minimum necessary wording amendments.	Noted.
24.	Chris Barnard	34.	I support that Articles 87-99 of Solvency II on own funds, with appropriate amendments, should be applied to IORPs.  I would suggest that letters of credit should be given prudent consideration, especially where the letter-of-credit issuing bank is an affiliate.	Noted.
25.	CMHF (Centrale van Middelbare en Hogere Functionar	34.	The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.  <input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension	Noted.

			<p>funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).</p>	
26.	De Unie (Vakorganisatie voor werk, inkomen en loop	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities</p>	Noted.

			(unconditional, conditional and possibly discretionary liabilities).	
27.	Direction Générale du Trésor, Ministère des financ	34.	Yes we agree that articles 87-99 of Solvency 2 on own funds should be applied to IORPs.	Noted.
28.	Ecie vie	34.	We agree : articles 87-99 of Solvency II Directive on own funds should be applied to IORPs.	Noted.
29.	European Association of Public Sector Pension Inst	34.	<p>Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?</p> <p>EAPSPI strongly disagrees. The provisions on own funds as laid down in Articles 87-99 of Solvency II is in general not applicable to public sector IORPs. For instance many public sector IORPs are social institutions under public law, not incorporated companies. This means those IORPs have in most cases no external "owner" or shareholder but only members. Therefore they have no own shares. In addition the legal basis for IORPs is as varied as the diversity of institutional settings which also involve very different accounting standards. So in consequence the Articles on (basic and ancillary) own funds, the tiering of own funds and the eligibility of own funds does have no meaning in the context of IORPs.</p>	<p>Noted.</p> <p>EIOPA agrees that the specificities of IORPs should be reflected in any Directive applying to IORPs, and that further work will be required before implementation of any political decision.</p>
30.	European Federation for Retirement Provision (EFRP)	34.	The EFRP is opposed to the application to IORPs of Articles 87-99 of the Solvency II Directive on own funds. IORPs have no own shares, neither do they have subordinated liabilities. The additional concepts of ancillary own funds and surplus funds seems therefore superfluous for IORPs. The same holds for the	Noted.

			tiering of own funds. This concept is not applicable for IORPs.	
31.	European Metalworkers Federation	34.	See response question 22	Noted.
32.	European Mine, Chemical and Energy workers' Fede	34.	See previous	Noted.
33.	Federation of the Dutch Pension Funds	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).</p>	Noted.
34.	Financial Reporting Council	34.	<p>We do not agree that articles 87 – 99 of Solvency II are applicable to all IORPs.</p> <p>Where the IORP bears the risk, then as the existing IORP directive points out, such IORPs are very similar to insurance companies. It might therefore be appropriate to apply articles 87 -99 suitably amended to them.</p>	Noted.

			However, IORPs backed by a sponsor have very different characteristics and the concept of ancillary own funds and tiering of own funds does not make sense for these IORPs. In the absence of any robust analysis and research on the matter we consider that quantitative analysis of a holistic balance sheet is likely to be unreliable and that, as described in our response to question 33, a more qualitative analysis is required to consider the ability of the IORP to remain a going concern.	
35.	FNV Bondgenoten	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).</p>	Noted.
36.	Generali vie	34.	We agree : articles 87-99 of Solvency II Directive on own funds should be applied to IORPs.	Noted.
37.	German Institute of	34.	We disagree. The Articles should not be applied to IORPs. The	EIOPA supports a

	Pension Actuaries (IVS\32\45\3		fundamental assumption of market value justifies the non-applicability for IORPs. Since all subsequent provisions effectively build on this foundation, the entire system is not appropriate for IORPs – for reasons please see our response to question 12.	market based valuation of assets and liabilities.
38.	Groupe Consultatif Actuariel Européen.	34.	<p>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.</p>	<p>Noted.</p> <p>EIOPA recognises that the specificities of IORPs should be reflected in any Directive applying to IORPs, and that further development would be needed to classify all existing features.</p>

			<p>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:</p> <ul style="list-style-type: none"> <li>- 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.</li> <li>- IORPs less commonly issue subordinated debt of the sort that would be classified as lower tier if it were issued by insurers and banks.</li> <li>- The 3 tier approach proposed under Solvency II seems to be more complicated than is now being proposed for banks under Basel III.</li> </ul> <p>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.</p>	
39.	Groupement Français des Bancassureurs	34.	In general, FBIA agrees that the articles 87-99 of the Solvency II Framework Directive on own funds should be applied to	Noted.

			IORPs. A tiering system with quantitative limits could ensure an overall good level of protection for IORPs.	
40.	PMT-PME-MnServices	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</li> <li><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</li> <li><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).</li> </ul>	Noted.
41.	HM Treasury/Department for Work and Pensions	34.	<p>We do not agree that articles 87-99 on the classification and tiering of Own Funds should be applied to IORPs. In particular, the long duration and predictability of liabilities, are sufficiently different to those for insurance products, and the standing of IORPs is sufficiently different to that of insurance undertakings, that there is no prima facie case for applying any tiering of capital to IORPs.</p> <p>The Call for Advice specified that EIOPA should “include an</p>	<p>Noted.</p> <p>The revised text clarifies EIOPA’s view that the primary political decisions must be taken before the detailed implementation of any system can be finalised,</p>

			assessment as to whether there is an advantage to keep a three-tier system". The UK Govt is concerned that EIOPA has not carried out such an assessment, and instead looked only at what adjustments might be made to the tiering applied to insurance undertakings through Solvency II. The case for tiering IORPs capital has therefore not been made, and EIOPA should not therefore include such a recommendation in its final advice without exploring the case, and the positive and negative impacts.	and that further work is required.
42.	Institute and Faculty of Actuaries (UK)	34.	<p>In the UK most IORPs do not have "own funds" as there are few IORPs with assets in excess of liabilities measured on a "Solvency II basis". (Any that did would buy out and so UK IORPs should not have to fund more than the buy out cost, whatever the regime).</p> <p>We recognise however that if employer covenant is taken into account in assessing whether there are "own funds", which we would not support, then "own fund" restrictions could affect UK IORPs and would then potentially have a direct and significant impact on UK capital markets etc. We note, in particular, that an IORP would not be able to influence the sponsor capital allocations unless the IORP Directive applied directly to the sponsor for this purpose, which again we would not support.</p>	Noted.
43.	KPMG LLP (UK)	34.	In the UK most schemes do not have "own funds". Any which do would be able to buy out their liabilities with an insurance company, and so tend to do so. Therefore it would seem perverse to require any funding or security measure in excess of that required to buy out benefits with an insurer (which itself is subject to Solvency II).	There is no specific EIOPA proposal about the level at which security measures should be set.
44.	Le cercle des épargnants	34.	We agree : articles 87-99 of Solvency II Directive on own funds should be applied to IORPs.	Noted.

45.	Macfarlanes LLP	34.	<p>CfA 6 Security mechanisms</p> <p>21. Preliminary comments on security mechanisms</p> <p>22. It is important to recognise that security mechanisms, including those addressed in EIOPA's consultation document, are not cost-free and are likely to represent a transfer of value or a redefinition of the "social contract" between stakeholders (to use the terms of the consultation (see 10.6.8) or indeed of the explicit legal obligations of the parties (including both employer sponsors and guarantors).</p> <p>23. Legislative changes intended to apply in relation to existing obligations which are already binding on the parties effectively represent a retrospective variation of the financial obligations assumed by the parties. Accordingly, there must be strong justification for such intervention if it is to apply to existing obligations, or a specific carve-out to ensure it applies only to obligations that may be assumed by private parties in the future.</p> <p>24. The stated objectives for revising the IORP directive include member protection, increasing pension provision across the EU and creating a level playing field between IORPs and insurance companies. Each provision should be justified by reference to these objectives. Unfortunately, many of the suggested changes to the Directive will not promote the various objectives which the Commission has in mind.</p> <p>25. For various reasons, in part relating to the definition of the role of EIOPA, the scope of the Directive excludes certain types of pension provision, including book reserve schemes and pension schemes which are not established by the employer or where the employer does not play an essential role in the funding of the scheme. The consequence is that the proposals</p>	<p>Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis</p>
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			<p>will apply to pension schemes that are not in any significant sense in competition with insurance companies and so will not ensure uniform levels of member protection within EU pension arrangements (for instance the UK National Employment Savings Trust (NEST)), but will significantly damage pension schemes which are not in competition with them, without any material increase in member protection.</p> <p>26. This is relevant to the “level playing field” argument for applying Solvency II in a modified form. In the UK, IORPs established by employers are non-trading, cannot themselves decide to expand their activities by entering new markets or admitting new members (or customers), cannot generally terminate their activities (in the sense of 10.3.32 i.e. the inclusion of new rights for participants) and do not provide a profit to shareholders. In the sense of 10.3.204, these IORPs do not (and, under the terms of their constitutional documents, generally cannot) “act in a manner similar to insurance companies”. Many IORPs are in fact customers of insurance companies rather than their competitors. While it may be appropriate to legislate, by reference to the need for fair competition, for those that do or can compete with insurance companies, such as NEST, it is not appropriate to impose these requirements on those who are not competing. A ‘level playing field’ is not required for non-trading IORPs, because they are not ‘players’ and are not ‘in the field’. The rules intended to support the single market in financial services should only apply to those who are or could be market participants. Furthermore, the application of rules to level a non-existent playing field in a way which places disproportionate burdens on only some EU companies in relation to the security of their pension arrangements is itself anti-competitive.</p> <p>27. While many characteristics of IORPs have been</p>	
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			<p>identified, there is little focus on the fact that very many (if not the majority of) IORPs are not marketing to the public and that legislation aimed at protecting customers in relation to insurance companies has no application in relation to IORPs, which may be viewed as 'safe-deposit boxes' for an employer's pension promises to its employees. This fundamental difference is also the reason why the sanctions for breaching security mechanisms under Solvency II cannot be easily adapted to IORPs (terminating activities, transferring their business to another insurance company).</p> <p>28. The justification for legislative change – member protection – has little force if there is not to be consistency for members of all EU pension arrangements. The vast majority of UK pension schemes - a high proportion of the existing IORPs in the EU - are more akin to book reserve arrangements in that they provide security for an employer's pension promises; the major difference is that they have the added benefit of ring-fenced assets in addition to sponsor support and, in the UK, a pension protection scheme to give further protection to the employee against the risk of the employer's insolvency. In that sense, members of UK IORPs are better protected than members of book reserve schemes. Any justification for excluding book reserve schemes from prudential regulation must apply equally or more clearly to such UK IORPs since the later are already well covered by domestic and EU regulation. They should therefore be carved out from the new proposals to the same extent as book reserve arrangements.</p> <p>Specific response to question 34</p> <p>29. (CfA 6 Security mechanisms) Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?</p>	
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			<p>30. We do not support the core premise of adapting Solvency II for the generality of IORPs, or re-legislating for IORPs by reference to the single market or a level playing field with insurance companies, without a comprehensive analysis of whether the IORPs actually or potentially “act in a manner similar to insurance companies” and are genuinely and meaningfully competing or operating in the same market as insurance companies. In addition, a complete analysis of the effects of such regulation is needed.</p> <p>31. For those IORPs or other pension providers that are trading (whether or not for profit) and are soliciting customers from the general public who might instead approach an insurance company, we agree that Articles 87-99 of Solvency II could be appropriately adapted.</p>	
47.	Mercer	34.	We agree that, where relevant, the principles of ‘own funds’ applies equally to IORPs as to insurance companies.	Noted.
48.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p>	Noted.

			<input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).	
50.	National Association of Pension Funds (NAPF)	34.	Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?	
51.	Pan-European Insurance Forum (PEIF)	34.	<p>Assuming that the Solvency II Framework Directive is the reference point model to follow, then we support EIOPA' view as a starting point. However, as recognized by EIOPA, the diversity of national situations needs to be fully taken into account and there should be a clear benefit for members.</p> <p>The appropriateness of the tiering approach, which was directly copy-pasted from the banking model into the economic model of Solvency II for pension, occupational or personal, or for insurance own funds should be re-considered.</p> <p>Although the regimes for IORPs and insurers should be consistent, PEIF believes that it is not possible to provide an unconditional, comprehensive answer at this stage.</p>	Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis
52.	Pensioenfondszorg en Welzijn (PFZW)	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension</p>	Noted.

			<p>funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities (unconditional, conditional and possibly discretionary liabilities).</p>	
53.	Predica	34.	In general, Predica agrees that the articles 87-99 of the Solvency II Framework Directive on own funds should be applied to IORPs. A tiering system with quantitative limits could ensure an overall good level of protection for IORPs.	Noted.
54.	Railways Pension Trustee Company Limited ("RPTCL	34.	We have not considered this question.	Noted.
55.	Sacker & Partners LLP	34.	CfA6: Security Mechanisms	Noted.
56.	The Association of Pension Foundations (Finland)	34.	<p>Tiering of assets is too complicated and superfluous for IORPs. We oppose application of articles 87-99.</p> <p>We see it also problematic to leave valuation of sponsor guarantee to supervisors of different member countries as it</p>	Noted.

			<p>would to different value in different countries. Sponsor guarantee should not be left to be dependent of prior supervisory approval. On the contrary there should be universal application of sponsor support which could evidently be taken out or restricted by Pension fund's own board or supervisors by careful prudence. Prior approval would be burdensome for both IORP's and supervisors.</p> <p>As an example Finnish supervisors see it fit in for statutory 1. pillar pensions which do not fall under IORP-directive that value of sponsor support is only 4 % of annual payroll. Magnitude of that kind of value is very limited.</p>	
57.	The Association of the Luxembourg Fund Industry (A	34.	<p>The Respondents are opposed to the application to IORPs of articles 87-99 of the Solvency II Directive on own funds. IORPs have no own shares, neither do they have subordinated liabilities. The additional concepts of ancillary own funds and surplus funds seems therefore superfluous for IORPs. The same holds for the tying of own funds. This concept is not applicable for IORPs.</p>	Noted.
58.	The Society of Actuaries in Ireland	34.	<p>Yes, we agree that these Articles can be adopted for IORPs. However some of the items defined may not have relevance in the context of an Irish IORP.</p> <p>The need for supervisory approval for ancillary own funds for each IORP would create an excessive work load on the supervisory authority. We therefore believe prior approval should not be a requirement for an IORP.</p>	Noted.
59.	THE SOCIETY OF PENSION CONSULTANTS	34.	<p>We disagree.</p> <p>The calculation of Own Funds for (re)insurance undertakings</p>	Noted.

			<p>depends upon a notional reference undertaking that would be prepared to assume the liabilities of the (re)insurer. Despite the notional basis of the reference undertaking, it is possible to see the rationales given that (re)insurance entities are commercial organisations, which engage in M&amp;A activity. UK IORPs do not engage in such commercial activity, although there is an actual counterparty for UK pension obligations in the buyout market. Consequently, the application of Articles 87-99 would likely lead to buyout cost becoming a proxy valuation of liabilities. If this is the intention it would be simpler to legislate for Own Funds sufficient to cover the buyout cost.</p> <p>However, we believe that this outcome is highly undesirable in the UK pensions market, where IORPs and forms of pension arrangement operate successfully in parallel.</p>	
60.	Towers Watson Deutschland GmbH	34.	<p>We agree in principle, although for IORPs, the sources of capital differ substantially from those available to insurer. Also the issue of tiering is questionable if the capital giver is the one providing the covenant.</p>	Noted.
61.	UK Association of Pension Lawyers	34.	<p>CfA 6 (Security mechanisms): Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?</p> <p>We do not support the core premise of adapting Solvency II for the generality of IORPs or re-legislating for IORPs by reference to the single market or a level playing field with insurance companies without reference to whether the IORPs actually or potentially "act in a manner similar to insurance companies" or</p>	Noted.

			<p>are genuinely and meaningfully competing or operating in the same market as insurance companies. See the general comments we make in relation to question 38 below.</p> <p>For those IORPs or other pension providers that are trading (whether or not for profit) and are soliciting customers who might instead approach an insurance company, it may be appropriate to adapt Articles 87-99 of Solvency II, following a thorough analysis of the issues.</p>	
62.	UNI Europa	34.	See question 22	Noted.
63.	Universities Superannuation Scheme (USS),	34.	Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?	
64.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	34.	<p>The concept of own funds can be applied to IORPs as well. We propose however some amendments to the relevant Solvency II articles for application to IORPs.</p> <p><input type="checkbox"/> In Article 88, we suggest to remove 88(1), as pension funds do not have any subordinated liabilities. Also, the reference to own shares should be removed. This leaves the definition of the excess of assets over liabilities for basic own funds.</p> <p><input type="checkbox"/> The additional concepts of ancillary own funds and surplus funds seems superfluous for IORPs. These concepts can possibly play a role in case the holistic balance sheet is adopted.</p> <p><input type="checkbox"/> The same holds for the tiering of own funds. This concept is not applicable for IORPs. Only in case the holistic balance sheet approach is adopted could some tiering be appropriate in order to cover different forms of liabilities</p>	Noted.

			(unconditional, conditional and possibly discretionary liabilities).	
65.	Whitbread Group PLC	34.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis
66.	Zusatzversorgungskasse des Baugewerbes AG	34.	<p>41. Taking the aim of the three tier system into account - to cluster different levels of security (SCR / MCR) by applying different kinds of own funds - we find the whole approach artificial. Usually IORP's do not provide of tier 2 or tier 3 capital. The sponsor covenant - provided on legal or contractual basis - is sufficient. We therefore do not welcome the application of Articles 87-99 of Solvency II to IORPs.</p> <p>42. However, if it would be decided to apply the concept of own funds to IORP's, the Solvency II rules should at least be altered to take the specificities of IORP's into account.</p>	Noted.
67.	Towers Watson	34.	<p>35. CfA 6 Security mechanisms</p> <p>Do the stakeholders agree that Articles 87-99 of Solvency II on own funds should be applied to IORPs? What amendments, other than the ones suggested by EIOPA, should be made?</p> <p>We believe that all UK IORPS are of the type where the sponsoring undertaking bears the risks (ie not "regulatory own funds").</p> <p>Whether or not it is appropriate to require sponsor-backed IORPs to be supported by own funds, in addition to their technical provisions, depends on the level of technical provisions they are required to hold. If IORPs are expected to hold technical provisions, including a risk margin, at a level that broadly reflects the cost of transferring their liabilities to a</p>	<p>Noted.</p> <p>EIOPA recognises the need for appropriate and consistent recognition of sponsor covenants and all security mechanisms.</p>

			<p>third party (generally an insurer), then we do not believe it would be appropriate to require additional own funds. This is because sponsor-backed IORPs, unlike insurers, are not in the business of taking risks to make long-term profits. If a sponsor-backed IORP were able to transfer its liabilities to a third party, with only a few limited exceptions, we would expect it to do so.</p> <p>If IORPs were to be required to have own funds, then significant changes to Articles 87-99 would be needed in order to address the situation of sponsor-backed IORPs. The only source of own funds generally available to UK IORPs is employer covenant. IORPs do not have direct control over the value of employer covenant and therefore – as mentioned at 12, 18 and 31 above - cannot themselves raise additional own funds.</p>	
68.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	35.	See question 34	Noted.
69.	AbA Arbeitsgemeinschaft für betriebliche Altersver	35.	Yes. The AbA agrees that subordinated loans from the employer to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. It is understood that these loans should in practice be accounted for at nominal value, therefore, further implementing measures are unnecessary.	Noted.
70.	ABVAKABO FNV	35.	Yes, the PF agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the	Noted.

			European occupational pension sector”, Member States confirms that subordinated loans are a useful security mechanism.	
71.	AEIP	35.	AEIP thinks that subordinated loans from employers to the IORP should be allowed. They might however only be possible in cases of temporarily problematic, but going concern situations.	Noted.
73.	AMONIS OFP	35.	Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive?  AMONIS OFP considers that subordinated loans from employers to the IORP should be allowed. The subordination feature can offer loss absorption in problematic, but going concern situations.	Noted.
74.	ANIA – Association of Italian Insurers	35.	The ANIA fully agrees with EIOPA that contractually agreed subordinated loans from employers to IORPs should be allowed in the revised IORP Directive. As such, valuation of subordinated loans should be settled in the level 2 implementing measures.	Noted.
75.	Association of British Insurers	35.	The ABI agrees that subordinated loans from employers to IORPs should be allowed under the review of the IORP Directive.	Noted.
76.	Association of Consulting Actuaries (UK)	35.	Yes, with suitable protection from potential abuse, and clarification of the interplay with the Employer Related Investment requirements in the UK for instance.	Noted.
77.	Association of French Insurers (FFSA)	35.	The FFSA agrees with EIOPA that subordinated loans from employers to IORPs should be allowed in the revised IORP Directive.	Noted.

78.	Association of Pensioner Trustees in Ireland	35.	See response to question 12.	Noted.
79.	Assoprevidenza – Italian Association for supplement	35.	We agree with this proposal. Subordinated loans might however only be possible in cases of temporarily problematic, but going concern situations.	Noted.
80.	Assuralia	35.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	Noted.
81.	Belgian Association of Pension Institutions (BVPI-	35.	Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive?  BVPI-ABIP considers that subordinated loans from employers to the IORP should be allowed. The subordination feature can offer loss absorption in problematic, but going concern situations.	Noted.
82.	BNP Paribas Cardif	35.	BNP Paribas Cardif agrees with EIOPA that subordinated loans from employers to IORPs should be allowed in the revised IORP Directive.	Noted.
83.	Bosch Pensionsfonds AG	35.	Yes, we agree.	Noted.
84.	Bosch-Group	35.	Yes, we agree.	Noted.
85.	BT Pension Scheme	35.	Yes, we agree that subordinated loans from employers should	Noted.

	Management Ltd		be allowed for consideration as own funds.	
86.	CEA	35.	The CEA fully agrees with EIOPA that contractually agreed subordinated loans from employers to IORPs should be allowed in the revised IORP Directive. As such, valuation of subordinated loans should be settled in the level 2 implementing measures.	Noted.
87.	Chris Barnard	35.	I agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive, subject to requirements on their issuance and redemption. Subordinated loans can serve as a useful security mechanism. This will increase flexibility by offering additional protection possibilities to members and beneficiaries.	Noted.
88.	CMHF (Centrale van Middelbare en Hogere Functionar	35.	Yes, the CMHF agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	Noted.
89.	De Unie (Vakorganisatie voor werk, inkomen en loop	35.	Yes, De Unie agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the	Noted.

			European occupational pension sector”, Member States confirms that subordinated loans are a useful security mechanism.	
90.	Ecie vie	35.	Yes	Noted.
91.	European Association of Public Sector Pension Inst	35.	<p>Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive?</p> <p>EAPSPI agrees and wants to stress that the discussion to allow for subordinated loans is directly connected to the question of security mechanisms for IORPs: Subordinated loans can be seen as a variant of sponsor support in difficult situations under the going-concern-premise but are better quantifiable than those security mechanisms discussed within the HBS by EIOPA.</p>	Noted.
92.	European Federation for Retirement Provision (EFRP	35.	Yes, the EFRP agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report “Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector”, Member States confirms that subordinated loans are a useful security mechanism.	Noted.
93.	European Metalworkers Federation	35.	See response question 22	Noted.
94.	European Mine, Chemical and Energy workers’ Fede	35.	See previous	Noted.

95.	Federation of the Dutch Pension Funds	35.	Yes, the PF agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	Noted.
96.	Financial Reporting Council	35.	We do not have a view on this proposal. We are not aware of the existence of any significant subordinated loans from employers to IORPs.	Noted.
97.	FNV Bondgenoten	35.	Yes, FNV BG agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	Noted.
98.	Generali vie	35.	Yes	Noted.
99.	German Institute of Pension Actuaries (IVS\32\45\3	35.	We agree. It goes without saying that subordinated loans from sponsors should be permitted, preferably to a greater extent than is currently the case in Germany.	Noted.
100.	Groupe Consultatif Actuariel Européen.	35.	Yes, subject to appropriate limits on the extent to which they might be taken into account in the HBS.	Noted.

101.	Groupement Français des Bancassureurs	35.	FBIA agrees with EIOPA that subordinated loans from employers to IORPs should be allowed in the revised IORP Directive.	Noted.
102.	PMT-PME-MnServices	35.	Yes, we agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	Noted.
103.	Institute and Faculty of Actuaries (UK)	35.	Yes, but subordinated loans from employers are not a current feature of UK Pensions industry.	Noted.
104.	KPMG LLP (UK)	35.	Yes, although these are not used in the UK at present. Consideration should be given as to whether they would constitute an acceptable form of self-investment risk.	Noted.
105.	Le cercle des épargnants	35.	Yes	Noted.
106.	Macfarlanes LLP	35.	(CfA 6 Security mechanisms) Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive?  Yes	Noted.
108.	Mercer	35.	We consider that any assets available to the IORP should be allowed for, following the principle of the holistic balance sheet.	Noted.

			The issue will be in the valuation of the asset, and how it is allowed against the SCR.	
109.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	35.	Yes, the MHP agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	Noted.
111.	National Association of Pension Funds (NAPF)	35.	Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive?	
112.	Pan-European Insurance Forum (PEIF)	35.	Subordinated loans from employers to IORPs should be explicitly allowed. However, it may be that they should be limited to a certain amount to reduce risk.	Noted.
113.	Pensioenfonds Zorg en Welzijn (PFZW)	35.	Yes, PFZW agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the	Noted.

			European occupational pension sector”, Member States confirms that subordinated loans are a useful security mechanism.	
114.	Predica	35.	Predica agrees with EIOPA that subordinated loans from employers to IORPs should be allowed in the revised IORP Directive.	Noted.
115.	PTK (Sweden)	35.	Yes, the PTK agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations.	Noted.
116.	Railways Pension Trustee Company Limited (“RPTCL	35.	We have not considered this question.	Noted.
117.	TCO	35.	Yes, TCO agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations.	Noted.
118.	The Association of Pension Foundations (Finland)	35.	Subordinated loans should be allowed.	Noted.
119.	The Association of the Luxembourg Fund Industry (A	35.	The Respondents agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security	Noted.

			mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	
120.	The Society of Actuaries in Ireland	35.	Yes, we agree that subordinated loans should be explicitly allowed for in a revised Directive. They could be used to cover the SCR and technical provisions. The value given to the subordinated loan is a matter for level 2 and there should be some cap on them relative to total assets.	Noted.
121.	THE SOCIETY OF PENSION CONSULTANTS	35.	Subordinated loans are not relevant in the UK. It is inappropriate for a UK commentator to give an opinion as to the use of a risk-mitigation mechanism available in another Member State. That is a matter for the supervisory authorities and legislature in that Member State alone.	Noted.
122.	Towers Watson Deutschland GmbH	35.	We agree that subordinated loans from sponsors should be permitted.	Noted.
123.	UK Association of Pension Lawyers	35.	CfA 6 (Security mechanisms): Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive? Yes.	Noted.
124.	UNI Europa	35.	See question 22	Noted.
125.	Universities	35.	Do stakeholders agree that subordinated loans from employers	

	Superannuation Scheme (USS),		to the IORP should be explicitly allowed in a revised IORP Directive?	
126.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	35.	Yes, the VHP2 agrees that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive. Subordinated loans can serve as a security mechanism for all types of IORPs. The subordination feature can offer loss absorption in problematic, but going concern situations. Also according to the OPC report "Survey on fully funded, technical provisions and security mechanisms in the European occupational pension sector", Member States confirms that subordinated loans are a useful security mechanism.	Noted.
127.	Whitbread Group PLC	35.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
128.	Zusatzversorgungskasse des Baugewerbes AG	35.	43. We think that subordinated loans from employers to the IORP should be allowed. They might however only be possible in cases of temporarily problematic, but going concern situations.	Noted.
129.	Towers Watson	35.	36. Do stakeholders agree that subordinated loans from employers to the IORP should be explicitly allowed in a revised IORP Directive?  Subordinated loans are not in use by UK IORPs. However, if it were accepted that IORPs should hold own funds, and subordinated loans rank behind the interests of members and beneficiaries, then it would seem appropriate for subordinated loans to be allowed as own funds.	Noted.
130.	OPSG (EIOPA	36.	See question 34	Noted.

	Occupational Pensions Stakeholder Group)			
131.	AbA Arbeitsgemeinschaft für betriebliche Altersver	36.	We believe that a uniform level of security of occupational pension benefits cannot be a determined across EU countries due national differences in the way security is addressed. First and foremost, the security of the benefits provided by an IORP is determined by the social partners and, in particular, the sponsor's risk budget. It is also a function of the promised benefit level itself. Backing this are provisions in the social and labour law which are idiosyncratic from country to country and reflect cultural attitudes. It has to be kept in mind that security comes at the price of lower benefits. A further important factor is the relative importance of the 1st and 2nd pillars, which differs across countries. Therefore, we suggest that EIOPA recommend that a uniform level of security should not be pursued at the EU level.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
132.	ABVAKABO FNV	36.	According to the PF, the security for IORPs across Europe should not be uniformed. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	
133.	AEIP	36.	<p>77. AEIP thinks that a uniform security level is almost impossible to achieve. The diversity and complexity of pension schemes throughout Europe is such that national supervisors need to have leeway to judge and rule specifically. We do not find that leeway within the standard formulas of Solvency II.</p> <p>78. The decision regarding the adoption of a uniform confidence level across EU countries as well as the definition of a specific probability for the confidence level is of a highly political nature. We agree with the decision not to propose a specific probability for defining the confidence level. Defining the level of security is up to the member states and in paritarian schemes up to employers and employees. In the latter case the fundamental right of collective bargaining has to be preserved. Moreover, the security level is sometimes part of the pension promise. AEIP thinks that the IORP directive should not prescribe a uniform level of contribution rate, accrual rates or indexation policy, nore a uniform level of security of pension income</p> <p>There should be an appropriate balance between affordability,</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			adequacy and the level of security.	
135.	AMICE	36.	AMICE would like to see that the right conditions are in place to ensure a higher level of security for beneficiaries within financial service providers. In order to create a level playing field for all pension providers, a solvency regime based on the "same risks, same consumer protection rules" principles should be a first priority on the European agenda.	Noted.
136.	AMONIS OFP	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>There should not be a uniformed level of security for IORPs across Europe. The diversity and complexity of pension schemes throughout Europe is such that national supervisors need to have leeway to judge and rule specifically.</p> <p>The decision regarding the adoption of a uniform confidence level across EU countries as well as the definition of a specific probability for the confidence level is of a highly political nature.</p> <p>EIOPA states not to advice on a specific probability level. AMONIS OFP agrees on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advice the EC not to pursue a uniformed security level.</p> <p>AMONIS OFP thinks that the IORP directive should not prescribe a uniform level of contribution rate, accrual rates or indexation policy, nor a uniform level of security of pension income</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			There should be an appropriate balance between affordability, adequacy and the level of security.	
137.	ANIA – Association of Italian Insurers	36.	The ANIA stresses that the settlement of the confidence level should lead to equal consumer protection, independent of the Member State, the security mechanisms or the pension provider. The ANIA refrains from taking a final position on the harmonisation and the threshold of the confidence level before a carefully executed QIS is done. Furthermore it should be compared with an insurance undertaking to assess the maintenance of the level playing field taking into account the valuation of all security mechanisms of IORPs.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
138.	Association Française de la Gestion financière (AF	36.	The goal of achieving a uniform security level for IORPs across Europe appears very ambitious for reasons that are highlighted by EIOPA. Indeed, existing national Social and Labour Law allows for different levels of security, given the existence of ex-post benefit adjustment mechanisms and on-going legal obligations of sponsors and providers. To the extent that these mechanisms reflect the “social contract” between the main stakeholders (i.e. members, beneficiaries, employers), Member States should retain full responsibility for the decision on the role of these mechanisms, in accordance with the principle of subsidiarity.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
139.	Association of British Insurers	36.	The ABI believes that the approach taken regarding security levels for IORPs across Member States should be flexible enough to account for the differences in the types of IORPs that exist.	Noted

			The ABI agrees with EIOPA's decision not to publish a probability as the confidence level selected must be able to account for the different level of security for a member between different types of IORPs. Furthermore we could not accept a harmonisation of the confidence level where the nature of IORPs are different.	
140.	Association of Consulting Actuaries (UK)	36.	<p>To impose a blanket solvency level on all IORPs risks being either:</p> <ul style="list-style-type: none"> <li>-meaningless (so low as to be worthless for a number of Member States)</li> <li>-damaging (so high as to cripple sponsors and cause lasting economic damage by diverting capital away from economic growth and into risk-free investments, simultaneously causing long term overall lowering of pension provision)</li> </ul> <p>We have also pointed out that such an approach may be practically impossible and inappropriate (due to the entirely different nature of the "external" mechanisms for protection such as the Pension Protection Fund, other insurance arrangements, ability to reduce benefits, conditional or discretionary funding etc).</p> <p>Finally it should be borne in mind that most IORPs are very small compared with any insurance company, and it is wholly disproportionate to compel (most) IORPs into a system that makes them value such mechanisms as part of a solvency assessment.</p> <p>It is not so much that we agree that EIOPA should not be recommending a specific probability at this time. It is more that we believe the whole concept of a specific pan-European harmonised "probability" is inappropriate.</p>	Noted.

141.	Association of French Insurers (FFSA)	36.	<p>53. The FFSA favours a market maximal harmonisation approach as this will lead to equal member/beneficiary protection, independent of the Member State, the security mechanisms or the pension provider. This would also lead to increased comparability and consistency across the different Member States.</p> <p>54. The FFSA does not share EIOPA analysis regarding the difference existing in the adjustment mechanisms between insurers and IORP. When an IORP is underfunded, the scheme relies first on the sponsor covenant before ex-post benefit adjustments mechanisms. The adjustment mechanism is very similar to the raise of new capital. In both cases, for insurers and IORPs, to reduce benefits is a last resort measure that should be avoided by implementing an adequate prudential regime.</p> <p>55. Quantitative requirements are meant to guarantee a level of security to pension beneficiaries and this should be the main concern regarding pension benefits provided by insurers or IORPs.</p> <p>56. The different security mechanisms should be taken into account in the calculation of the Solvency Capital Requirements. Mechanisms to reduce benefits could easily be included in this calculation. However, the situation of the company should be made public and strong disclaimers will be needed in the information to members and beneficiaries to inform people of the likelihood that benefits could be reduced in the near future.</p> <p>57. In case no harmonization was to be found, it would be a problem regarding cross border activity.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			In all cases the same confidence level should apply for retirement schemes provided by the insurers.	
142.	Association of Pensioner Trustees in Ireland	36.	See response to question 12.	Noted.
143.	Assoprevidenza – Italian Association for supplement	36.	We prefer option 2 (a non uniform security level) as the acceptable level in each country depends not only on technical factors but also very much on political factors (eg social and labour law, possibility to reduce benefits, etc), that cannot be overcome by EU-wide prudential regulation. Decisions regarding the adoption of a uniform confidence level across EU countries as well as the definition of a specific probability for the confidence level is of a highly political nature and we agree with the decision of not to propose a specific probability for defining the confidence level.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
144.	Assuralia	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>The members of Assuralia are managing more than 80% of occupational pensions in Belgium. They include mutual, co-operative, joint-stock and limited insurance companies. The response hereunder needs to be understood together with the following remarks:</p> <p>1/ With state pensions under pressure it is necessary to ensure</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>that occupational pensions are safe and affordable. Prudential rules and capital requirements for long-term pension business must consistently protect all pension beneficiaries, regardless of whether they are affiliated with an insurance company or an IORP.</p> <p>2/ Prudential rules and capital requirements must respect the long-term perspective of occupational pension provision without resulting in excessive volatility of own funds and solvency ratios. The European Commission and the European Parliament are presently considering these issues in the context of the Omnibus II directive and the Solvency II implementing measures.</p> <p>3/ To the extent that differences between regimes are not justified (as stated by draft response nr. 2.6.2), Solvency II and IORP II need to be aligned in order to achieve a consistent level of protection of beneficiaries:</p> <p>a) With regard to the pension institutions, there seems to be no reason not to apply a prudential regime equivalent to Solvency II to IORPs to the extent that they bear a certain risk (e.g. operational risk). This goes both for quantitative and qualitative requirements.</p> <p>b) With regard to the pension obligation as such, Solvency II rules seem to be adequate to quantify at least the liabilities of the total pension obligation. On the asset side, we would suggest a very cautious approach with regard to the idea of recognizing sponsor covenants and pension protection plans as assets to cover the liabilities of an IORP in the newly proposed Holistic Balance Sheet (HBS). Appropriate transitional regimes and sufficiently long recovery periods may be a better alternative to cope with a situation where the tangible assets held by IORPs do not cover pension liabilities sufficiently.</p>	
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			<p>4/ The objective of European prudential requirements is to ensure that beneficiaries all over the EU can reasonably trust that they will effectively receive the occupational pension benefits that have been promised to them (harmonized security level). These requirements set the practical and financial boundaries of what can realistically be promised and therefore need to be respected by national rules and agreements in the social field.</p> <p>A uniform security level</p> <p>We believe it is important for the protection of employees and beneficiaries to harmonise the level of security (prudential) in all member states of the EU, especially in a context of increased employee mobility and cross-border activity. The European Commission's objective of creating an internal market for occupational retirement provision on a European scale seems technically impossible to achieve if the security level would not be harmonised.</p> <p>While national social and labour law has an important role with regard to the design of the pension obligation (cfr. draft response nr. 8.3.15), it seems technically inevitable to accept that European prudential requirements must safeguard the actual materialisation of that obligation (harmonised security level). The desire of the Commission to harmonise the security level for all pension providers - regardless of the pension obligations' design itself - therefore seems to be consistent and appropriate (cfr. draft response nr. 8.3.1.).</p>	
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			<p>The draft response mentions that member states may have a different appreciation with regard to the trade-off between the security (confidence level) and the affordability of pension benefits (cfr. draft response nr. 8.3.15-8.3.16). This needs to be approached with extreme caution. Lowering the confidence level because of affordability means that the pension sponsor and supervisor accept an increased risk of failure to provide the promised benefits to employees. Decisions with regard to the potential reduction of pension benefits should in our view be made in the design of the pension obligation itself (e.g. the level of guarantees and benefit mix). Contrary to what is suggested in draft response nr. 8.2.25, it should not have an impact on the prudential confidence level (i.e. the minimum level of probability that the promise will be kept).</p>	
145.	Balfour Beatty plc	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>Whilst we can see the rationale for a consistent level of security for pension promises, we do not believe that consistent has to mean 'the same'. In particular, a flexible approach would be needed to reflect the different nature of pension promises in Member States. Furthermore, security in different Member States is provided in part by a range of mechanisms (such as the UK's Pension Protection Fund and various IORP-specific contingent funding arrangements). Such mechanisms are in many cases hard to place a value on. A wide-ranging discretion would need to be available to national regulators to</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>decide how such mechanisms should be taken into account in assessing security.</p> <p>If a specific probability were to be prescribed for IORPs, then what this probability represents would need to be clearly explained in order to avoid misunderstanding by other parties, including IORP members and beneficiaries. In the consultation document, probability is discussed in the context of the confidence level used to determine the solvency capital requirement. However, we believe a more sensible definition of solvency would be the probability that the IORP is able to pay members' benefits over the long-term.</p>	
146.	Belgian Association of Pension Institutions (BVPI-	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>There should not be a uniformed level of security for IORPs across Europe. The diversity and complexity of pension schemes throughout Europe is such that national supervisors need to have leeway to judge and rule specifically.</p> <p>The decision regarding the adoption of a uniform confidence level across EU countries as well as the definition of a specific probability for the confidence level is of a highly political nature.</p> <p>EIOPA states not to advice on a specific probability level. BVPI-ABIP agrees on this, but would like to add the suggestion that</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>EIOPA, considering the arguments mentioned, advice the EC not to pursue a uniformed security level.</p> <p>BVPI-ABIP thinks that the IORP directive should not prescribe a uniform level of contribution rate, accrual rates or indexation policy, nor a uniform level of security of pension income</p> <p>There should be an appropriate balance between affordability, adequacy and the level of security.</p>	
147.	BNP Paribas Cardif	36.	<p>BNP Paribas Cardif favours a market maximal harmonisation approach as this will lead to equal member/beneficiary protection, independent of the Member State, the security mechanisms or the pension provider. This would also lead to increased comparability and consistency across the different Member States.</p> <p>BNP Paribas Cardif does not share EIOPA analysis regarding the difference existing in the adjustment mechanisms between insurers and IORP. When an IORP is underfunded, the scheme relies first on the sponsor covenant before ex-post benefit adjustments mechanisms. The adjustment mechanism is very similar to the raise of new capital. In both cases, for insurers and IORPs, to reduce benefits is a last resort measure that should be avoided by implementing an adequate prudential regime.</p> <p>Quantitative requirements are meant to guarantee a level of security to pension beneficiaries and this should be the main concern regarding pension benefits provided by insurers or IORPs.</p> <p>The different security mechanisms should be taken into account in the calculation of the Solvency Capital Requirements. Mechanisms to reduce benefits could easily be</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>included in this calculation. However, the situation of the company should be made public and strong disclaimers will be needed in the information to members and beneficiaries to inform people of the likelihood that benefits could be reduced in the near future.</p> <p>In case no harmonization was to be found, it would be a problem regarding cross border activity.</p> <p>As such transparency regarding the final confidence level can be obtained while not touching upon the VaR of 99.5%.</p>	
148.	BT Group plc	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>We can see no convincing need for a uniform security level, particularly given the differing approaches to benefit provision in different member states.</p> <p>We believe that there is no need for an SCR, but if EIOPA is to recommend this approach it is imperative that the quantitative impact assessment considers closely the confidence interval to be used and this should not be set until after the impact assessment. It also needs to reflect the fundamental differences between the nature of the promise from IORPS and insurers</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
149.	BT Pension Scheme Management Ltd	36.	<p>Yes. We share EIOPA's very real concerns about the difficulty of applying a single security level across all IORPs. The range of structures and the different promises made to beneficiaries mean that it simply would not be appropriate to apply a single</p>	EIOPA recognises that the question of a common level of security and, if relevant,

			<p>security level. We also agree with the key comment that there is a high value in uniformity in the insurance sector, but that the varying nature of the pension promises made, in terms of benefits and security, across the EU mean that this uniformity simply does not apply to IORPs.</p>	<p>what such a level should be, is a matter requiring political decision</p>
150.	BVI Bundesverband Investment und Asset Management	36.	<p>BVI believes that the Solvency II framework for IORPs should take into account at least the following aspects of the occupational pension market:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The various specificities of the vehicles in question. Each vehicle has different funding requirements and could operate in its own capacity through an IORP subsidiary or through providers (i.e. a bank, asset management entity, an issuer etc.).</li> <li><input type="checkbox"/> The specificities of the products run and offered through the vehicle and whether it is a pure DC scheme. If a scheme does not contain any guarantee and/or biometric risk coverage, the market and longevity risks are borne by the member.</li> <li><input type="checkbox"/> The specificities of the risks involved. Traditionally, only financial risks have been taken into account. However, other factors could be considered. EIOPA has identified eight different types of risks in a recent study.</li> <li><input type="checkbox"/> Who bears that risk - is it the employer, the employee, the vehicle itself, or a combination of these? It is obvious that no "one size fits all"-approach can accommodate to this variety.</li> <li><input type="checkbox"/> The specific role of the pension vehicle and whether it is to play an essential role in pension provision or to offer an additional source of retirement income.</li> </ul> <p>Thus, the goal of achieving a uniform security level for IORPs across Europe appears very ambitious for reasons that are</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>highlighted by EIOPA. Indeed, existing national Social and Labour Law allows for different levels of security, given the existence of ex-post benefit adjustment mechanisms and on-going legal obligations of sponsors to provide the full level of benefits. To the extent that these mechanisms reflect the “social contract” between the main stakeholders (i.e. members, beneficiaries, employers), Member States should retain full responsibility for the decision on the role of these mechanisms in accordance with the principle of subsidiarity.</p> <p>The following conclusions can be derived from these remarks:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The review of the IORP Directive should not aim at harmonizing the level of security of Member States’ pension systems through the implementation of identical rules regarding the time horizon, the confidence level and the frequency of the calculation of solvency capital requirement. Indeed, imposing identical rules would represent an attempt to enforce a single definition of the “pension promise” across Europe, i.e. excluding the possibility of ex-post and ex-ante benefit adjustment mechanisms.</li> <li><input type="checkbox"/> The assessment of the confidence level that would be applied to IORPs should take into account other security measures, especially last resort measures to reduce benefits. To the extent that these cannot be taken into account adequately in the holistic balance sheet, a lower confidence level would be required to take into account these benefit adjustment mechanisms. Such elements should be related to the longer term horizon that IORPs typically have to implement policies and adjust their balance sheet.</li> <li><input type="checkbox"/> Aiming at achieving a high level of harmonization of technical provisions across Europe does not appear consistent with the necessity to take into account in an explicit way the</li> </ul>	
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			benefit adjustment mechanisms.	
151.	CEA	36.	The CEA stresses that the settlement of the confidence level should lead to equal consumer protection, independent of the Member State, the security mechanisms or the pension provider. The CEA refrains from taking a final position on the harmonisation and the threshold of the confidence level before a carefully executed QIS is done. Furthermore it should be compared with an insurance undertaking to assess the maintenance of the level playing field taking into account the valuation of all security mechanisms of IORPs.	Noted.
152.	Charles CRONIN	36.	I do not believe it will be useful to introduce a uniform security level for IORPs across Europe. Complex financial mathematics as predictor of outcomes hopefully reached its peak in 2007 with the structured loan crisis. Allegedly what occurred was a 6 sigma event, totally beyond bounds of reasonable probability. The principle behind this is that the volatility of securities corresponds to the shape of a 'normal distribution curve'; adoption of this assumption suggests that the risk of a portfolio is manageable to a finite degree of confidence, such as 99.5%. However my studies and experience challenge this assumption and suggest that comfort drawn from VaR specified levels of confidence is misplaced. While the mathematics behind the normal curve function when rolling dice or drawing cards, there is something innately different in the trading behaviour of securities, be they cash instruments, bonds, equities or alternative assets. Though security trading behaviour generally follows the normal curve formula, the match is far less than perfect, probably on account of human intervention (psychology) when it comes to pricing assets.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>The chart below illustrates the difference between predication and observation. In this study I collected the monthly percentage returns of the FT All Share Index from January 1981 to April 2011. The sample size, with 364 items of data, is large and hence distribution of observations and their difference from the predicted outcome is significant. The blue curve contains the observations and the pink curve the predications under normal curve analysis. The results would not surprise statisticians, they have observed for many years that security distributions are negatively skewed (weighted to the right) and leptokurtic (more peaked than a normal curve). However it is rare for this data to be presented before non-statisticians.</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4. In the context of VaR at the 99.5% level of confidence, we are interested in the area under the left tail of the normal curve, an area with less than 0.5% probability. This point is 2.575 standard deviations (<math>\delta</math>) below the mean return, or an event that exceeds a monthly fall of 11.55%. The probability of this event is less than 1 in 200 (0.5%); however there are 5 observations in 364 where this has happened (Oct 1987 - 30.9%, Sep 1981 -18.4%, Sep 2008 -14.4%, Oct 2008 -12.9% and Sep 2002 -12.7%). Therefore observations exceed expectations 5 to 1, and account for 1.37% of the sample data.</li> <li>5.</li> <li>6. As can be appreciated, the reliability of VaR as a measure of risk is questionable. A further criticism is that conceptually it forces the user to focus on the threshold of loss.</li> </ol>	
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			<p>“Under normal market conditions, what is the worst case loss that can happen over a given time horizon, at a specified confidence level?” Risk managers and supervisors are probably more concerned about abnormal market conditions and the absolute loss that could occur.</p> <p>7.</p> <p>VaR is a popular form of risk measurement; the concept appears in Directive 2009/138/EC (Solvency II), which raises harmonisation issues for the revision of the IORP. Whilst I would not advocate for the disposal of VaR as a risk management tool, I believe there is now sufficient and extensive observed ‘electronic’ data in existence that would permit more confident risk modelling based on observation, rather than theoretical interpretation of observed data.</p>	
153.	Chris Barnard	36.	<p>I agree with the analysis on whether to introduce or not a uniform security level for IORPs across Europe. I also accept that the definition of a specific probability for the confidence level is highly political and I therefore agree with EIOPA’s decision not to recommend a specific probability.</p> <p>I would support option 1, which sets up a harmonised confidence level. I would suggest that any benefit adjustment mechanisms defined by SLL of Member States should be allowed for in the calculation of the technical provisions. The alternative for a non-harmonised confidence level, in which benefit adjustment mechanisms would be reflected in a lower confidence level, is simply too subjective, intransparent and potentially confusing.</p> <p>I fully support Paragraph 10.3.39, in that these issues must be properly communicated and explained, in order to better manage the expectations of members and beneficiaries concerning the security of their retirement provision.</p>	Noted

154.	CMHF (Centrale van Middelbare en Hogere Functionar	36.	<p>According to the CMHF, the security for IORPs across Europe should not be uniform. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
155.	De Unie (Vakorganisatie voor werk, inkomen en loop	36.	According to De Unie, the security for IORPs across Europe should not be uniform. In most Member States the level of security of a pension promise is currently part of the pension	Noted.

			<p>agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	
156.	DHL Services Limited	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPS across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPS?</p>	Noted.

			The types of security provided to IORPS across Member States are so varied that it is completely impractical to impose a uniform security level for IORPS across Europe.	
157.	DHL Trustees Limited	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPS across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPS?</p> <p>The types of security provided to IORPS across Member States are so varied that it is completely impractical to impose a uniform security level for IORPS across Europe.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
158.	Direction Générale du Trésor, Ministère des financ	36.	We think essential to have a uniform security level for IORPs across EU (confidence level and time horizon). The protection of beneficiaries and the issue of the level playing field with the insurance undertakings offering similar products are at stake. For reasons of consistency, the Solvency 2 parameters should apply to IORPs. If not, the question of the retirement activity of the insurance undertakings should certainly be re-examined.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
159.	Ecie vie	36.	We support a uniform security level for any institution that offers retirement schemes (insurance companies and IORPs) across Europe : "same risk same capital" . we recommend a specific probability@99.5%.	Noted.
160.	EFI (European Federation of Investors)	36.	It is very important to introduce a uniform security level in Europe and we don't see why EIOPA should not be able to propose it.	EIOPA's view is that the question of a common level of security is a

				matter requiring political decision
161.	European Association of Public Sector Pension Inst	36.	<p>What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>EAPSPI strongly disagrees with the introduction of a uniform security level for IORPs across Europe. The main problem is: security and benefit aspects cannot be separated; in the end an increase of security comes at the expense of a decrease of benefits – changing the former implies changing the latter. As the level of benefits is a political decision at the national level of Member States a uniform security level is not only a technical decision, but a strictly political issue and must remain under Member State competence to ensure the consideration of national characteristics and the relations of technical provisions regulations to Social and Labor Law.</p> <p>For the answer to the second and third sub-question please refer to answer #37.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
162.	European Federation for Retirement Provision (EFRP)	36.	<p>There should not be a uniformed level of security for IORPs across Europe according to the EFRP.</p> <p>In most Member States the level of risk of a pension promise is currently part of the pension agreement itself, and is just one</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring

			<p>of several elements. Other elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. This balance is different in all the Member States and is intertwined with national Social and Labour Law. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of (ex-post) adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advice on a specific probability level. The EFRP agrees on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advice the EC not to pursue a uniformed security level.</p>	<p>political decision</p>
163.	European Fund and Asset Management Association (EF)	36.	<p>The goal of achieving a uniform security level for IORPs across Europe appears very ambitious for reasons that are highlighted by EIOPA. Indeed, existing national Social and Labour Law allows for different levels of security, given the existence of ex-post benefit adjustment mechanisms and on-going legal obligations of sponsors to provide the full level of benefits. To</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring</p>

			<p>the extent that these mechanisms reflect the “social contract” between the main stakeholders (i.e. members, beneficiaries, employers), Member States should retain full responsibility for the decision on the role of these mechanisms, in accordance with the principle of subsidiarity. The following conclusions can be derived from these remarks:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The review of the IORP Directive should not aim at harmonizing the level of security of Member States’ pension systems, through the implementation of identical rules regarding the time horizon, the confidence level and the frequency of the calculation of solvency capital requirement. Indeed, imposing identical rules would represent an attempt to enforce a single definition of the “pension promise” across Europe, i.e. excluding the possibility of ex-post and ex-ante benefit adjustment mechanisms.</li> <li><input type="checkbox"/> The assessment of the confidence level that would be applied to IORPs should take into account other security measures, especially last resort measures to reduce benefits. To the extent that these cannot be taken into account adequately in the holistic balance sheet, a lower confidence level would be required to take into account these benefit adjustment mechanisms. Such elements should be related to the longer term horizon that IORPs typically have to implement policies and adjust their balance sheet.</li> <li><input type="checkbox"/> Aiming at achieving a high level of harmonization of technical provisions across Europe does not appear consistent with the necessity to take into account in an explicit way the</li> </ul>	<p>political decision</p>
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			benefit adjustment mechanisms.	
164.	European Metalworkers Federation	36.	See response question 22	Noted.
165.	European Mine, Chemical and Energy workers' Fede	36.	See previous	Noted.
166.	FAIDER (Fédération des Associations Indépendantes)	36.	It is very important to introduce a uniform security level in Europe and we don't see why EIOPA should not be able to propose it.	EIOPA's view is that the question of a common level of security is a matter requiring political decision
167.	Federation of the Dutch Pension Funds	36.	According to the PF, the security for IORPs across Europe should not be uniform. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of “uniform” security.</p> <p>Eiopa states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that Eiopa, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	
168.	Financial Reporting Council	36.	<p>The analysis is not supplemented by an impact assessment which would have helped to illustrate the amount of additional capital requirements which would be needed by IORPs. We consider that an impact assessment should be produced before deciding whether to introduce or not a uniform security level for IORPs across Europe. The probability level of 99.5% in Solvency II would result in significant additional capital being required for many IORPs. However, the nature of the IORP arrangement is very different from the contractual nature of insurance policies.</p> <p>We consider that the requirement to quantify a minimum security level based on a VaR type measure is disproportionate, particularly if there is to be no corresponding obligation on book reserve schemes. The introduction of Solvency II is estimated to be costing the UK insurance industry £1.9 billion with a further £0.2 billion being spent by the regulator. A significant part of this expenditure will be related to quantifying the SCR.</p> <p>As discussed in our answer to question 34, we consider that assessment of security should rely on simpler quantifications of the best estimates of the liability cash flows and asset cash flows complemented by analysis of risk and uncertainty which</p>	Noted. Eiopa recognises the importance of a QIS and of cost/benefit analysis

			would include both qualitative and some quantitative analysis.	
169.	FNV Bondgenoten	36.	<p>According to FNV BG, the security for IORPs across Europe should not be uniformed. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
170.	Generali vie	36.	We support a uniform security level for any institution that offers retirement schemes (insurance companies and IORPs)	EIOPA recognises that the question of a

			across Europe : "same risk same capital" . we recommend a specific probability@99.5%.	common level of security and, if relevant, what such a level should be, is a matter requiring political decision
171.	German Institute of Pension Actuaries (IVS\32\45\3	36.	As described in our response to question 12, we believe that uniform valuation principles for all member states are not appropriate due to heterogeneous labour and social laws, differences in insolvency protection systems and in particular due to the requirements for setting such a probability. Even within a single member state, the social partners and the IORP can agree to different security levels even if there is generally a link between the agreed benefit and security levels. Finally, there is no need for such uniformity because they do not compete with each other on a cross-border basis nor is cross-border activity of practical relevance.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
172.	Groupe Consultatif Actuariel Européen.	36.	<p>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.</p> <p>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</p>	Noted

			<p>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.</p> <p>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.</p>	
173.	Groupement Français des Bancassureurs	36.	<p>FBIA favours a market maximal harmonisation approach as this will lead to equal member/beneficiary protection, independent of the Member State, the security mechanisms or the pension provider. This would also lead to increased comparability and consistency across the different Member States.</p> <p>FBIA does not share EIOPA analysis regarding the difference existing in the adjustment mechanisms between insurers and IORP. When an IORP is underfunded, the scheme relies first on the sponsor covenant before ex-post benefit adjustments mechanisms. The adjustment mechanism is very similar to the raise of new capital. In both cases, for insurers and IORPs, to reduce benefits is a last resort measure that should be avoided by implementing an adequate prudential regime.</p> <p>Quantitative requirements are meant to guarantee a level of security to pension beneficiaries and this should be the main concern regarding pension benefits provided by insurers or IORPs.</p> <p>The different security mechanisms should be taken into account in the calculation of the Solvency Capital</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>Requirements. Mechanisms to reduce benefits could easily be included in this calculation. However, the situation of the company should be made public and strong disclaimers will be needed in the information to members and beneficiaries to inform people of the likelihood that benefits could be reduced in the near future.</p> <p>In case no harmonization was to be found, it would be a problem regarding cross border activity.</p> <p>As such transparency regarding the final confidence level can be obtained while not touching upon the VaR of 99.5%.</p>	
174.	PMT-PME-MnServices	36.	<p>According to us, the security for IORPs across Europe should not be uniform. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of “uniform” security.</p> <p>Eiopa states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that Eiopa, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	
175.	HM Treasury/Department for Work and Pensions	36.	<p>Pension schemes and security mechanisms in different Member States differ greatly, and provide very different types of security that are not directly comparable. A uniform confidence level will not be able to take these different types of security mechanism into account. Application of a uniform confidence level is therefore certain to result either in too high a level of prudence in some Member States, or too low a level of prudence in others. Neither of these approaches is acceptable.</p> <p>Furthermore, there is little benefit to be gained in harmonising security levels: the level of benefits being provided differs so makes little sense to harmonise the security; and in some Member States benefits can be reduced (or could be reduced were social and labour legislation to be amended) so harmonising a security level makes little sense when comparing to MS where this is not possible. In other words, without harmonised employment legislation, it is not possible to compare like with like. We therefore strongly disagree with the proposal that the security level for IORPs should be uniform across the EU.</p>	Eiopa recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
176.	IMA (Investment	36.	We do not believe that a uniform security level for IORPs	Noted

	Management Association)		should be introduced across Europe and agree with EIOPA's decision not to recommend a specific probability methodology.	
177.	Institute and Faculty of Actuaries (UK)	36.	<p>Security measurement is a political issue at all levels whether this is confidence level or otherwise. The consequences are of not having assets (in the IORP or otherwise) is unclear and so the need for complete prescription is also unclear.</p> <p>Furthermore not all benefits are uniform in nature or were even established in a risk-focused environment. So whilst we might agree that a uniform risk focused regulatory structure may be suitable for future benefits (also suitably defined) we find it hard to comment on an appropriate security level for historic benefits without a full understanding of the consequences of a failure to meet any particular test.</p> <p>Benefit provision and security are intertwined, for example an inflation linked benefit provides greater security of purchasing power compared to a non-indexed benefit. The overall level of capital required to back a pension promise (ie the level of security) should reflect the nature of the promise itself. In some Member States conditional benefits are a feature, and these can be reduced if financial conditions are unfavourable or if the employer's financial commitment is subject to a limit.</p> <p>In the UK, discretionary benefits have become less common over time as legislation has imposed additional commitments on IORPs. However, due to the social nature of pension provision and the employee-employer relationship, we believe that it is recognised that the nature of the pension 'promise' is not as 'hard' as a contractual guarantee. In particular, employers have given pension promises in the past in the knowledge that they were not required to fund such promises at a level that guaranteed those promises with a high degree of certainty. To impose a high probability now therefore would be</p>	Noted

			<p>retroactive, and would imply a reinterpretation of pension promises made in the past, perhaps many years ago.</p> <p>One approach would therefore be to apply a consistent level of probability only to pension promises made after a specified date. This would ensure that the security of the promise can be properly taken into account by employers and employees in their pension planning.</p> <p>Whilst we can see the rationale for a consistent level of security for pension promises, we do not believe that 'consistent' means 'the same'. In particular, a flexible approach would be needed to reflect the different nature of pension promises in Member States. Furthermore, security in different Member States is provided in part by a range of mechanisms such as the UK's Pension Protection Fund and various IORP-specific contingent funding arrangements. Such mechanisms are in many cases hard to value. A wide-ranging discretion would need to be available to national regulators to decide how such mechanisms should be taken into account in assessing security.</p> <p>If a specific probability were imposed , the value used must be set in the context of the term of the assessment.</p>	
178.	Italian Banking Association	36.	<p>In ABI's view it is not appropriate to introduce a uniform security level for IORPs across Europe, as the acceptable level in each country depends very much on political factors (e.g. social and labour law, possibility of reducing benefits, etc.), that cannot be overcome by an EU-wide prudential regulation.</p> <p>ABI agrees on the introduction of prudential rules based on risks in the IORP Directive, but considers that it is not possible to extend to pension schemes the same rules of insurance companies as defined in the Solvency II Directive. ABI considers it preferable to adopt a flexible regulatory framework at Community level which leaves Member States the possibility</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>of modulating the internal rules to the specificities of the industry according to the risk-sharing mechanism considered acceptable in the national Social and Labour Law.</p> <p>The new IORP Directive must take into account the possibility of defined benefit pension plans to review the level of performance over time to ensure the necessary balance between assets and liabilities. Pension schemes, in fact, unlike insurance companies, in cases of capital imbalances are unlikely to increase their income by increasing inputs of capital or significantly changing investment policies. Ex post adjustment mechanisms of pension benefits make it possible to adopt a more flexible regulation than that proposed by Solvency II for insurance companies. The adoption of a strict regulation could affect the operation of certain pension schemes and thereby reduce the ability to meet the needs of participants.</p> <p>In adopting more flexible rules, it is considered appropriate to pursue proper communications for participants and beneficiaries.</p> <p>Therefore, ABI requires that EIOPA does not take a technical stand in terms of the adoption of a uniform level of security across Member Countries and argues for the adoption of Option No. 2 "Non-Harmonized confidence level", as defined in paragraph 10.3.64.</p>	
179.	KPMG LLP (UK)	36.	<p>We do not believe that a Solvency II approach to security is at all practical in the UK, given the thousands of small and medium-sized defined benefit IORPs which exist. Having seen the amount of effort required by insurers to model solvency and security, it is essential that an impact assessment on the mechanics of any such approach be carried out, to see if it is at all practicable, before considering the details of such an</p>	<p>Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis</p>

			approach.	
180.	Le cercle des épargnants	36.	We support a uniform security level for any institution that offers retirement schemes (insurance companies and IORPs) across Europe : "same risk same capital" . we recommend a specific probability@99.5%.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
181.	Macfarlanes LLP	36.	<p>32. (CfA 6 Security mechanisms) What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>33. It is inappropriate to introduce a uniform security level for IORPs across Europe. It would harm pension provision by damaging the confidence of employers and their investors (and related companies who may provide guarantees) who engage voluntarily in pension provision. Employer confidence has already been damaged by repeated changes to regulation.</p> <p>34. It is also inappropriate because it will not achieve any of the legitimate aims identified. Members and beneficiaries will not have greater clarity or understanding about the security of their pensions for the reasons identified at 10.3.39: it will create only a "false sense of "uniform" security" because of benefit reduction mechanisms that may apply, as well as privilege rules and the availability of pension protection schemes and sponsor support if not included in any 'holistic balance sheet'.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>35. Further, members and beneficiaries, unlike the customers of insurance companies, generally cannot switch between IORPs, at least not in the UK where an IORP is more like a 'safe-deposit box' providing security for their own employer's pension promises. The security of IORP members is inextricably linked to the ability of their own employer to pay. There are therefore no member choices for which a uniform security level would provide useful information.</p> <p>36. We agree with EIOPA's decision not to recommend a specific probability.</p>	
183.	Mercer	36.	<p>We do not agree that a 'uniform security level' is necessarily imposed just by mandating a similar approach to the calculation of technical provisions on all IORPs, since this ignores the fact that different IORPs protect against different risks. For example, some defined benefit schemes target lump sums, so members are left with mortality and interest rate risk at retirement; regardless of the financial measures imposed, members of these schemes have less security than members of schemes that target income related benefits; and similarly, members of schemes where indexation is mandatory face less risk than members of schemes where it is not.</p> <p>A uniform measure therefore only considers one degree of risk, whereas the risks faced by scheme members are multi-faceted.</p> <p>Differences in the benefit structure adopted by IORPs in different member states have arisen largely as a result of local social and labour law. Ignoring this in setting the security level for members' benefits risks interfering with the objectives adopted by national governments when establishing the legal</p>	<p>Noted.</p> <p>EIOPA recognises that any harmonised calculation of IORP solvency must allow for the variations in benefits and in security mechanisms, and that further development is needed.</p>

			<p>framework within which occupational pension schemes must operate. For example, in the event of involuntary wind-up of an IORP, beneficiaries may rank equal to unsecured creditors of the sponsor in some countries (e.g. the UK), while in others (e.g. Ireland) this is not the case.</p> <p>Also, having established a 'uniform security measure', there is no information about the action supervisory authorities could take if it were not met. Depending on the level it is struck at, and the actions that follow, this could have severe financial impacts on IORPs and their sponsoring employers, so that a long implementation period might be required before the proposed new Directive could come into force.</p>	
184.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	36.	<p>According to the MHP, the security for IORPs across Europe should not be uniform. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of “uniform” security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	
185.	National Association of Pension Funds (NAPF)	36.	<p>What is the stakeholders’ view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA’s decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>It would be impossible to recommend a single uniform security level for IORPs across Europe, as this would take no account of the extent to which other elements, such as Pillar I pensions, contribute to the security of retirement incomes.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
187.	OECD Secretariat to the Working Party on Private P	36.	<p>What is the stakeholders’ view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA’s decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring

			<p>A harmonised solvency regime would ideally encourage and respect the diversity of pension systems that exist in Europe.</p> <p>As stated in the OECD Working Paper on “The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations” (<a href="http://www.oecd.org/dataoecd/22/11/45694491.pdf">http://www.oecd.org/dataoecd/22/11/45694491.pdf</a>), broadly speaking, the goals of solvency regulations for defined benefit plans should be to</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> encourage deficit reduction contributions and appropriate build up of surplus when plan sponsor finances are strong;</li> <li><input type="checkbox"/> help maintain predictable costs and dampen volatility; and,</li> <li><input type="checkbox"/> give plan sponsors more control to manage risks and costs.</li> </ul> <p>Furthermore, solvency regulations for defined benefit plans should</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Avoid excessive reliance on current market values for purposes of determining contributions.</li> <li><input type="checkbox"/> Set minimum funding levels or targets that are consistent with the goal of benefit security.</li> <li><input type="checkbox"/> Allow appropriate levels of over-funding in good economic times via more flexible tax ceilings.</li> <li><input type="checkbox"/> Limit contribution holidays and plan sponsor access to surplus.</li> <li><input type="checkbox"/> Encourage stability of long-term contribution patterns</li> </ul>	<p>political decision</p>
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			<p>via appropriate actuarial methods.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Incorporate flexibility into funding rules to reflect the overall volatility of funding valuations.</li> <li><input type="checkbox"/> Avoid over-regulation and maintain a stable regulatory environment.</li> </ul>	
188.	Pan-European Insurance Forum (PEIF)	36.	<p>The implications of the security level being set at national rather than at EU level are profound. PEIF would like wider discussion of this point, including a legal assessment by EU institutions.</p> <p>From the perspective of the development of an internal market in occupational pension provision, a harmonized approach appears preferable. However, the reluctance of EIOPA does seem prima facie consistent with the view that each Member State is responsible for determining the content and quality of the occupational pensions it expects for its citizens. Therefore, at this stage, PEIF refrains from taking a final view.</p> <p>The implications of this Europe's future pensioners also need thinking through. Any differences in security levels need to be communicated to (potential) members. Furthermore, the impact on life insurers who are also active in this area need reflection and if the regimes for IORPs and insurers cannot be made consistent on this point the differences should be made transparent.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
189.	Pensioenfondszorg en Welzijn (PFZW)	36.	We feel that the security for IORPs across Europe should not be uniform. In most Member States the level of security of a	EIOPA recognises that the question of a

			<p>pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national social and labour law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	<p>common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>
190.	Predica	36.	<p>Predica favours a market maximal harmonisation approach as this will lead to equal member/beneficiary protection, independent of the Member State, the security mechanisms or the pension provider. This would also lead to increased comparability and consistency across the different Member States.</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring</p>

			<p>Predica does not share EIOPA analysis regarding the difference existing in the adjustment mechanisms between insurers and IORP. When an IORP is underfunded, the scheme relies first on the sponsor covenant before ex-post benefit adjustments mechanisms. The adjustment mechanism is very similar to the raise of new capital. In both cases, for insurers and IORPs, to reduce benefits is a last resort measure that should be avoided by implementing an adequate prudential regime.</p> <p>Quantitative requirements are meant to guarantee a level of security to pension beneficiaries and this should be the main concern regarding pension benefits provided by insurers or IORPs.</p> <p>The different security mechanisms should be taken into account in the calculation of the Solvency Capital Requirements. Mechanisms to reduce benefits could easily be included in this calculation. However, the situation of the company should be made public and strong disclaimers will be needed in the information to members and beneficiaries to inform people of the likelihood that benefits could be reduced in the near future.</p> <p>In case no harmonization was to be found, it would be a problem regarding cross border activity.</p> <p>As such transparency regarding the final confidence level can be obtained while not touching upon the VaR of 99.5%.</p>	political decision
191.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	36.	No need to introduce a uniform confidence level. There is such a wide range of pension plans, that a uniform confidence level adds little in terms of improved harmonisation. Only for a pure DB with "rock solid" guarantees would it make sense to insist on a confidence level of 99.5% (equal to Solvency II). On the	EIOPA's view is that the question of a common level of security is a matter requiring political decision

			other extreme, for a pure DC a confidence of x% has little meaning, as all the risks are borne by the plan members.	
192.	PTK (Sweden)	36.	<p>PTK strongly opposes the idea of a uniformed level of security for IORPs across Europe.</p> <p>In most Member States the level of risk of a pension promise is currently part of the pension agreement itself, and is just one of several elements. Other elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. This balance is different in all the Member States and is intertwined with national social and labour law. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of (ex-post) adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advice on a specific probability level. PTK agrees on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advice the EC</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			not to pursue a uniformed security level.	
193.	Punter Southall Limited	36.	It is not appropriate to introduce a uniform security level across Europe, given the significant differences in the nature and coverage of IORPs in individual member states. Solvency capital has no place in a system where an IORP already has the backing of a solvent employer (and possibly of a pension protection scheme at member state level).	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
194.	Railways Pension Trustee Company Limited ("RPTCL)	36.	RPTCL believes that Member States should be able to choose the level of security that best aligns with social and employment legislation within that Member State.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
195.	Reed Elsevier Group plc	36.	We do not believe it is practical to introduce a uniform level of security across Europe.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
196.	TCO	36.	TCO strongly opposes the idea of a uniformed level of security for IORPs across Europe.  In most Member States the level of risk of a pension promise is currently part of the pension agreement itself, and is just one of several elements. Other elements are, for example, the	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision

			<p>accumulation of pension rights, the contribution and whether or not there is indexation. This balance is different in all the Member States and is intertwined with national social and labour law. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of (ex-post) adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. TCO agrees on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	
197.	The Association of Pension Foundations (Finland)	36.	There should not be uniformed level of security for IORPs.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring

				political decision
198.	The Association of the Luxembourg Fund Industry (A	36.	<p>There should not be a uniformed level of security for IORPs across Europe.</p> <p>In most Member States the level of risk of a pension promise is currently part of the pension agreement itself, and is just one of several elements. Other elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. This balance is different in all the Member States and is intertwined with national social and labour law. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of (ex-post) adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advice on a specific probability level. The Respondents agree with Everson this, but would like to add the suggestion that EIOPA, considering the arguments mentioned advice the EC not to pursue a uniformed security level.</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

199.	The Hundred Group of Finance Directors (UK)	36.	The types of security provided to IORPS across Member States are so various that it is completely impractical to impose a uniform security level for IORPS across Europe.	Noted.
200.	The Society of Actuaries in Ireland	36.	<p>The concept of uniform security is more applicable to Insurers where the security of the provider is an important consideration for policyholders. Members of IORPs do not generally have the freedom of choice between IORPs to a large degree and therefore the idea of a uniform level of security may not be as relevant for IORPs. What is important is to understand the level of security provided by their particular IORP for their benefit and not the security relative to another IORP. We would therefore favour Option 2 i.e. a non-harmonized confidence level.</p> <p>We agree with EIOPA not to recommend a specific confidence level.</p>	Noted.
201.	THE SOCIETY OF PENSION CONSULTANTS	36.	It should be left to national supervisors whether to specify a probability. We believe that it is undesirable to introduce a uniform security level for IORPs across Europe. Consequently, we agree with EIOPA's decision not to recommend a specific probability.	Noted.
202.	Towers Watson Deutschland GmbH	36.	We agree. We believe that a uniform probability would not take proper account of the different hard-/softness of benefit amounts. Even within a single member state, the social partners and the IORP can agree on different security levels.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring

				political decision
203.	UK Association of Pension Lawyers	36.	<p>CfA 6 (Security mechanisms): What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>It is inappropriate to introduce a uniform security level for IORPs across Europe because it would harm pension provision by harming the confidence of employers (and related companies who may provide guarantees) who engage voluntarily in pension provision. Employer confidence has already been damaged by repeated changes to regulation.</p> <p>It is also inappropriate because it will not achieve any of the legitimate aims identified. Members and beneficiaries will not have greater clarity or understanding about the security of their pensions for the reasons identified at paragraph 10.3.39: it will create only a "false sense of "uniform" security" because of benefit reduction mechanisms that may apply, as well as privilege rules and the availability of pension protection schemes and sponsor support if not included in any 'holistic balance sheet'.</p> <p>Further, members and beneficiaries, unlike the customers of insurance companies, generally cannot switch between IORPs, at least not in the UK where the IORP is more like a 'safe-deposit box' providing security for their employer's pension promises. There are therefore no member choices for which a uniform security level would provide useful information.</p> <p>We agree with EIOPA's decision not to recommend a specific probability.</p>	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
204.	UNI Europa	36.	See question 22	Noted.

205.	Universities Superannuation Scheme (USS),	36.	What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?	
206.	Verband der Firmenpensionskassen (VFPK) e.V.	36.	When assessing provisions national characteristics of the Member States must be taken into account. These particularly include security systems, options for adaption, classification of IORP benefits from labour law and socio-political aspects. Among other things consideration has to be given to the necessary security level agreed by social partners and IORPs. Additional security is always at the cost of possible benefits. The fixing the amount of benefits is solely at the responsibility of the national partners.	EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision
207.	Verbond van Verzekeraars	36.	We think the calibration can only be decided after a carefully executed quantitative impact study. The confidence level should be based on the characteristics and goals of the pension products. The character of particular occupational pension products that could be prudentially relevant are for example the options to reduce benefit promises or payments. Specificities should be taken into account in a similar way for all providers. The provider should however offer full information disclosure towards the participant/member about the risks if there would be a difference in the applied confidence level.	Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis
208.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	36.	According to the VHP2, the security for IORPs across Europe should not be uniform. In most Member States the level of security of a pension promise is currently part of the pension agreement itself, and is one of the main elements. Other main	EIOPA recognises that the question of a common level of security and, if relevant,

			<p>elements are, for example, the accumulation of pension rights, the contribution and whether or not there is indexation. The balance of all these elements is different in all the Member States and is intertwined with national Social and Labour Law and any first pillar pension scheme. Just like the fact that it is not desirable that the IORP directive prescribes a uniform level of contribution rates, accrual rates or indexation policy, also levels of security of pension income should not be prescribed by European legislation. Also EIOPA underwrites this in their view: "Some Member States provide relatively low benefits with high funding/security requirements while others provide higher promised benefits but with a lower level of funding". The implication of this is that EU solvency regulation should recognize the different levels of security accepted by national Social and Labour Law. Due to these differences and the opportunity of cutting pension rights in different Member States, setting the level of security across the EU, regardless of the presence of adjustment mechanisms of pension benefits, would risk communicating to members a false sense of "uniform" security.</p> <p>EIOPA states not to advise on a specific probability level. We agree on this, but would like to add the suggestion that EIOPA, considering the arguments mentioned, advise the EC not to pursue a uniformed security level.</p>	<p>what such a level should be, is a matter requiring political decision</p>
209.	Whitbread Group PLC	36.	<p>We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits</p>	Noted
210.	Zusatzversorgungskasse des Baugewerbes AG	36.	<p>44. We regard an uniform security level as almost impossible to achieve. The diversity and complexity of pension schemes throughout Europe is such that national supervisors need to have leeway to judge and rule specifically. We do not</p>	Noted

			find that leeway within the standard formulas of Solvency II.	
211.	Towers Watson	36.	<p>37. What is the stakeholders' view on the analysis whether to introduce or not a uniform security level for IORPs across Europe? Do the stakeholders agree with EIOPA's decision not to recommend a specific probability? If not, what specific probability should be imposed upon IORPs?</p> <p>The overall level of capital required to back a pension promise (ie the level of security) should reflect the nature of the promise itself. In some Member States, conditional benefits are a feature, which can be reduced if financial conditions are unfavourable, or where the employer's financial commitment is subject to a limit.</p> <p>In the UK, discretionary benefits have become less common over time as legislation has imposed additional commitments on IORPs. However, due to the social nature of pension provision, and the employee-employer relationship, we believe that it is recognised that the nature of the pension 'promise' is not as 'hard' as a contractual guarantee. In particular, employers have given pension promises in the past in the knowledge that they were not required to fund such promises at a level that guaranteed those promises with a high degree of certainty. To impose a high probability now therefore would be retroactive, and would imply a reinterpretation of pension agreements made in the past, perhaps many years ago.</p> <p>One approach would therefore be to apply a consistent level of probability only to future pension promises made after a specified date. This would ensure that the security of the promise can be properly taken into account by employers and employees in their pension planning.</p> <p>Whilst we can see the rationale for a consistent level of security for pension promises, we do not believe that consistent means</p>	<p>EIOPA recognises that the question of a common level of security and, if relevant, what such a level should be, is a matter requiring political decision</p>

			<p>'the same'. In particular, a flexible approach would be needed to reflect the different nature of pension promises in Member States. Furthermore, security in different Member States is provided in part by a range of mechanisms (such as the UK's Pension Protection Fund and various IORP-specific contingent funding arrangements). Such mechanisms are in many cases hard to place a value on. A wide-ranging discretion would need to be available to national regulators to decide how such mechanisms should be taken into account in assessing security.</p> <p>If a specific probability were to be prescribed for IORPs, then clarity would be needed as to what this probability represents in order to avoid misunderstanding by other parties, including IORP members and beneficiaries. In the consultation document, probability is discussed in the context of the confidence level used to determine the solvency capital requirement. However, a more meaningful interpretation of solvency would be the probability that the IORP is able to pay members' benefits over the long-term. These two definitions are clearly very different.</p>	
212.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	37.	See question 34	Noted.
213.	AbA Arbeitsgemeinschaft für betriebliche Altersver	37.	As described above, we believe that risk-based capital requirements are not appropriate for IORPs.	Noted.
214.	ABVAKABO FNV	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
215.	AEIP	37.	79. AEIP rejects the idea of imposing capital requirements based on value-at-risk calculations as a general rule. However	Noted.

			<p>if the commission would go through with this idea, we would like to give the following comment.</p> <p>If a value at risk oriented calculation for capital requirements is chosen - which we think is inappropriate for pension funds - we agree that a one-year time horizon is sufficient.</p>	
217.	AMICE	37.	<p>13. For many AMICE members it is evident that the application of a one-year time horizon for the application of the confidence level is not appropriate for the pensions business. We have already argued in the Solvency II discussions that in some areas of insurance, even in long-term business on the non-life side, a one-year horizon is as such the wrong approach (see also EIOPA's considerations in par 10.3.29).</p> <p>We are aware of the difficulties of finding any appropriate alternative and of the complexity any alternative choice would entail. Nevertheless, we see ourselves unable to flatly agree that a one-year horizon should be used.</p>	Noted.
218.	AMONIS OFP	37.	<p>Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>As discussed earlier, AMONIS OFP considers that a harmonized confidence level is not appropriate for IORPs. A traditional value at risk oriented calculation on the investments to determine capital requirements is inappropriate for pension funds. It is a short term assessment of a long term risk (we refer to the origin of VaR in the financial sector – it is a reasonable approach for the risk on the very short end of the horizon, say a few days). However if the level of financial</p>	Noted.

			knowledge is limited to a Value at Risk calculation, we agree that a one-year time horizon is sufficient.	
219.	ANIA – Association of Italian Insurers	37.	As EIOPA has correctly indicated, there were no clear superior alternatives to the one year time horizon for Solvency II. The ANIA believes that a similar conclusion can be drawn for IORPs. Thus, the ANIA agrees that the confidence level should apply to a one-year time horizon.	Noted.
220.	Association of British Insurers	37.	The time horizon is entirely dependent on the details and the calibration of the regulatory framework. In the ABI's view Solvency II does not currently recognise some of the specifics of long term liabilities which results in an excessive calibration. In particular due to their longer investment time horizon assets backing long term liabilities are not fully exposed to the market volatility beyond the proportion representing default risk. In this instance extending the current one year time horizon would overstate the capital requirements even more.	Noted.
221.	Association of Consulting Actuaries (UK)	37.	We refer to the answer to question 36 above.	Noted.
222.	Association of French Insurers (FFSA)	37.	58. As mentioned in the general comments, the current calibration of Solvency II is not suitable for long-term commitments, particularly in retirement. The adoption of a time horizon longer than a one year horizon would reduce the level of SCR but would also - if linked to the recovery plan - reduce the excessive volatility that Solvency II could produce when dealing with pension schemes.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
223.	Association of Pensioner Trustees in Ireland	37.	See response to question 12.	Noted.

224.	Assoprevidenza – Italian Association for supplement	37.	<p>We think that a reflexion about possibility to use a more large time horizon is needed, taking into account the long-term nature of most pension liabilities.</p> <p>For the same reason, the period granted to recover must be much longer (15-20 years for the SCR).</p>	Noted.
225.	Assuralia	37.	<p>The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.</p>	Noted.
226.	Belgian Association of Pension Institutions (BVPI-	37.	<p>Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>As discussed earlier, BVPI-ABIP considers that a harmonized confidence level is not appropriate for IORPs. If a value at risk oriented calculation for capital requirements is chosen - which we think is inappropriate for IORPs - we agree that a one-year time horizon is sufficient.</p>	Noted.
227.	BNP Paribas Cardif	37.	<p>As mentioned in the general comments, the current calibration of Solvency II is not suitable for long-term commitments, particularly in retirement. The adoption of a time horizon longer than a one year horizon would reduce the level of SCR but would also - if linked to the recovery plan - reduce the</p>	Noted.

			<p>excessive volatility that Solvency II could produce when dealing with pension schemes.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	
228.	BT Group plc	37.	<p>Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>We do not believe an SCR is needed but if applied we agree with the time horizon.</p>	Noted.
229.	BT Pension Scheme Management Ltd	37.	<p>We believe that 1 year is the only realistic time horizon for such a calculation to limit the administrative costs of the exercise.</p>	Noted.
230.	CEA	37.	<p>As EIOPA has correctly indicated, there were no clear superior alternatives to the one year time horizon for Solvency II. The CEA believes that a similar conclusion can be drawn for IORPs. Thus, the CEA agrees that the confidence level should apply to a one-year time horizon.</p>	Noted.
231.	Charles CRONIN	37.	<p>For the reasons stated above I would not support using a confidence level over any time frame. Given the nature of flows in and out of IORPs it is difficult to place a mathematical construct around so many variables. I would suggest that a better approach is for the IORP to annually answer two supervisory questions. i) How does it intend to fund its liabilities over the next ten years? ii) Of the remaining funds what expected return does it require to meet the remaining liabilities? The answer to the second question directs the supervisor to what is feasibly possible (through what combination of assets is this possible, the asset allocation to be</p>	Noted.

			provided by the IORP). Hence if the required return is 'significantly' more than the historically achieved return, say by ½ a standard deviation, then the fund could be described as underfunded. If a half standard deviation is the supervisory threshold (this could be an EU wide threshold) then this would initiate obligations on the IORP and its sponsor to put in place measures to return the fund to equilibrium status.	
232.	Chris Barnard	37.	<p>Yes. The confidence level should apply to a one-year time horizon. This is generally accepted and consistent with insurance companies and banks. It would be difficult to calibrate a time horizon much greater than this.</p> <p>I support the concept of "same risks, same rules, same capital". Therefore I do not agree with Paragraph 10.3.29 that a multi-year time horizon "may be more appropriate where risks are not observable over a short period, such as long-tailed liability business or mortality developments", especially given that we currently apply Solvency II successfully to insurance companies with long-tailed liability business, such as whole life, pension and annuity contracts.</p>	Noted.
233.	CMHF (Centrale van Middelbare en Hogere Functionar	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
234.	De Unie (Vakorganisatie voor werk, inkomen en loop	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
235.	Direction Générale du Trésor, Ministère des financ	37.	We think essential to have a uniform security level for IORPs across EU (confidence level and time horizon). The protection of beneficiaries and the issue of the level playing field with the insurance undertakings offering similar products are at stake. For reasons of consistency, the Solvency 2 parameters should	Noted.

			apply to IORPs. If not, the question of the retirement activity of the insurance undertakings should certainly be re-examined.	
236.	Ecie vie	37.	We consider the current calibration of Solvency II (in particular one year horizon) is not suitable for long term guarantees.  The same principle should apply for insurance contracts and IORPs.	Noted.
237.	EFI (European Federation of Investors)	37.	The horizon to which the confidence level should apply has to be set in order to permit the IORP and its sponsors to take the necessary actions to ensure the payments of the benefits. It may be one year but it could be shorter or longer. This has to be studied in depth and depend certainly of the duration of the liabilities.	Noted.
238.	European Association of Public Sector Pension Inst	37.	Do the stakeholders agree that the confidence level should apply to a one-year time horizon?  EAPSPI strongly disagrees. The essential reasons why especially the structure of the first Pillar of the regulatory structure for Basel II (banking) and Solvency II (insurance) were constructed are not of particular relevance for IORPs (the problem of term- and liquidity-transformation in banking and the problem of prevention for sudden adverse developments for insurance; see answer to question #12 for a reasoning at length). Central to the specific position of IORPs is the extremely long duration of liabilities due to retirement provisions and the impossibility of capital withdrawals at short notice (no benefits before the occurrence of the insured event e.g. retirement, death or disability). This in turn enforces and protects the long term investment horizon of IORPs.	Noted.

			<p>Because of the long duration of liabilities also on the asset side, long-term developments are more important than short-term fluctuations of markets or interest rates that have to be considered by banks, insurance companies and other financial companies: The duration of liabilities of those institutions is more uncertain and even endogenously affected in times of financial distress (for instance for banks, short term investments or life insurance products with lump-sum option). This is not the case for IORPs. Given the long and stable duration of liabilities, IORPs have a longer reaction period in case of adverse developments of the relevant risks.</p> <p>This has to be accounted for when calculating the capital requirements: A Value-at-risk-measure with a confidence level of 99.5% for a 1-year-perspective and the implied capital requirements is therefore not an appropriate risk measure for IORPs. To reduce the relevant solvency capital planning horizon to a period of 12 months drastically limits the possibilities and advantages of a long-term oriented risk management and risk diversification (see for instance the wealth of economic literature on mean reversion and the autocorrelations of equity returns, bonds returns, etc. as a function of the time period considered). For IORPs it is therefore not necessary to hold the short-term, measured risk-sensitive solvency capital requirements of Solvency II in full at all times. A concrete quantification of these parameters does in general not seem practicable to this purpose as risk, when measured over a 12-month period, deviates from risk when measured over longer periods. For these reasons EAPSPI suggests not recommending a specific level of confidence or specific time-horizon for IORPs.</p>	
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239.	European Federation for Retirement Provision (EFRP)	37.	<p>As discussed earlier, a harmonized confidence level is meaningless for IORPs.</p> <p>According to the EFRP, the risk level of a pension promise is currently part of the pension agreement itself. Other elements are, for example the accumulation of pension rights, the contribution level and whether or not there is indexation. This balance is different in all the Member States and is intertwined with national Social and Labour Law. Besides that, IORPs typically have a long term investment horizon. A solvency framework, based on a Value-at-Risk measure on a short term horizon will not be in line with a long term investment policy. For these reasons the EFRP suggests not recommending a specific level of confidence or specific time-horizon for IORPs.</p>	Noted.
240.	European Metalworkers Federation	37.	See response question 22	Noted.
241.	European Mine, Chemical and Energy workers' Fede	37.	See previous	Noted.
242.	FAIDER (Fédération des Associations Indépendantes)	37.	The horizon to which the confidence level should apply has to be set in order to permit the IORP and its sponsors to take the necessary actions to ensure the payments of the benefits. It may be one year but it could be shorter or longer. This has to be studied in depth and depend certainly of the duration of the liabilities.	Noted.
243.	Federation of the Dutch Pension Funds	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
244.	Financial Reporting Council	37.	As we do not consider a VaR approach is proportionate we have not considered the appropriate time period over which it should	Noted.

			be assessed.	
245.	FNV Bondgenoten	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
246.	Generali vie	37.	We consider the current calibration of Solvency II (in particular one year horizon) is not suitable for long term guarantees. The same principle should apply for insurance contracts and IORPs.	Noted.
247.	German Institute of Pension Actuaries (IVS\32\45\3	37.	We disagree. Since essentially all benefit systems in Germany typically exclude the possibility of surrender or lump sum payments, a one-year time horizon is not necessary. In fact, it would be counterproductive since it would set the wrong incentives and emphasis for investment strategy. A long-term and sustainable investment strategy would be made very difficult if not impossible. This in turn would negatively impact the sponsor's financing costs and/or the beneficiaries' amount of benefits. Instead, there should be a reference to meeting future payments i.e. ensuring adequate liquidity should be the focus of any solvency regulation for IORPs and not the improbable danger of overindebtedness.	Noted.
248.	Groupe Consultatif Actuariel Européen.	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.	Noted.
249.	Groupement Français des Bancassureurs	37.	As mentioned in the general comments, the current calibration of Solvency II is not suitable for long-term commitments, particularly in retirement. The adoption of a time horizon longer than a one year horizon would reduce the level of SCR but would also - if linked to the recovery plan - reduce the excessive volatility that Solvency II could produce when	Noted.

			<p>dealing with pension schemes.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	
250.	PMT-PME-MnServices	37.	<p>Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.</p>	Noted.
251.	HM Treasury/Department for Work and Pensions	37.	<p>UK Govt is of the view that this is the wrong question. Whatever the confidence level, applying it over a specific time horizon is not an appropriate approach for pension liabilities. The case for a specific VaR over a specified time horizon only arises when preparing a point-in-time comparison of assets and liabilities. However, as set out in the response to Q13 (above), the critical issue with respect to IORPs – given their highly predictable and long-term cash-flows - is to ensure that current and future assets are sufficient to cover current and future cash-flows – not to provide a cushion against the possibility of a short-term deficit.</p>	Noted.
252.	Institute and Faculty of Actuaries (UK)	37.	<p>A measure of security should be available. This is not necessarily a confidence level. If it is politically decided to be a confidence level then the time horizon is also a political decision. The time horizon should be determined by the purpose of the test:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> at one extreme if the purpose is a “Solvency II” approach, which we would not necessarily support, then one-year seems appropriate by definition;</li> <li><input type="checkbox"/> if a more generic test of “will the benefits be paid” is intended, longer horizons may be appropriate. The</li> </ul>	Noted.

			<p>consequence of this level not being met needs to be made clear. A sensible consequence may be simply disclosure to appropriate parties. A consequence requiring the transfer of capital may not be appropriate.</p> <p>This is a question of practicality rather than politics. If a risk-based solvency capital requirement is introduced then whether it should be measured over a one-year time horizon, or a longer period, the time horizon would still be relatively short compared to the duration of the IORP's liabilities.</p>	
253.	KPMG LLP (UK)	37.	The time horizon should be determined by the purpose of the test.	Noted.
254.	Le cercle des épargnants	37.	<p>We consider the current calibration of Solvency II (in particular one year horizon) is not suitable for long term guarantees.</p> <p>The same principle should apply for insurance contracts and IORPs.</p>	Noted.
255.	Macfarlanes LLP	37.	<p>37. (CfA 6 Security mechanisms) Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>38. The purpose of such a requirement must be borne in mind. What is the relevance of the information? What will be the consequences? Who will use it? What for?</p> <p>39. Pension liabilities are long-term liabilities and a one-year time horizon would generally be relevant only to a winding up of the IORP within that period (on insolvency of the sponsors or otherwise), or to transfer decisions that might be available to members and beneficiaries. It might also be relevant to supervisor action or funding requirements. However, as noted by EIOPA, imposing funding requirements in relation to a confidence level measured on a one-year time horizon will be</p>	Noted.

			<p>pro-cyclical and increase volatility and economic and financial instability for the sponsors and the IORP. This will be damaging for pension provision and for businesses that sponsor them (either as employers or as guarantors).</p> <p>40. A one-year time horizon may be appropriate in relation to IORPs that are soliciting customers.</p>	
257.	Mercer	37.	<p>There is no right answer to this question. We agree that the results produced using Value at Risk (VaR) analysis become increasingly weak, the longer the time horizon used. However, one year is a short time horizon for a pension scheme.</p> <p>On balance, if IORPs are to be required to hold solvency capital and it is to be measured using a statistical approach, a one year VaR approach is probably satisfactory. Decisions in relation to the confidence level are likely to be more material.</p>	Noted.
258.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	37.	<p>Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.</p>	Noted.
260.	Montana Capital Partners AG	37.	<p>37. Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>Pension funds are typically managed by taking a long-term view, which goes hand in hand with the long-term nature of their liabilities and the payments to their pensioners. Therefore, pension funds should receive the possibility to pursue an investment strategy that matches their long-term horizon and that is also reflected in the risk-weightings of their assets. Hence, risk measures that focus on a one-year time horizon do not reflect the risk profile of pension funds and are consequently counterproductive to the ultimate goals of</p>	Noted.

			<p>pension funds.</p> <p>A flexible risk measurement approach could be a possible solution, which reflects the characteristics of different asset classes and their durations and which allows for a duration matching approach. However to clarify, we are not supporting the opinion that the confidence level should apply to a one-year time horizon to measure risk for all asset classes. In this context, it is very problematic if an AAA-rated long-term bond has a higher risk weighting than a BBB-rated bond with a shorter life time. The same holds true for longer-term alternative asset classes such as real estate, infrastructure or private equity, which are penalized in that respect compared to public equities.</p> <p>The experience with risk management in illiquid asset classes shows that it is necessary to use new risk measures which are not based on the traditional equity-markets. These risk measures are based on a longer time horizon which reflects the characteristics of the alternative assets. If a pension fund can show evidence that it can hold the assets over the entire lifetime, the change of the quarterly net asset value during the lifetime gives only an indication, but does not reflect the risk of a true market risk change. Hence, new long-term risk measures have to be taken into account.</p> <p>Hence, we propose to have a more differentiated approach in terms of time horizons, which is based on the different characteristics of the asset classes and which allows for long-term duration matching and an approach which incorporates timing into the liquidity management.</p>	
261.	National Association of Pension Funds (NAPF)	37.	Do the stakeholders agree that the confidence level should apply to a one-year time horizon?	Noted.

			<p>A confidence level is meaningless for IORPs.</p> <p>NAPF recommends that this proposal should not be taken forward.</p>	
263.	OECD Secretariat to the Working Party on Private P	37.	<p>Do stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>Measuring value-at-risk over a one-year time horizon can be problematic given the long-term nature of IORP obligations. The CfA's proposed solution to this short time horizon by giving a lower confidence interval than the 99.5% required by Solvency II could be a practical work-around, but does not necessarily fully address the issues of counter-cyclicality and potential short-termism that may arise with the use of such quantitative, risk-based funding rules.</p> <p>Short-term value-at-risk type models combined with fair value principles and market discount rates may incentivise pro-cyclical funding behaviour and shorten the investment horizon. Furthermore, it is important to take note that in sponsored-backed IORPs, the most important risk is not necessarily annual fluctuations in the funding level, but the possibility of sponsor bankruptcy, as recognised in the OECD Working Paper on "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (<a href="http://www.oecd.org/dataoecd/22/11/45694491.pdf">http://www.oecd.org/dataoecd/22/11/45694491.pdf</a>).</p>	Noted.

			Finally, model risk should also be taken into account as it is unclear to what extent the various risks that IORPs are exposed to can fully be modelled and quantified in a value-at-risk type solvency framework.	
264.	Pensioenfonds Zorg en Welzijn (PFZW)	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
265.	Predica	37.	As mentioned in the general comments, the current calibration of Solvency II is not suitable for long-term commitments, particularly in retirement. The adoption of a time horizon longer than a one year horizon would reduce the level of SCR but would also - if linked to the recovery plan - reduce the excessive volatility that Solvency II could produce when dealing with pension schemes.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
266.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	37.	Do not agree. The solvency of pension funds should be assessed over a combination of short, medium and long-term horizons, as different generations share risks within the pension fund.  14. We propose the following instruments: capital requirements, the continuity analysis, stress testing, and recovery plans.  15. * Capital requirements: Capital requirements resembling the Minimum Capital Requirement (MCR) and the	Noted.

			<p>Solvency Capital Requirement (SCR) are the most well known examples of minimum requirements. We will refer to these capital requirements as MCR and SCR, because of the widespread acceptance of the terms. Breaching these requirements automatically triggers supervisory actions such as recovery plans. The calculation of the SCR is often based on a short term Value-at-Risk measure. Typically the capital requirement is defined as the amount of capital required in order to withstand 1-year scenarios with a certain probability.</p> <p>16. * Continuity analysis: Next to these short term requirements, long term minimum requirements can also be of use. The continuity analysis can be used to assess the possible evolution of the pension fund's financial position against the background of realistic long-term economic scenarios. Key to the continuity analysis is that the impact of security mechanisms such as for example the indexation policy and contribution policy can be fully taken into account. Based on a set of assumptions, it is possible to assess whether the pension fund will be able to reach or stay above a certain funding level if normal operating conditions prevail. There is added value to use continuity analyses in addition to capital requirements. A pension fund that is currently better funded than the capital requirement can fail for the continuity analysis if preset policies (i.e. indexation or profit sharing) are too lenient. Continuity analyses can be especially useful to assess and develop recovery plans. Also, it should be noted that continuity analyses can also be very useful for DC plans and pay-as-you-go schemes. Even though there is no defined benefit to be monitored, it can be assumed that participants of a DC scheme have expectations regarding the expected pension benefit (accrued wealth or periodic annuity payment). Providing the information regarding expected outcome enables participants to check this against their expectations. For the supervisor, it</p>	
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			<p>can be useful input to check the actual situation against the communication. A continuity analysis is an important building block in regulating pension funds with long term commitments and long term investment strategies. It allows pension funds to gain grip on their dynamics in a situation fraught with uncertainty (DNB, 2007). The continuity analysis thus contributes to the assessment of a sustainable financial prospect for the pension fund and as a result, to the protection of beneficiaries' interests in both DB and DC schemes. The continuity analysis is strongly related to the common practice in the pension fund industry of Asset-Liability Management studies and has become increasingly important (De Jong and Pelsser, 2010).</p> <p>17. * Stress testing: Stress testing provides insight into the risks faced by the IORP when adverse financial developments suddenly affect the capital. Stress tests can be carried out on a short horizon to gain insight in worst case investment scenarios. For risks that can never materialize on a short term horizon such as deflation, inflation or longevity risk, long term stress tests can equally prove of value. A stress test verifies to what extent the pension fund is continuously able to meet its liabilities despite a period of distress, taking into account offsetting measures. Such stress tests do not necessarily need to have the same status as a capital requirement: falling below a certain predefined minimum capital or funding ratio within the results of a stress test can however provide insight in the risks of the pension fund because modelling difficulties are avoided. A raised flag because of a stress test result can at the very least trigger discussion between the fund and the supervisor regarding the strategy. Furthermore, it can be used in assessing whether the communication to participants about the realistic expected benefits is adequate. This is again equally true for DC and pay-as-you-go schemes.</p>	
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			18. * Recovery plans: Once a pension fund is underfunded, it becomes increasingly important to monitor the road to recovery and the effectiveness of measures taken. At initiation, a recovery plan is an important instrument for the supervisor to review and discuss the measures of a pension fund to recover. Going further, the actual situation can be compared to the expected recovery path. Given the known risk profile of the pension fund, a supervisor could even develop internal trigger points to act as a first warning for escalation of the recovery plan.	
267.	PTK (Sweden)	37.	As discussed earlier, a harmonized confidence level is not appropriate for IORPs. If any confidence level is agreed upon within a pension scheme, PTK agrees that this confidence level should apply to a one-year time horizon.	Noted.
268.	Railways Pension Trustee Company Limited ("RPTCL	37.	We have not considered this question.	Noted.
270.	TCO	37.	As discussed earlier, a harmonized confidence level is not appropriate for IORPs. If any confidence level is agreed upon within a pension scheme, TCO agrees that this confidence level should apply to a one-year time horizon.	Noted.
271.	The Association of Pension Foundations (Finland)	37.	We oppose harmonized confidence level because as we don't see that pillar I of Solvency II is unfit to IORPs.	Noted.
272.	The Association of the Luxembourg Fund Industry (A	37.	As discussed earlier, a harmonized confidence level is not appropriate for IORPs.	Noted.
273.	The Society of Actuaries in	37.	We would agree with the one year time horizon as per	Noted.

	Ireland		<p>Solvency II. The ease of calibration of the model and consistency with Solvency II work is important. The presumption of mean reversion and an expanding funnel of doubt with a longer time period would be a concern for horizon of more than one year.</p> <p>Inconsistency with point 39 below re an annual assessment can be overcome by having appropriate annual monitoring of the scheme by the actuary.</p>	
274.	THE SOCIETY OF PENSION CONSULTANTS	37.	<p>We disagree. Clearly different risks are faced by IORPs operating in different EU member states. Therefore, it should be left to national supervisors to specify the confidence level and the time horizon.</p>	Noted.
275.	Towers Watson Deutschland GmbH	37.	<p>We disagree. A one-year time horizon is not necessary and would be counterproductive in the context of IORPs since it would set the wrong incentives and emphasis for investment strategy. A long-term and sustainable investment strategy would be made very difficult if not impossible. This in turn would negatively impact the sponsor's financing costs and/or the beneficiaries' amount of benefits. Instead, there should be a reference to meeting future payments i.e. ensuring adequate liquidity should be the focus of any solvency regulation for IORPs and not the improbable danger of over-indebtedness.</p>	Noted.
276.	UK Association of Pension Lawyers	37.	<p>CfA 6 (Security mechanisms): Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>The purpose of such a requirement must be borne in mind. What is the relevance of the information? What will be the consequences? Who will use it? What for?</p> <p>Pension liabilities are long-term liabilities and a one-year time</p>	Noted.

			<p>horizon would generally be relevant only to a winding up of the IORP within that period (on insolvency of the sponsors or otherwise) or to transfer decisions that might be available to members and beneficiaries. It might also be relevant to supervisor action or funding requirements. However, as noted by EIOPA, imposing funding requirements in relation to a confidence level measured on a one-year time horizon will be pro-cyclical and increase volatility and economic and financial instability for the sponsors and the IORP. This will be damaging for pension provision and for businesses that sponsor them (either as employers or as guarantors).</p>	
277.	UNI Europa	37.	See question 22	Noted.
278.	Universities Superannuation Scheme (USS),	37.	<p>Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>A confidence level is meaningless for IORPs. In addition, it would seem inappropriate to apply such short-term timeframes to IOPRs which represent a long-term arrangement or commitment. In contrast to an insurer which operates on a short-term basis (often with 12 month long contracts), pension funds operate over a long time frame. Accordingly, insurers will need to focus on their solvency over the short to medium term, whereas a pension fund can adopt a long term outlook.</p> <p>Short-termism could be very damaging for IORPs which are long-term arrangements and USS recommends that this proposal should not be taken forward.</p>	Noted.
279.	Verband der	37.	The assessment of the risk bearing capability of IORPs over a	Noted.

	Firmenpensionskassen (VFPK) e.V.		12 months period is not at all appropriate and a 12 months period does not reflect to the long terms of commitments entered into, so it does not provide an adequate risk assessment. The control impulses which arise especially because of the short term sight of this model are completely inappropriate for risk adjusted control of long term pension commitments.	
280.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	37.	Yes, If any confidence level is agreed upon within a pension scheme, this confidence level should apply to a one-year time horizon.	Noted.
281.	Whitbread Group PLC	37.		
282.	Zusatzversorgungskasse des Baugewerbes AG	37.	<p>45. We oppose the implementation of capital requirements based on value-at-risk calculations. However if the commission would go through with this idea, we would like to give the following comment:</p> <p>46. If a value at risk oriented calculation for capital requirements is chosen - which we think is inappropriate for pension funds - we agree that a one-year time horizon is sufficient.</p>	Noted.
283.	Towers Watson	37.	<p>38. Do the stakeholders agree that the confidence level should apply to a one-year time horizon?</p> <p>We see this as a question of practicality. IF a risk-based solvency capital requirement is considered to be appropriate for IORPs, we don't have any strong views as to whether the confidence level should be measured over a one-year time horizon, or over a longer period (but which would still be relatively short compared to the duration of the IORP's liabilities). We would, however, reiterate the point from our</p>	Noted.

			response to question 36 that an x% confidence level does not mean that that is the probability of members' benefits ultimately being paid by the IORP.	
284.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	38.	See question 34	Noted.
285.	AbA Arbeitsgemeinschaft für betriebliche Altersver	38.	As described above, we do not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level. IORPs are already subject to a risk-based management regime by their external sponsors, who set risk limits according to their ability to make up any funding shortfalls. Further solvency capital requirements in this context are superfluous, costly and will likely lead to a further decline of employers' willingness to offer supplementary pensions. They are also an inefficient use of capital which could lead to an increase in systemic risk.	Noted.
286.	ABVAKABO FNV	38.	The PF is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that the PF is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in PF's view is essential for any proposal.  As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult	Noted.

			question is how this can be done. The PF pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.	
287.	AEIP	38.	<p>80. AEIP still questions why EIOPA does insist on capital requirements for IORP's because their security mechanisms are constructed in a sustainable way and work for much longer periods. We regard the fact that on one side EIOPA thinks that pension funds are much more complex and diverse than insurance companies - which under Solvency II would inevitably lead to the need for a specific internal model because the standard model does not fit - and on the other side admits that almost none of the pension funds are able to develop and use an internal model due to their limited administrative capacity. This shows the inadequacy of Solvency II-rules.</p> <p>81. The Solvency II directive is based on a risk-based supervision. Other examples of risk-based supervision exist already at present in some of the members states. They do not apply all Solvency-II rules for calculating the solvency capital requirement. One can learn from existing best practices. They tend to prove that flexibility is required from supervisors, that very tight rules do not work in crisis situations, and even produce undesired effects. How can specific security and benefit adjustment mechanisms be properly valued and how sensitive is the approach to assumptions ? This requires several impact studies.</p>	Noted.

			<p>82. We agree that adjustment mechanisms of IORPs should be reflected in the SCR: each pension scheme should be allowed to present its own mixture of risk mitigation techniques to lower qualitative or quantitative requirements. We agree also with the analysis in 10.3.58-60.</p> <p>We draw your attention like we mentioned beforeon the fact that if the whole financial industry turns to risk based supervision using the same type of harmonised standards, everyone might be forced to move in the same direction in periods of turmoil, creating procyclical behavior. This creates a huge systemic risk.</p>	
289.	AMONIS OFP	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>AMONIS OFP firmly rejects the proposal of applying the Solvency II-rules for calculating the SCR to IORPs.</p> <p>Actual SCR funding is the calculation of very long term liabilities or cash flows risks, which is simply impossible to do accurately. Merely imposing an SCR will not be effective, it may be an entry barrier for new pension funds and an exit driver for existing ones, and it may give a false sense of security in the long run. It may however well serve to exonerate regulators a little longer from any real responsibility in their supervision (more small pension funds will disappear, it will take longer for</p>	Noted.

			<p>accidents to happen, yet they will, and probably to a larger scale when they do).</p> <p>Pension security is more than scheme funding levels alone, therefore AMONIS OFP is amongst other things strongly in favour of the prudent person principle in regard to the investments. Concerning pension security a broader approach than funding levels is required, taking into account the full range of mechanisms that pension institutions across different member states now use to ensure that pension incomes are safe and secure.</p> <p>When an IORP can call on other kinds of risk-mitigating elements, such as a protection fund or a sponsor guarantee, the provisioning of a SCR is not necessary.</p> <p>If the commission would require the calculation of an SCR – which would be strongly against the opinion of AMONIS OFP – this SCR should not be presented in a balance sheet or a holistic balance sheet; but can if wanted be mentioned off balance.</p> <p>We draw your attention like we mentioned before on the fact that if all long term investors turns to risk based supervision using the same type of harmonised standards, everyone might be forced to move in the same direction in periods of turmoil, creating procyclical behaviour. This creates a huge systemic risk.</p>	
290.	ANIA – Association of Italian Insurers	38.	The ANIA believes that the process for insurers and IORPs should be similar. As such the Solvency Capital Requirement should also be applied to IORPs but taking into account the specific security mechanisms, including benefit adjustments of	Noted.

			IORPs which could affect the level of security. For example, this means that where there is a contractual ability to reduce claims levels, this could be treated as a risk absorbing liability and so reduce the capital requirement. This would lead to increased consumer transparency and confidence.	
291.	Association of British Insurers	38.	The ABI would be supportive of the principle of calculating a SCR for IORPs but there would need to be flexibility over how this would apply in practice. There needs to be sufficient allowance for the risk mitigating effect of the sponsor covenant and pension protection schemes as well as a confidence level that reflected the risks faced by the IORP and how these differ across Member States or types of IORPs.	Noted. EIOPA supports an approach that recognises consistently the effect of all security mechanisms
292.	Association of Consulting Actuaries (UK)	38.	As we mentioned as part of our response at question 36 above, the concept of taking account of specific security mechanisms (such as the "value" of the Pension Protection Fund) is wholly disproportionate. The majority of IORPs are small and were established by small businesses to provide pensions for a small workforce. The level of complexity envisaged in requiring each IORP to take such mechanisms into account on a prescribed footing is unworkable at a practical level.  Ultimately, limited funds are available to sponsors to fund pension commitments, and any additional regulatory burden will inevitably reduce funds available to secure members' benefits.	Noted EIOPA agrees that any changes to the Directive should take full account of the need for proportionality.
293.	Association of French Insurers (FFSA)	38.	59. The form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles.  60. The FFSA believes that the process for insurers and IORPs should be similar. This would lead to increased consumer	Noted.

			<p>transparency and confidence.</p> <p>The risk-based approach of calculating the required solvency capital used for insurance companies as stated in Articles 100 to 127 and 304 can also be made applicable to IORPs. The promises made to members and beneficiaries by IORPs and/or employers are comparable to those made by life insurance companies to policy holders.</p>	
294.	Association of Pensioneer Trustees in Ireland	38.	See response to question 12.	Noted.
295.	Assoprevidenza – Italian Association for supplement	38.	<p>We share EIOPA advice. We agree that adjustment mechanisms of IORPs should be reflected in the SCR: each pension scheme should be allowed to present its own mixture of risk mitigation techniques to lower qualitative or quantitative requirements. We agree also with the analysis in 10.3.36-40</p> <p>The Solvency II directive is based on a risk-based supervision. Other examples of risk-based supervision exist already at present in some of the members states. They do not apply all Solvency-II rules for calculating the solvency capital requirement. One can learn from existing best practices. They tend to prove that flexibility is required from supervisors, that very tight rules do not work in crisis situations, and even produce undesired effects.</p>	Noted.
296.	Assuralia	38.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	Noted.

297.	Balfour Beatty plc	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We do not believe that an SCR is necessary for UK IORPS. The SCR would take the funding position of the scheme above that on a buy-out basis. However, once a scheme reaches buy-out funding we would expect the benefits to be bought out, thereby negating any need to hold an SCR.</p> <p>We also believe that the SCR would effectively require UK schemes to pay twice to "insure" the same risk – once through the SCR and a second time through the levies paid to the UK's Pension Protection Fund.</p> <p>Finally the calculations required to assess the SCR are not insignificant and we have serious concerns about the costs on schemes (and hence their sponsoring companies) of carrying out such calculations.</p>	Noted.
298.	Bayer AG	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p>	Noted.

			<p>3. We are strongly opposed to the application of Solvency II-rules introducing a solvency capital requirement for IORPs.</p> <p>4.</p> <p>5. This would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead companies to stop offering such schemes to their employees and closing them to new entrants.</p> <p>6. This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency regime for pension funds, acknowledging that this is a political decision to be taken by the European Commission.</p> <p>7. There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>8. We do not agree that there is a need to create a level playing field with insurance provided pension funds, which is</p>	
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			<p>one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p>9.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products.</li> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations over long time spans.</li> </ul>	
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			<p><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding “dead capital”, i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</p> <p><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in Germany which protect employee benefits in the case of insolvency of the employer (see answer 41).</p> <p>10. Finally, the justification for reform of the IORP Directive is the need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
299.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	38.	<p>What is the stakeholders view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>7. We are strongly opposed to the application of Solvency II-rules introducing a solvency capital requirement for IORPs.</p>	Noted.

			<p>This would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead companies to stop offering such schemes to their employees and closing them to new entrants. This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency regime for pension funds, acknowledging that this is a political decision to be taken by the European Commission.</p> <p>8. There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>9. We do not agree that there is a need to create a level playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p>10.</p>	
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			<ul style="list-style-type: none"> <li><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products.</li> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations over long time spans.</li> <li><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding "dead capital", i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</li> <li><input type="checkbox"/> Security is already provided by the current IORP</li> </ul>	
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			<p>Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in Germany which protect employee benefits in the case of insolvency of the employer (see answer 41).</p> <p>11. Finally, the justification for reform of the IORP Directive is the need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
300.	Belgian Association of Pension Institutions (BVPI-	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>BVPI-ABIP firmly rejects the proposal of applying the Solvency II-rules for calculating the SCR to IORPs.</p> <p>Pension security is about much more than scheme funding</p>	Noted.

			<p>levels alone, therefore BVPI-ABIP is amongst other things strongly in favour of the prudent person principle in regard to the investments. Concerning pension security a broader approach than funding levels is required, taking into account the full range of mechanisms that pension institutions across different member states now use to ensure that pension incomes are safe and secure.</p> <p>When an IORP can call on other kinds of risk-mitigating elements, such as a protection fund or a sponsor guarantee, the calculation of a SCR is not necessary.</p> <p>If the commission would require the calculation of an SCR – which would be strongly against the opinion of BVPI-ABIP – this SCR should not be presented in a balance sheet or a holistic balance sheet; but can if wanted be mentioned off balance.</p> <p>We draw your attention like we mentioned before on the fact that if all long term investors turns to risk based supervision using the same type of harmonised standards, everyone might be forced to move in the same direction in periods of turmoil, creating procyclical behaviour. This creates a huge systemic risk.</p>	
301.	BNP Paribas Cardif	38.	<p>The form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles.</p> <p>BNP Paribas Cardif believes that the process for insurers and IORPs should be similar. This would lead to increased consumer transparency and confidence.</p> <p>The risk-based approach of calculating the required solvency</p>	Noted.

			capital used for insurance companies as stated in Articles 100 to 127 and 304 can also be made applicable to IORPs. The promises made to members and beneficiaries by IORPs and/or employers are comparable to those made by life insurance companies to policy holders.	
302.	Bosch Pensionsfonds AG	38.	<p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p>	Noted.
303.	Bosch-Group	38.	<p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p>	Noted.

			<p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p>	
304.	BT Group plc	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We do not think there is any justification for additional prudence to be added to an already prudent regime. EIOPA note that a disadvantage of the approach is additional cost to employers and potential reductions in benefits and in efficiency. We agree with this assessment of the disadvantages and this must feature heavily in the impact assessment carried out. In reviewing the IORPS Directive a sensible balance must be struck between security and adequacy of provision. We do not believe that employees will welcome an overly prudent and secure structure that provides them with lower benefits.</p>	Noted.
305.	BT Pension Scheme Management Ltd	38.	<p>We do not believe that there is a need at all IORPs to apply a solvency capital requirement. In particular, where beneficiaries' interests are safeguarded through the sponsor covenant and</p>	Noted.

			pension protection arrangements we believe that an SCR would be an unnecessary further protection.	
306.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	38.	<p>BAVC is opposed to the application to IORPs of the Solvency II Directive. This concept is not applicable for IORPs. An application would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead companies to stop offering such schemes to their employees and closing them to new entrants. This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency regime for pension funds, acknowledging that this is a political decision to be taken by the European Commission.</p> <p>4. There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>5. We do not agree that there is a need to create a level playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency</p>	Noted.

			<p>capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p>6.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products.</li> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations over long time spans.</li> <li><input type="checkbox"/> Also, additional capital requirements would in effect lead</li> </ul>	
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			<p>to sponsoring companies holding “dead capital”, i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</p> <p><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in Germany which protect employee benefits in the case of insolvency of the employer (see answer 41).</p> <p>7. Finally, the justification for reform of the IORP Directive is the need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
307.	BUSINESSEUROPE	38.	<p>We are strongly opposed to the application of Solvency II rules introducing a solvency capital requirement for IORPs. This would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead companies to stop offering such schemes to their employees and closing them to new entrants. This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency regime for</p>	Noted.

			<p>pension funds, acknowledging that this is a political decision to be taken by the European Commission.</p> <p>There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>We do not agree that there is a need to create a level playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests.</p>	
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		<p>This is in stark contrast to insurance provided pension products.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations over long time spans.</li> <li><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding "dead capital", i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</li> <li><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in some countries which protect employee benefits in the case of insolvency of the employer. These are</li> </ul>	
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			<p>sometimes funded by employers (for example in Denmark, Germany, the UK and Sweden).</p> <p>Finally, the justification for reform of the IORP Directive is the need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
308.	BVI Bundesverband Investment und Asset Management	38.	<p>BVI would like to focus on the question of security of members/beneficiaries vs. security of the institution. The focus of IORP II is on security for the members/beneficiaries. Therefore, as long as there are additional security mechanisms, the whole concept of SCR could be seen as dispensable in the context of beneficiaries' security.</p> <p>The argument that Solvency Capital Requirements might raise costs and therefore dampen attractiveness of occupational pensions must be seriously considered. Therefore, a quantitative impact study is essential.</p>	Noted. Eiopa recognises the importance of a QIS and of cost/benefit analysis
309.	CEA	38.	<p>The CEA believes that the process for insurers and IORPs should be similar. As such the Solvency Capital Requirement should also be applied to IORPs but taking into account the specific security mechanisms, including benefit adjustments of IORPs which could affect the level of security. For example, firstly, this means that where there is a contractual ability to reduce claims levels, this could be treated as a risk absorbing</p>	Noted.

			<p>liability and so reduce or, depending on the level of flexibility legally given to the IORP, even eliminate the capital requirement. (This feature of the pension would have to be appropriately communicated to the employee.) Secondly, where an IORP has legally enforceable sponsor covenants payable to IORPs then these could be able to support the capital requirements (the form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles). This would lead to increased consumer transparency and confidence.</p> <p>However, to fully assess the impact of these measures, the CEA is supportive of an objective impact assessment amongst IORPs.</p>	
310.	Charles CRONIN	38.	<p>The imposition of a SCR would have a highly adverse effect on nearly all types of IORPs. This is a good illustration of why the starting point of the revision of the IORP Directive, should be the IORP Directive and not Solvency II. Though I support the harmonisation with Solvency II text where appropriate.</p> <p>A SCR is entirely appropriate for insurance companies, as these companies are for profit organisations, with shareholders and other creditors; they can become insolvent and dissolved at the request of their creditors. IORPs are not-for-profit and its creditors are the M &amp; B, providing it does not engage in issuing debt. It is quite possible to envisage a dismissal and replacement of an IORP board for mismanaging the scheme, but it is unlikely, given the complex nature of payments and receipts that the scheme M &amp; B will act together to wind up the scheme.</p>	Noted.

			<p>As paragraph 10.3.40 (last third) states, "... If an insurance company's assets are lower than its liabilities it is technically insolvent and the way to restore solvency is to raise new capital. If an IORP has assets lower than liabilities it is indeed underfunded, but underfunded does not mean insolvency when ex-post benefit adjustment mechanisms, based on solidarity, exist".</p> <p>Further as my answers to questions 36 and 37 state, I believe that the comfort of VaR as a security mechanism is misplaced. Secondly the complexities of flows in and out of an IORP, coupled with the presence or not of a sponsor, make a universal SCR very difficult to apply. In the end would the imposition of a SCR provide any value or give any comfort to scheme M &amp; B? Given the uncertainty around the mathematics would it be a useful tool for supervisors? It suggests a more pragmatic approach to security and funded status is required for IORPs, possibly one based on the two suggested questions mentioned in my answer to question 37.</p>	
311.	Chris Barnard	38.	I agree in principle that the Solvency II-rules for calculating the solvency capital requirement (SCR) should be applied to IORPs, taking into account their specific security and benefit adjustment mechanisms. I accept that this is potentially very burdensome for IORPs, especially given the number of small-sized IORPs, and the current lack of available skilled resources. Therefore the principle of proportionality should apply here in order not to unduly burden small and less complex IORPs.	Noted.
312.	CMHF (Centrale van Middelbare en Hogere	38.	The CMHF is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based	Noted.

	Functionar		<p>supervision. However, this does not automatically mean that the CMHF is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in CMHF's view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. The CMHF pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.</p>	
313.	De Unie (Vakorganisatie voor werk, inkomen en loop	38.	<p>De Unie is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that De Unie is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in DE</p>	Noted.

			<p>UNIE 's view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. De Unie pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.</p>	
314.	Derek Scott of D&L Scott	38.	<p>I oppose the application of Solvency II-rules to UK pension schemes. Pension benefits in the UK are already well protected by trust law and pensions regulation.</p>	Noted.
315.	Deutsche Post AG / Deutsche Post DHL	38.	<p>16. We strongly oppose the proposal of applying the Solvency II-rules for calculating a SCR to IORPs. We do not see any need tot harmonize solvency requirements at the EU level. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>17. The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere</p>	Noted.

			<p>complex and costly exercise.</p> <p>18. Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p> <p>19. For sponsor-backed IORPs, holding assets to cover technical provisions (including the concept of recovery plans where necessary) is sufficient protection.</p>	
316.	Deutsche Post Pensionsfonds AG	38.	<p>17. We strongly oppose the proposal of applying the Solvency II-rules for calculating a SCR to IORPs. We do not see any need tot harmonize solvency requirements at the EU level. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>18. The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>19. Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p> <p>20. For sponsor-backed IORPs, holding assets to cover</p>	Noted.

			technical provisions (including the concept of recovery plans where necessary) is sufficient protection.	
317.	DHL NL (Netherlands)	38.	<p>We strongly oppose the proposal of applying the Solvency II-rules for calculating a SCR to IORPs. We do not believe that risk-based capital requirements are appropriate for IORPs and do not see any need tot harmonize solvency requirements at the EU level. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements mean dead capital for employers and to a certain extend for the IORPs. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar.</p>	Noted.
318.	DHL Services Limited	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We do not believe that solvency capital requirements should apply to sponsor-backed IORPs in any form. For sponsor-</p>	Noted.

			backed IORPs, holding assets to cover technical provisions (with a recovery plan in place where necessary to fill the gap) is sufficient protection.	
319.	DHL Trustees Limited	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We do not believe that solvency capital requirements should apply to sponsor-backed IORPs in any form. For sponsor-backed IORPs, holding assets to cover technical provisions (with a recovery plan in place where necessary to fill the gap) is sufficient protection.</p>	Noted.
320.	Direction Générale du Trésor, Ministère des financ	38.	We agree with the introduction of a SCR mechanism as defined in Solvency II. We think that the Solvency II framework allows for a appropriate consideration of the security and benefit adjustment mechanisms of the IORPs.	Noted.
321.	Ecie vie	38.	The Solvency II rules for SCR should be applied to IORPs and Insurance contracts in the same manner.	Noted.
322.	EEF	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.	Noted.

323.	EFI (European Federation of Investors)	38.	S II rules would have to be adapted to the specificity of IORPS.	Noted.
324.	European Association of Public Sector Pension Inst	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>EAPSPI objects to the essential elements of the Solvency II-rules for the SCR, in particular to the "mark-to-market" or market-consistent approach for the valuation of assets and liabilities and to the risk-sensitive calculation of the solvency capital requirement as the value-at-risk with a 1-year-horizon and a security level of 99.5%. The main problems related to these concepts and due to the structure of the standard formula can be categorized as follows:</p> <p>1. Exaggerated capital requirements</p> <p>The basic notion of a market-consistent valuation of assets and liabilities and a subsequent risk-sensitive calculation of capital requirements is in general problematic due to volatile capital requirements not only in times of fragile financial and capital markets.</p> <p>IORPs are notably affected by these problems and capital requirements are drastically elevated. Due to the long duration of liabilities, guaranteed benefits and the non-hedgeable duration mismatch of assets and liabilities which is typical for IORPs because of the longer duration of liabilities compared to assets, very high capital requirements are the result. In</p>	Noted.

			<p>addition very high capital requirements are also caused by low interest rates, which are to be expected in the foreseeable future because of the monetary policy of the relevant central banks in the world (FED, ECB, Bank of England, Bank of Japan, etc.). Last but not least, too high capital requirements are generated by the 1-year-horizon given the long duration of liabilities and the marginal relevance of short term fluctuations (see detailed answer to question #37).</p> <p>2. Implicit impact on individual investment decisions and regulatory arbitrage</p> <p>The capital requirements of the Solvency II structure are not well suited to address the specific aspects of IORPs' investment behavior. If the design of the capital requirements for IORPs is similar to the current SCR-formula of Solvency II and the Technical Specifications of QIS 5, there definitely exist investment decision biases for several reasons.</p> <p>The concrete design and calibration of the SCR has a strong influence on investment decisions due to different solvency capital requirements of different asset classes. For example investments in real property or alternative investments are negatively affected. The SCR structure hinders IORPs in carrying out their long-term investment strategies. This is especially problematic because of the importance of long-term investments for IORPs. But this is also detrimental with respect to macroeconomic and growth aspects as IORPs are deterred from financing infrastructure development, green growth initiatives, etc. (see detailed answer to question #12). The same holds for the 1-year-horizon of the standard formula, which drastically limits the long-term risk diversification</p>	
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			<p>behavior and potential of IORPs.</p> <p>3. Pro-cyclical incentives on the macroeconomic level</p> <p>The Solvency II-rules for calculating the SCR also lead on the macroeconomic level to a reduction of the essential contribution which IORPs could provide with respect to stabilizing financial markets and the macroeconomic performance. EAPSPI wants to point out that the standard formula of the Solvency II SCR is problematic with respect to pro-cyclical investment behavior:</p> <p>The standard formula implements the same investment incentives for all IORPs, who are a considerable group of institutional investors. This leads to a reduction in the diversity of investment strategies and leads to less diversification of market reactions. Especially in times of financial distress the SCR enforces systematic herding behavior of IORPs, and therefore pro-cyclical tendencies, because of the regulatory structure.</p> <p>The one-year-horizon of the SCR also aggravates the pro-cyclical-tendencies, as IORPs might be forced to sell assets in order to meet the SCR because of the decrease in equity markets. This means that the "potential" loss (due i.e. to volatile or collapsing stock prices) turns into actual and realized losses. Furthermore the 1-year-horizon also drastically limits the long-term risk diversification potential of IORPs.</p> <p>Both these aspects of the SCR-standard formula are</p>	
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			<p>detrimental to the potential anti-cyclical role that IORPs could perform in financial markets because of their long-term horizon investment behavior. Therefore the construction of the Solvency II SCR standard formula has in principle a negative impact on the stabilizing function of IORPs for financial markets and is not in line with macro-prudential and financial stability objectives. (see a more detailed analysis in answer to question #52 and #12)</p> <p>4. Proportionality and the Solvency II capital requirements</p> <p>EAPSPI wants to stress that many IORPs would have to set up an extra mark-to-market balance sheet for solvency aspects in addition to the annual accounts required by commercial law. Implementing the Solvency II structure and accomplishing all the legal and IT requirements (data availability and management) is related to immense additional financial costs and manpower efforts. Big insurance companies might easily shoulder these burdens, but the majority of small IORPs will definitely be overcharged.</p> <p>In consequence the increase in implementing effort and capital requirements leads to higher costs and lower returns. This will in turn reduce the benefits for existing retirement provisions and / or increase the need for additional financial contributions of the sponsoring undertaking. In the medium-term a changeover from defined-benefit- to defined-contribution-schemes due to excessive demands in defined-benefit-schemes is very likely. The effect is a risk transfer from the IORP respectively the sponsoring undertaking to the employee. Or – even worse – this process leads to a broad termination of occupational pension covenants and the disappearance of</p>	
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			<p>IORPs.</p> <p>These consequences stand in direct contrast to the political objective target of securing retirement provisions and are surely not intended to be the outcome of a revised IORP Directive. Therefore EAPSPI strongly advises to strictly and adequately apply the principle of proportionality. And due to the huge number of IORPs in Europe compared to insurance undertakings (140,000 IORPs vs. 4,800 insurance undertakings according to EIOPA) the principle of proportionality is also advisable with respect to the supervisory capacity.</p> <p>5. The consequence: IORP I Directive as starting point The adoption of some aspects of Solvency II, e.g. risk-oriented management requirements according to Pillar II, is appropriate and therefore to be appreciated. But with respect to the severe problems when adopting the Solvency II SCR and because of the existence of risk-mitigating elements and additional security mechanism in case of IORPs (see discussion of question #12 to HBS) EAPSPI can see no need for a SCR calculation according to Solvency II.</p> <p>Therefore EAPSPI once more wants to stress the fact that a different regulatory perspective and regime for IORPs and insurance is necessary and that the starting point for the regulation of IORPs has to be the IORP I Directive and not the Solvency II Directive.</p> <p>6. Fundamental systematic problems with the quantification and calibration of the SCR</p>	
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			<p>In addition the accumulated criticisms in the Solvency II discussion cast serious doubts on the appropriateness of the standard formula for calculating the SCR. These criticisms have shown severe weaknesses with respect to the calculation of the concrete values of stress factors and correlation parameters. The most staggering criticism was brought forward by Mittnik 2011* who concludes that “the calibration of the input-parameters for the equity-risk module is seriously flawed and that it gives rise to spurious parameter values. As a result, an implementation of the Standard Formula with the currently proposed calibration settings is likely to produce biased and inaccurate capital requirements for equity-risk.” (Mittnik 2011: iv). It is important to add that the same problems holds true for all the risk sub-modules, where the same procedure of data-processing, the so called “rolling-window annualization”, is used.</p> <p>EAPSPI wants to stress that these discussions are not only technical bagatelles but reach to the core of Pillar I of the Solvency II structure: These criticisms lead to the conclusion that the aim of the SCR to provide for a financially quantifiable risk-provision according to the specific risk profile of an insurance company and the chosen security level has been essentially missed. A serious measurement of the capital required to secure against adverse developments at the claimed security level is not possible.</p> <p>In case of the adoption of the SCR formula for IORPs EAPSPI wants to highlight that it would be especially problematic if IORPs were subject to the devastating effects as described above given that these devastating effects are caused by a</p>	
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			<p>flawed formula that does not provide for the promised goal. Therefore EAPSPI agrees with Mittnik (2011: 40): "In view of the calibration deficits presented here and their far-reaching consequences (...) there should be no considerations at the moment to extend Solvency II-type regulation to European pension funds."</p> <p>* Reference to the study : Stefan Mittnik (2011) Solvency II Calibrations: Where Curiosity Meets Spuriousity. Working Paper Number 04/2011, Center for Quantitative Risk Analysis (CEQURA &amp;, Department of Statistics, University of Munich.</p>	
325.	European Federation for Retirement Provision (EFRP)	38.	<p>The EFRP firmly rejects the proposal of applying the Solvency II-rules for calculating the SCR to IORPs.</p> <p>Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that pension institutions across different member states now use to ensure that pension incomes are safe and secure. An IORP can for example call on other kinds of risk-mitigating elements, such as a protection fund and a sponsor guarantee. Additionally, Solvency Capital Requirements in this context are superfluous, costly and will likely lead to a further decline of employers' willingness to offer supplementary pensions. The EFRP considers this to be an inefficient use of capital. Extending the Solvency II framework to IORPs would increase the systemic risks in European financial markets.</p>	Noted.

			<p>The EFRP fully agrees with the policy analysis of EIOPA that changing the IORP Directive by applying a risk-based calculation of Solvency Capital Requirements as in the Solvency II Directive, but taking into account the specificities of IORPs such as the existence of security and adjustment mechanisms, has the negative effects of additional cost (differing in Member States) for IORPs and sponsors which could undermine the cost-efficiency of workplace pension provision in the EU and contains the risk of employers reducing workplace pension provision (at least for future employees) in the EU. The EFRP believes that these disadvantages outweigh the possible benefits and thus are contrary to the goal of providing safe, adequate and sustainable pension provision in Europe. The EFRP therefore urges EIOPA to ask for an impact assessment to examine the effect of a Solvency II style SCR on the cost-efficiency and coverage of occupational pensions in Europe.</p>	
326.	European Fund and Asset Management Association (EF)	38.	<p>EFAMA is not in a position to take a firm position on applying the Solvency-II rules for calculating the solvency capital requirement (SCR) for IORPs, without knowing the complete results of the quantitative impact assessment analysis. However we fear very much that the 99.5% confidence level will imply a substantial need on additional capital.</p>	Noted. EIOPA recognises the importance of a QIS and of cost/benefit analysis
327.	European Metalworkers Federation	38.	See response question 22	Noted.
328.	European Mine, Chemical and Energy workers' Fede	38.	See previous	Noted.
329.	FAIDER (Fédération des Associations Indépendantes)	38.	S II rules would have to be adapted to the specificity of IORPS.	Noted.

330.	FairPensions	38.	<p>We are aware of the controversy over the potential application of Solvency II capital requirements to UK occupational pension schemes. This issue is somewhat outside our remit and so we do not comment on these questions, although we recognise the force of the arguments being made by UK stakeholders.</p> <p>We note that one objection being made to this proposal is that it would undermine the role of UK pension funds as providers of long-term investment capital. We agree that this role is important. Our work suggests that there are already problems holding pension funds back from playing this role effectively, including agency problems and misunderstandings of fiduciary duty. These are discussed elsewhere in our consultation response.</p>	Noted.
331.	Federation of the Dutch Pension Funds	38.	<p>The PF is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that the PF is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in PF's view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. The PF pleads for a study of</p>	Noted.

			<p>EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.</p>	
332.	Financial Reporting Council	38.	<p>As discussed in our answer to question 34 we do not consider the Solvency II methodology is proportionate for IORPs which can call on a sponsor to meet risk. We therefore, do not consider that applying the Solvency II rules for calculating an SCR is appropriate for all IORPs.</p> <p>Where the IORP has to bear the risk, a section 17(1) IORP, then the solvency II rules might be applied taking full account of any specific security and benefit adjustment mechanisms that might be available to it.</p>	Noted.
333.	FNV Bondgenoten	38.	<p>FNV BG is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that FNV BG is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in FNV BG 's view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment</p>	Noted.

			mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. FNV BG pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.	
334.	Generali vie	38.	The Solvency II rules for SCR should be applied to IORPs and Insurance contracts in the same manner.	Noted.
335.	German Institute of Pension Actuaries (IVS\32\45\3	38.	Appropriate consideration of characteristics and special security mechanisms for occupational pensions is worth considering, but is not particularly conducive to IORPs. This is because, even allowing for these mechanisms/characteristics (e.g. sponsor's subsidiary liability), the Solvency II approach to determine risk-based capital is not suitable for IORPs. The mark-to-market valuation of assets and liabilities is fundamentally inappropriate because capital markets can be highly volatile. This applies in the same way to the concept of a risk-based calculation of a capital requirement that is based on mark-to-market principles. Any form of long-term guarantee will lead to non-hedgeable duration gaps between assets and liabilities, given the predominant annuity character of benefit delivery in Germany and the effective absence of surrender values. Any mark-to-market method to determine the capital requirement would lead to mismanagement and commercially unsound capital demands. The additional funds would have to be provided by the beneficiaries and/or the sponsor and would considerably reduce the IORP's overall efficiency. The result could very possibly be a reduction in the availability of	Noted.

			<p>occupational pensions.</p> <p>Instead of intending to achieve risk-based capital requirements, we would recommend the strengthening of and focus on a risk-oriented management of the IORP as a whole. However, this cannot be based on the allegedly required capital but should rather be based on the future business development in general, ALM studies and stress tests. Furthermore, the current distortions in the capital market clearly show how market yields can be significantly affected by political measures. To determine and hold risk-based capital when such distortions prevail leads to mismanagement and increased costs.</p>	
336.	GESAMTMETALL - Federation of German employer	38.	<p>What is the stakeholders view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>GESAMTMETALL is strongly opposed to the application of Solvency II-rules introducing a solvency capital requirement for IORPs. This would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead our companies to stop offering such schemes to their employees and closing them to new entrants.</p> <p>This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency</p>	Noted.

			<p>regime for pension funds, acknowledging that this is a political decision to be taken by the European Commission. To our view, this decision will be crucial for the future development of IORP and thus for the sustainability of the pension systems in all Member States. Therefore we urge the European Commission to do everything to safeguard successful national IORP and to further support the mostly voluntary engagement of companies into occupational pension.</p> <p>9. There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>10. GESAMTMETALL does not agree that there is a need to create a level playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p>11.</p> <p><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases</p>	
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			<p>IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement of the social partners on branch or company level, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products.</p> <p><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</p> <p><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations over long time spans.</p> <p><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding "dead capital", i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</p> <p><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and</p>	
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			<p>security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in Germany which protect employee benefits in the case of insolvency of the employer (see answer 41).</p> <p>The justification for a reform of the IORP Directive given by the European Commission is to increase cross-border activity in the EU. We are of the opinion that higher solvency requirements for pensions do not in any way achieve this objective. To the contrary, the commitment of employers to offer attractive occupational pension plans to their employees will significantly shrink.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
337.	Groupe Consultatif Actuariel Européen.	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.	Noted.
338.	Groupement Français des Bancassureurs	38.	<p>The form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles.</p> <p>FBIA believes that the process for insurers and IORPs should be similar. This would lead to increased consumer transparency and confidence.</p>	Noted.

			The risk-based approach of calculating the required solvency capital used for insurance companies as stated in Articles 100 to 127 and 304 can also be made applicable to IORPs. The promises made to members and beneficiaries by IORPs and/or employers are comparable to those made by life insurance companies to policy holders.	
339.	PMT-PME-MnServices	38.	<p>We are in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that we are in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in our view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. We pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.</p>	Noted.
340.	HM Treasury/Department	38.	UK Govt is strongly of the view that Solvency II rules for	Noted. EIOPA

	for Work and Pensions		<p>calculating the SCR are not appropriate for IORPs – and in particular that it is not appropriate for sponsor-backed IORPs. The draft response argues for application of Solvency II rules for solvency capital requirement on the basis that “the promises made to members and beneficiaries by IORPS and/or employers are comparable to those made by life insurance companies” (para 10.3.53). However, this is not the case, and EIOPA’s assessment ignores certain key differences:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An insurance contract is a legal agreement between the insured, or policyholder, and the insurance company. The insurer’s promise to pay these benefits is legally binding. On the other hand, a “pensions promise” is part of the employment contract, and the scope for amending the terms of that promise is subject to domestic employment legislation. Pension fund liabilities are therefore subject to change (depending on domestic legislation), whereas insurance obligations are fully guaranteed;</li> <li><input type="checkbox"/> For sponsor-backed schemes – at least in the UK - the obligation to pay the scheme member remains with the employer, not with the IORP. To require the IORP to calculate a (notional) solvency capital requirement would therefore not result in increased security for the scheme member, and would therefore create an additional (and significant) burden without any identifiable benefit.</li> </ul> <p>Furthermore, the draft response notes the “additional cost for IORPs and sponsors which could undermine the cost-efficiency of occupational retirement provision” and the “risk of employers reducing occupational retirement provision”. The scale of these negative impacts is likely to be extremely material and, given the challenges of an ageing population</p>	recognises the importance of cost/benefit analysis
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			extremely concerning. However, the only benefits identified are an increase in transparency and a level playing field with insurance companies, neither of which are likely to deliver any quantifiable benefit. It is essential that EIOPA properly assess and quantify these positive and negative impacts before they respond to the Commission with any recommendation.	
341.	Hungarian Financial Supervisory Authority (HFSA)	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>	Noted.
342.	HVB Trust Pensionsfonds AG	38.	<p>4. The Solvency II-approach for sponsor-backed IORPs leads to an end of funded company pension plans. An exact calculation of the SCR suggest an perfect consideration of all risks, that is de facto impossible. So, Solvency II can't give perfect security for live-long payments.</p> <p>With an additional capital need according to Solvency II the employer would prefer pension plans with book-reserve-schemes (and without any funding) and that would be the wrong way.</p>	Noted.
343.	IBM Deutschland Pensionskasse VVaG and	38.	We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much	Noted.

	IBM Deutsch		<p>more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p> <p>We do not agree that there is a need to create a level playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for</p>	
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			<p>board members to protect members’ benefits and interests. This is in stark contrast to insurance provided pension products.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. Therefore their financial stability in comparison to other financial services products, is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations.</li> <li><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding “dead capital”, i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</li> <li><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in some countries which protect employee benefits in the case of insolvency of the employer. These are sometimes funded by employers (for example in Denmark, Germany and the UK).</li> </ul> <p>Finally, the justification for reform of the IORP Directive is the</p>	
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			<p>need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, quantitative impact assessment should be carried out.</p>	
344.	ICAEW	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>As we mention at 33 above, we strongly oppose any Solvency II capital requirements being applied to sponsor-backed IORP schemes. This is because we do not believe there is any need for harmonisation of capital requirements in respect of sponsor-backed IORPs, and in any event the Solvency II rules for calculating the SCR are not appropriate for sponsor-backed IORPs, which are fundamentally different to insurance providers.</p> <p>In our view, to require the IORP to calculate a (notional) solvency capital requirement would not result in increased security for the scheme member. However, the introduction of capital requirements would have a serious negative impact on current high quality occupational pension provision and economic growth in the UK, because it would:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> reduce the amount of profit available for investment by sponsoring employers (and reduce the likelihood of inward investment in those employers);</li> <li><input type="checkbox"/> increase investment in risk-free assets, thereby reducing the availability of capital needed for economic growth;</li> </ul>	Noted.

			<p><input type="checkbox"/> lead to further closures of DB pension schemes, reducing the extent of high quality pension provision in the UK, and (for employers with underfunded schemes) increase the incidence of insolvency.</p> <p>We therefore believe that the introduction of capital requirements would create significant additional burdens without bringing any appreciable benefits (we do not believe that the increase in transparency or the imposition of a level playing field with insurance companies would deliver any appreciable benefit), and therefore a proper impact assessment should be carried out before any such proposals are put forward.</p>	
345.	Institute and Faculty of Actuaries (UK)	38.	<p>Taking into account the position of sponsor-backed IORPs in the UK, we believe there is a strong argument that it would not be proportionate to introduce a complete Solvency II solvency capital requirement (SCR).</p> <p>If Solvency II rules were to be used to calculate an IORP equivalent of an SCR, the calculation would need to be proportionate in its application. What constitutes a proportionate approach would largely depend on the consequences of the calculation.</p>	Noted.
346.	KPMG LLP (UK)	38.	See Q34.	Noted.
347.	Le cercle des épargnants	38.	The Solvency II rules for SCR should be applied to IORPs and Insurance contracts in the same manner.	Noted.
348.	Macfarlanes LLP	38.	41. (CfA 6 Security mechanisms) What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment	Noted.

			<p>mechanisms?</p> <p>42. Bearing in mind the extent of existing legal and regulatory protection for pension scheme members and beneficiaries, there is no justification for changing funding measures and obligations for IORPs that provide benefits for a company's own employees and their dependants rather than soliciting customers from the general public. The damage to the confidence of employers in the fairness and stability of regulation of pensions would be significant, and would damage rather than enhance pension provision. The cost of complying with a further change in regulation would itself impact on the ability of employers to sustain good pension provision. From a UK perspective, many of the changes would affect the basis of scheme governance, since they would undermine the role of trustees. There is no justification for interference in the law in this way and it is contrary to the principle of subsidiarity.</p> <p>43. For IORPs that "act in the manner of insurance companies" and are trading and soliciting customers from the general public in competition with insurance companies it may be appropriate to use Solvency II rules appropriately adapted.</p> <p>44. We do not think that the specific security and benefit adjustment mechanisms can be appropriately taken into account as part of an SCR. It is not coherent to treat a benefit adjustment mechanism as a contingent asset in a solvency measure since it is, in fact, a pre-agreed mechanism for addressing distribution on insolvency of the IORP (as identified in 10.6.8). It is correctly described as a risk-sharing mechanism. Removing it would be a variation of the contract between the parties (members, beneficiaries and employers).</p> <p>45. We do not believe it is appropriate to treat pension protection schemes as assets of the IORP. This is further</p>	
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			<p>discussed in response to question 41.</p> <p>46. Treating pension protection schemes and benefit adjustment mechanisms as contingent assets of the IORP could be misleading to members and beneficiaries. It muddies the distinction between the level of security for their unadjusted benefits, and the security that would be given to adjusted benefits in the event that the assets of the IORP are insufficient to cover its liabilities. Such an approach could lead to the conclusion that UK IORPs are always fully funded assuming the pension protection scheme is adequate to provide adjusted benefits. In effect it would measure only the strength or availability of the pension protection scheme. If that were to be the case, there would be no need for the rest of the security mechanisms.</p> <p>47. We agree strongly, however, that the existence of sponsor support, pension protection schemes or benefit adjustment rules should be acknowledged and this is done perfectly adequately under current IORP I and national legislation, providing good protection to members and beneficiaries. Since the system works well, its replacement by a more prescriptive variety of regulation is not proportionate regulation. Protection of customers and 'level playing field' issues do not apply to the majority of UK IORPs and are more likely to apply to entities such as NEST which do not fall within the scope of EIOPAs advice.</p>	
349.	MAN Pensionsfonds Aktiengesellschaft	38.	<p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p>	Noted.

			<p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p>	
350.	MAN SE	38.	<p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p>	Noted.

351.	Mercer	38.	<p>We are concerned that applying statistical models to many pension schemes could result in spurious outcomes, given their size. In addition, the risks carried by most small schemes are generally more straightforward than those carried by larger schemes, since their benefit structure, membership, investment policy and employer relationships are less likely to be complex. Consequently, it is likely to be disproportionate to impose Solvency II models directly onto most IORPs.</p> <p>In addition, the process of implementing Solvency II has been resource intensive: few IORPs will have the resource, and few of their sponsoring employers will have the will, to engage at the level that insurance companies have. The process therefore risks being influenced by a small number of large schemes, resulting in outcomes that are inappropriate across the board.</p> <p>EIOPA could have considered different options: for example;</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Article 100 of Solvency II could be transposed into the IORP Directive but only in respect of those IORPs that are within the scope of Article 17(1) of the IORP Directive.</li> <li><input type="checkbox"/> Article 100 could be applied to all IORPs, but the methodology could be simpler, for example, based on scenario testing. In the UK, the Pension Protection Fund has introduced this type of measurement for determining the investment risk different IORPs pose to it.</li> </ul> <p>Regulation is an evolving discipline. Although Solvency II has some attractions relative to the effect of the IORP Directive, it is not a perfect model and was developed with a particular form of legal entity in mind. The broad principles underlying</p>	<p>Noted. EIOPA recognises the importance of a cost/benefit analysis</p>
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			Solvency II could be retained and applied to IORPs without carrying over the complexity and resulting bureaucracy that has resulted.	
352.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	38.	<p>The MHP is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that the MHP is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in MHP's view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. The MHP pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.</p>	Noted.
354.	Montana Capital Partners AG	38.	38. What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?	Noted.

		<p>Pension funds are typically managed by taking a long-term view, which goes hand in hand with the long-term nature of their liabilities and the payments to their pensioners. Therefore, pension funds should receive the possibility to pursue an investment strategy that matches their long-term horizon and that is also reflected in the risk-weightings of their assets.</p> <p>Due to their long-term nature, calculating the SCR based on Solvency II would penalize asset classes, as they have the potential to generate outperformance for pensioners. Therefore, we believe that the application of Solvency II rules sets the wrong incentives for pension funds, significantly lowers their return potential and potentially even destroys value for pensioners.</p> <p>Long-term assets usually generate higher returns than short-term assets as they generate an illiquidity premium, which compensates the holder of the asset for the longer holding period. (refer to the meta-study of the asset class private equity: Diller / Wulff (2011).) Pension funds with liabilities that usually have durations of decades are predestined to generate this excess return for their pensioners.</p> <p>A sophisticated risk management systems should be implemented to incorporate the specific risks of investing in these asset classes. A well-structured investment program including alternative assets combined with sophisticated risk management controls can lead to superior risk-adjusted returns for pensioners.</p> <p>If pension funds have the possibility – and can demonstrate that they are able and willing to - to fund these investments and hold them over the entire holding period, they should not be penalized for investing in these higher returning assets as</p>	
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			<p>they are trying to generate higher returns for pensioners.</p> <p>Under Solvency II, the long-term asset class private equity has one of the highest risk weightings as it belongs to the asset class categories "other equities". Many studies out of the scientific as well as the practitioner's world have shown that a well-diversified private equity portfolio of private equity funds has an extremely low risk when holding it over the entire lifetime of ten years. (See for e.g. Kaplan / Schoar, (2005), Diller / Kaserer (2006), Diller / Herger (2008), Weidig / Mathonet (2004) and Diller / Wulff (2011).) We would be pleased to provide more technical background on the results of the different studies and how to measure risk in private equity.</p> <p>In addition, it should be mentioned that the risk weightings for private equity under the standard approach of Solvency II do not reflect the risks of a pension fund investor appropriately as these are based on the LPX 50 index, which is a listed equity index. This index has a completely different structure than common private equity investments and hence does not reflect the limited partnerships in which pension funds typically invested in. At the outset, the composition of the LPX50 is very distinctive to the investment universe of a private equity limited partnership. Moreover, the volatility of the LPX 50 is completely dissimilar to the risk of a limited partnership as the index is traded on a daily basis while private equity investments are long-term investments held over many years.</p> <p>Taking these aspects into account, an application of the Solvency II rules to pension funds should be considered highly problematic as it significantly harms European pensioners and gives wrong incentives to pension funds.</p>	
355.	National Association of	38.	What is the stakeholders' view on applying the Solvency II-	Noted.

	Pension Funds (NAPF)		<p>rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>The NAPF does not see a need for a Solvency Capital Requirement in the case of IORPs. Although we share the EC's wish to ensure robust protection for members' benefits, the assumptions on which technical provisions are calculated are already designed to provide for the risks that IORPs and their sponsoring employers face. Adding a completely new element in addition to these tried and tested arrangements would simply pile prudence upon prudence – with the consequences described earlier in this response.</p> <p>The NAPF notes that EIOPA acknowledge (in the 'negative impacts' listed after para 10.3.69) that the additional costs of the SCR could 'undermine the cost-efficiency of occupational retirement provision in the EU' and that there would be a 'risk of employers reducing occupational retirement provision (at least for future employees) in the EU'. The NAPF shares these important concerns and urges EIOPA to emphasise its warning to the EC about these risks.</p> <p>We note that EIOPA also acknowledge the 'higher' and 'completely new' costs that sponsor-backed IORPs would face in calculating the SCR.</p> <p>Although the Solvency Capital Requirement would be mitigated for UK defined benefit IORPs by values assigned to the sponsor</p>	
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			<p>covenant and Pension Protection Fund, details of how these two components will be calculated are to be left to level 2 regulations. Without this crucial information, it is impossible for the NAPF to assess how the SCR system would work in practice. (There is, of course, still no impact assessment from the EC or EIOPA.) This leads us to approach the SCR proposal with great caution.</p> <p>Although the SCR will take account of the two mitigating factors identified above, it should also take account of further mitigating factors that contribute towards secure retirement incomes, including the level of pillar I (state) pensions.</p> <p>An alternative to placing a specific value on the employer covenant would be simply to take it into account when considering the robustness of recovery plans.</p> <p>The NAPF remains of the view that the best guarantee of pensions security is to help pension schemes to be sustainable over the long term.</p>	
357.	NORDMETALL, Verband der Metall- und Elektroindustr	38.	<p>What is the stakeholders view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>7. We are strongly opposed to the application of Solvency</p>	Noted.

			<p>II-rules introducing a solvency capital requirement for IORPs. This would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead companies to stop offering such schemes to their employees and closing them to new entrants. This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency regime for pension funds, acknowledging that this is a political decision to be taken by the European Commission.</p> <p>8. There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>9. We do not agree that there is a need to create a level playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p>	
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			<p>10.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products.</li> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between different generations over long time spans.</li> <li><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding "dead capital", i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</li> </ul>	
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			<p><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in Germany which protect employee benefits in the case of insolvency of the employer (see answer 41).</p> <p>11. Finally, the justification for reform of the IORP Directive is the need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
358.	OECD Secretariat to the Working Party on Private P	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>See answer to question 37.</p> <p>It appears as if some countries' private pension systems will be affected by the proposals made in the CfA response to a much greater extent than others.</p>	Noted.

			<p>Given the voluntary nature of occupational pension plans, a concern is that overly onerous capital requirements would incentivise plan sponsors to further transfer risk to individuals.</p> <p>If capital requirements are similar to those required for insurance companies, then it would seem reasonable to expect that plan sponsors could find buying out their obligations with an insurance company an appealing option, even though this may be ultimately a more costly form of provision, without necessarily leading to greater benefit security, or higher expected benefits.</p> <p>Care must also be taken so that any risk-based solvency rules based on the Solvency II framework do not work to the detriment of the long-term investment horizon and do not encourage pro-cyclical behaviour.</p>	
359.	Pan-European Insurance Forum (PEIF)	38.	<p>Generally, assuming that the Solvency II Framework Directive is the model to follow, then IORPs should have the same rules regarding the SCR calculation. The specific security and benefit adjustment mechanisms of IORPs should be taken into account. If a different approach is taken for IORPs than this should also be applied to life insurers. In any event, the regimes for IORPs and insurers should be consistent.</p> <p>PEIF believes that it is not possible to provide an unconditional answer at this stage. See opening general comments.</p>	Noted.

360.	Pensioen Stichting Transport (Netherlands)	38.	<p>We strongly oppose the proposal of applying the Solvency II-rules for calculating a SCR to IORPs. We do not believe that risk-based capital requirements are appropriate for IORPs and do not see any need tot harmonize solvency requirements at the EU level. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements mean dead capital for employers and to a certain extend for the IORPs. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar.</p>	Noted.
361.	Pensioenfonds Zorg en Welzijn (PFZW)	38.	<p>We are in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that PFZW is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact</p>	Noted.

			<p>assessments, which in our view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. PFZW pleads for a study by EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.</p>	
362.	Predica	38.	<p>The form of the sponsor covenant should in any case ensure security for the members and beneficiaries and be consistent with the Solvency II principles.</p> <p>Predica believes that the process for insurers and IORPs should be similar. This would lead to increased consumer transparency and confidence.</p> <p>The risk-based approach of calculating the required solvency capital used for insurance companies as stated in Articles 100 to 127 and 304 can also be made applicable to IORPs. The promises made to members and beneficiaries by IORPs and/or employers are comparable to those made by life insurance companies to policy holders.</p>	Noted.
363.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	38.	Agree.	Noted.
364.	PTK (Sweden)	38.	38. PTK firmly rejects the proposal of applying the Solvency II-	Noted.

			<p>rules for calculating the SCR to IORPs.</p> <p>Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that pension institutions across different member states now use to ensure that pension incomes are safe and secure. IORP can for example call on other kinds of risk-mitigating elements, such as a protection fund and a sponsor guarantee. Additionally, solvency capital requirements in this context are superfluous, costly and will likely lead to a further decline of employers' willingness to offer supplementary pensions. PTK considers this to be an inefficient use of capital. Extending the Solvency II framework to IORPs would increase the systemic risks in European financial markets.</p>	
365.	Railways Pension Trustee Company Limited ("RPTCL	38.	<p>RPTCL opposes the application of Solvency II-rules to pension schemes. Pension benefits in the UK, for example, are already well protected.</p> <p>Overall retirement incomes of around 85,000 active members of RPTCL's pension schemes depend not only on the security of benefits built up to date, but also on both state provision and, just as importantly, the ability for pension schemes to provide future service benefits on sustainable basis. The EIOPA proposals will have significant impacts on overall retirement incomes of most, if not all, of these 85,000 members. We are very concerned that the application of Solvency II-rules would be detrimental to the ability for future service benefits to be</p>	Noted.

			<p>provided.</p> <p>In the event that Solvency II requirements were to be extended to pension schemes, RPTCL would reject the SCR on the basis that there is no parallel to the regulatory action that applies to a breach of the SCR by an insurer.</p>	
366.	RWE Pensionsfonds AG	38.	<p>RWE believes that Solvency II-rules for calculating the SCR to IORPs are a mistake. First, this quantitative approach to risk suggests a perfect calculation for any situation which is normally a wrong assumption; second, the resulting capital need will likely lead to an end of company pensions. This would be a perfect harmonisation but a very bad result for all employees in Europe.</p>	Noted.
367.	Siemens Aktiengesellschaft (Germany)	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the</p>	Noted.

			<p>whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar within Europe.</p>	
368.	Siemens Pensionsfonds AG (GER)	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure.</p> <p>The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise.</p> <p>Additional SCR-requirements (and the complex process of calculating them) will raise cost and mean dead capital for employers. This will lead to a decline of their willingness to</p>	Noted.

			offer occupational pensions and therefore harm the second pillar within Europe.	
369.	Standard Life Plc	38.	We support the idea of calculating a SCR for IORPs but we have reservations over how it would work in practice. As stated in an earlier answer, there would need to be sufficient allowance for the risk mitigating effect of the sponsor covenant and pension protection schemes as well as a confidence level that reflects the risks faced by the IORP and how these differ across different Member States and IORPs.	Noted.
371.	TCO	38.	<p>TCO firmly rejects the proposal of applying the Solvency II-rules for calculating the SCR to IORPs.</p> <p>Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that pension institutions across different member states now use to ensure that pension incomes are safe and secure. IORP can for example call on other kinds of risk-mitigating elements, such as a protection fund and a sponsor guarantee. Additionally, solvency capital requirements in this context are superfluous, costly and will likely lead to a further decline of employers' willingness to offer supplementary pensions. TCO considers this to be an inefficient use of capital. Extending the Solvency II framework to IORPs would increase the systemic risks in European financial markets.</p>	Noted.
372.	Tesco PLC	38.	16. What is stakeholders' view on applying the Solvency II rules for calculating the solvency capital requirement to IORPS	Noted.

			<p>taking into account their specific security and benefit adjustment mechanisms?</p> <p>17. We believe the solvency capital requirement is unnecessary and inappropriate for pension schemes which are fundamentally different to the insurance companies it was designed for.</p> <p>Pension scheme cash flows are relatively stable and easy to predict – so with long term employer support in place any fluctuations in funding levels can be corrected through the use of a recovery plan over a sensible period of time.</p> <p>The best security for members is to help their scheme remain sustainable over the long term – which means the funding needs to be appropriate to the individual circumstances of the Company providing it.</p>	
373.	THE ASSOCIATION OF CORPORATE TREASURERS	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>See response to Q 40</p>	Noted.
374.	The Association of Pension Foundations (Finland)	38.	<p>We oppose calculating SCR mechanism for IORPs as it involves significant costs and administrative burden. On the basis of Solvency II, there is not suitable model to be applied.</p>	Noted.
375.	The Association of the Luxembourg Fund Industry (A	38.	<p>The Respondents reject the proposal of applying the Solvency II-rules for calculating the SCR to IORPs.</p> <p>Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that pension institutions across different member states now use to ensure that pension incomes are safe and secure.</p>	Noted.

			When an IORP can call on other kinds of risk-mitigating elements, such as a protection fund or a sponsor guarantee, a SCR may not be necessary.	
376.	The Hundred Group of Finance Directors (UK)	38.	We do not believe that solvency capital requirements should apply to sponsor-backed IORPs in any form. For sponsor-backed IORPs, holding assets to cover technical provisions (with a recovery plan in place where necessary to fill the gap) is sufficient protection.	Noted.
377.	The Society of Actuaries in Ireland	38.	<p>Should a Solvency II type framework be introduced, we are happy with the calculation of the SCR. However in previous questions we have favoured the existing IORP Directive approach to the calculation of technical provisions which includes a risk margin allowing for prudence in the assumptions.</p> <p>In calculating the SCR we agree that the specific security mechanisms for each IORP should be taken into account for the sponsor covenant and pension protection scheme. However we believe that the choice of applying the SCR calculation is a political issue.</p>	Noted.
378.	THE SOCIETY OF PENSION CONSULTANTS	38.	We are strongly of the view that this is a misguided proposal. The use of a "risk free" discount rate would force IORPs to employ investment strategies, which will severely hamper their ability to seek higher investment returns, which is an entirely reasonable aspiration bearing in mind the long term nature of the liabilities being funded for. Moreover the imposition of a risk margin based on cost of capital methodology is inappropriate for IORPs, which have entirely different (and, in	Noted.

			the UK, clearly stated) roles and objectives to (re)insurers. While it is reasonable to ask insurers what it would cost them to borrow the money to cover the cost of a one in 200 year event, it is practically impossible (and undesirable) to read this requirement over to the IORP sector.	
379.	The Trustees of the RNLI 1983 Contributory Pension	38.	<p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>We see the SCR as unnecessary for UK IORPS. Although most UK IORPS are currently well below buy-out funding level, we would expect that once they reach this level they would secure benefits. The SCR would take the funding position of the scheme above that on a buy-out basis and therefore seems overly prudent.</p> <p>The calculations required to assess the SCR are complicated and we have serious concerns about the costs on schemes (and hence their sponsoring companies) of carrying out such calculations.</p>	Noted.
380.	Towers Watson Deutschland GmbH	38.	We reject the proposal of applying Solvency II principles for calculating SCRs for IORPs for the reasons given below and in our response to question 12. The focus should be to set an appropriately prudent long-term technical provisions target, with a flexible approach to reaching the target and implemented by national regulators.	Noted.

			<p>The Solvency II rules for insurers are based on the premise that the institution should hold additional capital to cover a 1:200 extreme event over a 12 month period. If the SCR were breached, the institution would need to take corrective action over a short period, under regulatory scrutiny. Such actions could include raising additional capital, or closure to new business. For IORPs, the position is very different:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Solvency II is intended to strengthen the confidence of policy holders and capital markets in the financial reliability of insurers. For IORPs labour law and national insolvency protection schemes assume this role so that beneficiaries can rely on a pension promise they hold. Therefore, unwarranted additional protection should be counterproductive and can be expected to lead to employers passing all risk onto employees, thereby reducing diversity, cost efficiency and employer involvement, a result that must at the very least be questionable from a social policy point of view.</li> <li><input type="checkbox"/> Due to an IORP's characteristics ("softer" guarantees than insurers, can often rely on both the sponsor covenant and pension protection schemes) it would be misguided if it were forced to hold assets and/or capital of an amount equivalent to that of insurers.</li> <li><input type="checkbox"/> IORPs are typically not-for-profit organizations that cannot quickly change their capital base (largely the employer covenant) to reflect changes in the SCR. Any application of a risk-capital approach to IORPs should therefore be proportionate to the range of actions that are reasonably possible.</li> <li><input type="checkbox"/> Insolvency insurance schemes insure against default for a significant proportion of IORPs' liabilities. Arguably, requiring additional risk capital for such liabilities is doubling the level of</li> </ul>	
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			<p>backing capital needed.</p> <p><input type="checkbox"/> The calculation and reporting of the SCR is an onerous part of the Solvency II regime for the insurers. For many IORPs that are a fraction of the size of the average insurer, it seems disproportionate to require the calculation of a risk-based SCR.</p>	
381.	Trades Union Congress (TUC)	38.	<p>Security mechanisms</p> <p>What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>Applying a uniform approach to pension scheme funding is not appropriate. Furthermore, the Solvency Capital Requirement is intended for insurance and reinsurance undertakings as a buffer against market, mortality and operational risks. Pension schemes do not need to be funded on the short-term basis insurance schemes are and are instead funded on a medium to long term basis. In addition, pension schemes do not need to be funded on the same high confidence level of 99.5% over one year associated with the SCR.</p> <p>Scheme specific funding requirements in the UK already require schemes to fund at the prudent technical provisions level. Funding at the SCR level would simply add an extra level of scheme funding that would ultimately lead to scheme closures and other associated adverse consequences previously referred to.</p>	Noted.

			In the UK the increase in funding required by the SCR would at least be partly met for defined benefit schemes by the employer covenant for the scheme and the Pension Protection Fund. However, details of how these two elements will be calculated have not been given. We therefore treat the SCR proposal with caution.	
382.	Transport for London / TfL Pension Fund	38.	As the assumption on which the technical provisions are calculated are already designed to cover the risks which IORPs and their sponsoring employers face, there is no need to introduce the Solvency Capital Requirement.	Noted.
383.	UK Association of Pension Lawyers	38.	<p>CfA 6 (Security mechanisms): What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>Our response to question 38 will be made up of:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> some general comments on the overall approach taken to security mechanisms; and</li> <li><input type="checkbox"/> our responses to the specific question.</li> </ul> <p>General comments on the overall approach taken to security mechanisms</p> <p>It is important to recognise that security mechanisms, including those addressed in EIOPA's consultation document are not cost-free and may represent a transfer of value or a</p>	Noted.

			<p>redefinition of the “social contract” between stakeholders (to use the terms of the consultation (see paragraph 10.6.8) or indeed of the explicit legal obligations of the parties (including both employer sponsors and guarantor sponsors). Legislative changes intended to apply in relation to existing obligations which are already binding on the parties effectively represent a retrospective variation of the financial obligations assumed by the parties. In recognition of this, there must be strong justification for such legislative intervention, so far as it applies to existing obligations or a specific carve-out to ensure it applies only to obligations that may be assumed by private parties in the future.</p> <p>The stated objectives of the revision of the IORP directive include protection of members and beneficiaries, enhancement of pension provision across the EU and creation of a level playing field between IORPs and insurance companies. We believe each provision should be justified by reference to these objectives.</p> <p>For various reasons, in part relating to the definition of the role of EIOPA, the scope of the directive excludes certain types of arrangement for pension provision, including book reserve schemes and pension schemes which are not established by the employer or where the employer does not play an essential role in the funding of the scheme. The consequence however is that the proposals will apply to pension schemes that are not in any significant sense in competition with insurance companies and will not apply to arrangements which are (for instance the UK National Employment Savings Trust (NEST)).</p> <p>This is relevant to the “level playing field” argument for applying Solvency II in a modified form. In the UK, IORPs established by employers are non-trading, cannot themselves decide to expand their activities by entering new markets or</p>	
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			<p>admitting new members (or customers), cannot generally terminate their activities (in the sense of paragraph 10.3.32, i.e. the inclusion of new rights for participants) and do not provide a profit to shareholders. In the sense of paragraph 10.3.204, these IORPs do not (and, under the terms of their constitutional documents, generally cannot) “act in a manner similar to insurance companies”. Many IORPs are in fact customers of insurance companies not competitors and it is not appropriate to impose the requirements on schemes that are not competing with insurance companies. A ‘level playing field’ is not required for non-trading IORPs, because they are not ‘players’ and are not ‘in the field’. The rules intended to support the single market in financial services should only apply to those who are or could be market participants.</p> <p>Response to specifics of question 38</p> <p>With our overall approach in mind, we are firmly of the view that there is no good justification for changing funding measures and obligations for IORPs that are not soliciting customers. The damage to the confidence of employers in the fairness and stability of regulation of pensions would be significant and would damage not enhance pension provision.</p> <p>For IORPs that “act in the manner of insurance companies” and are trading and soliciting customers in competition with insurance companies it may be appropriate to use Solvency II rules appropriately adapted.</p> <p>We do not think that the specific security and benefit adjustment mechanisms can be appropriately taken into account as part of an SCR. It is not coherent to treat a benefit adjustment mechanism as a contingent asset in a solvency measure since it is in fact a pre-agreed mechanism for</p>	
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			<p>addressing distribution on insolvency of the IORP (as identified in paragraph 10.6.8). It is correctly described as a risk-sharing mechanism. Removing it would be a variation of the contract between the parties (members, beneficiaries and employers).</p> <p>We think it is also not appropriate to treat pension protection schemes as assets of the IORP. This is further discussed in response to question 41.</p> <p>Treating pension protection schemes and benefit adjustment mechanisms as contingent assets of the IORP could be misleading to members and beneficiaries as it muddies the distinction between the level of security for their unadjusted benefits and the security of adjusted benefits in the event that the assets of the IORP are insufficient to cover its liabilities. Such an approach could lead to the conclusion that UK IORPs are always fully funded assuming the pension protection scheme is adequate to provide adjusted benefits. In effect it would measure only the strength or availability of the pension protection scheme.</p> <p>We agree strongly however that the existence of sponsor support, pension protection schemes or benefit adjustment rules should not be disregarded. Our view is that the protection they offer members and beneficiaries is sufficient in combination with existing funding requirements under IORP I and national legislation. Protection of customers and 'level playing field' issues do not apply to the majority of UK IORPs.</p>	
384.	UNI Europa	38.	See question 22	Noted.
385.	Universities Superannuation Scheme (USS),	38.	What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?	Noted.

			<p>USS does not see a need for a Solvency Capital Requirement in the case of IORPs. Although we share the EC's wish to ensure robust protection for members' benefits, the assumptions on which technical provisions are calculated are already designed to provide for the risks that IORPs and their sponsoring employers face. Adding a completely new element in addition to these tried and tested arrangements would simply pile prudence upon prudence – with the consequences described earlier in this response.</p> <p>USS notes that EIOPA acknowledges (in the 'negative impacts' listed after para 10.3.69) that the additional costs of the SCR could 'undermine the cost-efficiency of occupational retirement provision in the EU' and that there would be a 'risk of employers reducing occupational retirement provision (at least for future employees) in the EU'. USS shares these important concerns and urges EIOPA to emphasise its warning to the EC about these risks.</p> <p>We note that EIOPA also acknowledges the 'higher' and 'completely new' costs that sponsor-backed IORPs would face in calculating the SCR.</p> <p>Although the Solvency Capital Requirement would be mitigated for UK defined benefit IORPs by values assigned to the sponsor covenant and Pension Protection Fund, details of how these two components will be calculated are to be left to level 2 regulations. Without this crucial information, it is impossible to</p>	
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			<p>assess how the SCR system would work in practice. (There is, of course, still no impact assessment from the EC or EIOPA.) This leads us to approach the SCR proposal with great caution.</p> <p>Although the SCR will take account of the two mitigating factors identified above, it should also take account of further mitigating factors that contribute towards secure retirement incomes, including the level of pillar I (state) pensions.</p> <p>An alternative to placing a specific value on the employer covenant would be simply to take it into account when considering the robustness of recovery plans.</p> <p>USS remains of the view that the best guarantee of pensions security is to help pension schemes to be sustainable over the long term.</p> <p>Furthermore, it should be noted that benefit adjustment mechanisms vary between individual member states. In the United Kingdom mechanisms such as conditional indexation or reduction of accrued benefits do not exist. Accordingly, there is no mechanism to mitigate the impact of any additional funding requirements on the IORP through such easements. This could potentially result in a significant number of sponsoring employers having no option but to cease future accrual of defined benefits under the IORP that they sponsor.</p>	
386.	vbw – Vereinigung der	38.	What is the stakeholders view on applying the Solvency II-rules	Noted.

	<p>Bayerischen Wirtschaft e. V.</p>		<p>for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>7. We are strongly opposed to the application of Solvency II-rules introducing a solvency capital requirement for IORPs. This would considerably raise the cost of providing occupational pensions for employers. Despite employers continual commitment to funding their schemes to the appropriate level, introducing Solvency II type capital requirements would ultimately lead companies to stop offering such schemes to their employees and closing them to new entrants. This would damage pension provision across the EU. The consultation document recognises these negative implications and rightly takes a cautious approach regarding a solvency regime for pension funds, acknowledging that this is a political decision to be taken by the European Commission.</p> <p>8. There should also be recognition of the wider economic impact of such a measure. Currently, European pension funds hold total assets worth €2,500bn. If they had to apply Solvency II funding rules, they would have to hold extra assets worth €1,000bn. This is likely to force pension schemes to move away from investment in equity, such as company shares, to less risky investments. This would lead to lower returns for the pension fund, encouraging them to make less beneficial investment choices. It would also starve companies of equity capital, an important source of financing, preventing them from growing their business and creating jobs. Diverting money away from business investment would be detrimental to growth and economic recovery in Europe.</p> <p>9. We do not agree that there is a need to create a level</p>	
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			<p>playing field with insurance provided pension funds, which is one of the main justifications for introduction of a solvency capital requirement for IORPs. Pension funds operate in a very different way to insurance provided pension products and the Solvency II framework is not in line with the needs and specificities of IORPs:</p> <p>10.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> An occupational pension is part of the benefit package provided by an employer to his employees. In most cases IORPs do not operate in retail markets or are non-profit making organizations. In other cases, they often have a collective character, e.g. being supported by a collective agreement, or being subject to a bipartite board, or a legal obligation for board members to protect members' benefits and interests. This is in stark contrast to insurance provided pension products.</li> <li><input type="checkbox"/> In addition, the characteristics highlighted above mean that IORPs are generally seen as socially desirable. Introduction of solvency II capital requirements would have a negative impact on those companies that have positively engaged in offering employees an occupational pension.</li> <li><input type="checkbox"/> Pension funds have long periods for recovering deficits. Their investment strategies are also based on this. The Solvency II directive is not suited to pension products which have a long-term investment perspective, as the directive bases its solvency calculations on a time horizon of one year. Therefore the financial stability of pension funds in comparison to other financial services products is not so much affected by short-term economic instability. This means that applying higher funding requirements is not necessary given the possibility pension funds have to spread their risks between</li> </ul>	
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			<p>different generations over long time spans.</p> <p><input type="checkbox"/> Also, additional capital requirements would in effect lead to sponsoring companies holding “dead capital”, i.e. unused assets until the end of the life of the pension scheme. In some member states it is very difficult and in some cases impossible for companies to recover this so-called trapped surplus.</p> <p><input type="checkbox"/> Security is already provided by the current IORP Directive and through different means at national level. The IORP Directive already includes quantitative requirements and security is provided through the legal employer covenant (the backing of the sponsoring employer). These are held liable for any underfunding. Security is also provided by national guarantee funds in Germany which protect employee benefits in the case of insolvency of the employer (see answer 41).</p> <p>11. Finally, the justification for reform of the IORP Directive is the need to increase cross-border activity in the EU. Higher solvency requirements for pensions do not in any way achieve this.</p> <p>Before any final decision is taken by the commission on the need for additional solvency requirements for pension funds, a detailed, high quality quantitative impact assessment should be carried out.</p>	
387.	Verband der Firmenpensionskassen (VFPK) e.V.	38.	<p>The application of Solvency II models to determine risk based capital is rejected on principal.. The “fair value” assessment of the assets and the liabilities which is used in those models is fundamentally impossible due to the highly volatile capital markets. Therefore the risk based calculation of capital requirements based on mark-to-market assessment should be vetoed particularly since any form of long-term guarantee</p>	Noted.

			would lead differences in terms of assets and liabilities which cannot be hedged. The term of pension insurance liabilities at IORPs is approx. 25 years so that any mark-to-market approach for the determination of the “necessary” capital would lead to mistakes in controls and to capital requirements which would not be acceptable. Instead of establishing risk based capital the strengthening of the risk -based management regime should be strengthened. However this cannot be based on the discovery of allegedly necessary capital but must be completely considered at the development of contracts in the future and cover all ALM studies and stresstests as a whole.	
388.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	38.	<p>The VHP2 is in favour of a risk-based supervisory framework. The Solvency II directive is an example of risk-based supervision. However, this does not automatically mean that the VHP2 is in favour of applying all Solvency-II rules for calculating the solvency capital requirement. More examples of risk-based supervision exist, such as the current Dutch regulatory system FTK. This system also provides good examples and many best practice experiences with risk based supervision that could be drawn upon. The answer on this question will very much depend on the outcomes of quantitative and qualitative impact assessments, which in VHP2’s view is essential for any proposal.</p> <p>As EIOPA states, specific security and benefit adjustment mechanisms have to be taken into account; these are instruments that provide pension security. A more difficult question is how this can be done. The VHP2 pleads for a study of EIOPA, in close cooperation with the actuarial profession and IORPs representatives, to answer the question how specific security and benefit adjustment mechanisms can be valued in</p>	Noted.

			an appropriate way and how sensitive such an approach is to different assumptions. It is also still questionable how implicit security mechanisms can be made explicit for calculating the SCR.	
389.	Whitbread Group PLC	38.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
390.	Zentraler Immobilien Ausschuss e.V. (German Proper	38.	<p>If the capital requirements according to Solvency-II apply also to IORPs, the equity costs for property investments will increase and property investments of IORPs will likely to be reduced. This is especially true for properties with a low risk/return structure. Instead, IORPs might invest in property markets with a higher risk/return profiles in order to achieve returns that not only cover the costs of capital but are sufficient to cover contractual obligations.</p> <p>Apart from these general concerns, capital requirements according to Solvency-II should reduce investments in residential property which, at least in Germany, have an extraordinary low risk profile. When IORPs, which are known to be conservative and professional lessors, will reduce their market share in the residential market. This will have an unfavorable impact on lessees on the one hand and insurance policy holders on the others. Lessees will loose a reliable and professional lessor, policy holders will loose a stable cash flow with returns higher than those of most governments bonds with an adequate risk structure.</p> <p>Furthermore, according to Solvency-II the capital requirement (SCR) is calculated by taking into account the actual risk profile</p>	Noted.

			<p>of the undertaking and corresponds to the amount of own funds to be held in order to ensure the solvency of the undertaking over a certain time horizon with a given confidence level. ZIA is of the opinion that the calculation of the value-at-risk under Solvency-II is not appropriate for IORPs. Among other things, IORPs differ from insurance companies because they have a risk-sharing mechanism, e.g. the reduction of accrued rights.</p> <p>Under the risk-based approach under Solvency-II insurance companies could use a so called standard model of calculating the required solvency capital. IORPs should be allowed to use this model, too.</p> <p>However, from our point of view, the construction of the standard model is likely to reduce flexibility for IORPs to match real estate returns with the needs of their policy holders and encourage IORPs to decrease their real estate allocations. As a consequence, their portfolios will become less diversified and more vulnerable to economic shocks. Increased portfolio vulnerability will result in increased systemic risk, undermining the effectiveness of solvency-rules as a measure to promote stability.</p> <p>Moreover, we would like to stress that practical issues arise regarding the calibration of the capital requirements in case of a very high degree of confidence. There is little relevant data to allow it to be assessed objectively. Thus, the use of a lower confidence level is adequate for IORPs.</p>	
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			<p>Finally, the main structural weakness of the standard model is its approach to fix capital requirements through pre-determined market shock factors. This is a short term approach and is not suitable to a long term investment asset such as real estate. Moreover, calculating the shock factor (especially the property risk shock factor) requires realistic market data. There are currently very few markets in Europe that provide fully sufficient data for the appropriate measurement of property risks.</p>	
391.	Zusatzversorgungskasse des Baugewerbes AG	38.	<p>47. We still question why EIOPA does insist on capital requirements for IORPs. Their security mechanisms evolved over a long time, led them through more than one financial crisis, are constructed in a sustainable way and work for much longer periods. We regard the fact that on one side EIOPA thinks that pension funds are much more complex and diverse than insurance companies - which under Solvency II would inevitably lead to the need for a specific internal model because the standard model does not fit - and on the other side admits that almost none of the pension funds are able to develop and use an internal model due to their limited administrative capacity proves the inadequacy of Solvency II-rules for IORPs.</p>	Noted.
392.	Towers Watson	38.	<p>39. What is the stakeholders' view on applying the Solvency II-rules for calculating the solvency capital requirement (SCR) to IORPs, taking into account their specific security and benefit adjustment mechanisms?</p> <p>In our response to this question, reference to IORPs means UK-based, sponsor-backed IORPs. We believe there is a strong argument that it would not be proportionate to introduce an</p>	Noted.

			<p>SCR requirement for IORPs.</p> <p>The Solvency II rules for insurers are based on the premise that the institution should hold additional capital to cover a 1:200 extreme event over a 12 month period. If the SCR were breached, the institution would need to take corrective action over a short period, under regulatory scrutiny. Such actions could include raising additional capital, or closure to new business.</p> <p>For IORPs, the position is different. Firstly, most IORPs are significantly underfunded relative to a market-consistent measure of technical provisions. They are therefore relying on employer covenant to bridge the shortfall. Applying a notional additional SCR onto the shortfall, and therefore increasing the reliance on covenant, does not obviously improve outcomes.</p> <p>Secondly, IORPs cannot quickly change their capital base (largely the employer covenant) to reflect changes in the SCR. Any application of a risk-capital approach to IORPs should therefore be proportionate to the range of actions that are possible.</p> <p>Thirdly, IORPs should not be required to hold more assets than the cost of buying-out their liabilities (ie transferring the liabilities to an insurer). If an IORP reaches the position where it is fully funded relative to buy-out cost, we would expect it to do so in most cases. This is a key difference between IORPs and insurance companies, whose raison-d'être is to continue in business taking risks to make a profit. Even very large IORPs that might find it difficult to buy out would probably de-risk as fully as possible in this circumstance. There is perhaps an argument for requiring such IORPs to hold an SCR (at a reduced level) against remaining unhedgeable risks, but given the relatively small number of IORPs in this position, we</p>	
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			<p>suggest that it might be a matter left for national regulators in the light of the strength of the employer covenant. In most cases, it is likely to be IORPs with stronger sponsor covenants who do not buy out, and covenant would be a source of backing capital against unhedgeable risks.</p> <p>Fourthly, the Pension Protection Fund (PPF) 'insures' against default for a significant proportion of IORPs' liabilities. Arguably, requiring additional risk capital for such liabilities is doubling the level of backing capital needed. In other words, IORPs would then have to pay for the cost of the insurance, in the form of PPF levies, and the cost of the capital for the SCR.</p> <p>Fifth, the calculation and reporting of the SCR is an onerous part of the Solvency II regime for insurers. For many IORPs that are a fraction of the size of the average insurer, with limited governance budgets, it seems disproportionate to require the calculation of a risk-based SCR to a specified level of probability, particularly given the relatively limited range of actions that can follow in the event of under-capitalisation.</p> <p>For all of the above reasons, we are of the view that the SCR is not appropriate for IORPs. The focus of the regime should be to set an appropriately-prudent long-term technical provisions target, with a flexible (but rigorous) approach to reaching the target implemented by national regulators.</p>	
393.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	39.	See question 34	Noted.
394.	AbA Arbeitsgemeinschaft für betriebliche Altersver	39.	As described above, we believe that risk-based capital requirements are not appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level.	Noted.

395.	ABVAKABO FNV	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
396.	AEIP	39.	We agree to the analysis of EIOPA that a yearly assessment is very costly. Therefore we believe that all calculations can be done at least on a three-yearly basis, at the discretion of member states.	Noted.
398.	AMICE	39.	<p>We agree that an annual assessment of the SCR position leads to a higher level of policyholder protection. This consideration, however, points for us in a very clear way towards the application of the principle of proportionality: where a lower level of scale and complexity exists, policyholder protection can to the almost same extent be achieved by less-than-annual calculations.</p> <p>As a starting point, we propose a calculation every three years with a possibility for the supervisor to intensify its supervisory activity, e.g. by requesting more frequent calculations. In general, the provisions at level 1 should define the principles, and all more detailed measures should be addressed on level 2.</p>	Noted.
399.	AMONIS OFP	39.	<p>Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?</p> <p>AMONIS OFP's strong preference is not to impose the SCR.</p>	Noted.
400.	ANIA – Association of Italian Insurers	39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, the ANIA supports an annual calculation. However, the frequency should be determined based on the proportionality principle. More detailed measures should be included in the level 2 implementing measures.	Noted.
401.	Association of British	39.	The ABI would support a frequency of calculation of the SCR	Noted.

	Insurers		that takes the proportionality principle into account. We agree with EIOPA that a SCR calculated on a three year basis will reduce the administration costs for sponsors to pay for them, however given the current economic uncertainty larger IORPs should be calculating a SCR on an annual basis as asset allocations may change drastically over three years.	
402.	Association of Consulting Actuaries (UK)	39.	Subject to our comment above, assessing technical provisions on a three year cycle with annual (approximate) updates for larger schemes seems sensible.	Noted.
403.	Association of French Insurers (FFSA)	39.	61. As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, the FFSA supports an annual calculation.  A lower frequency of assessment would imply a slower identification of a possible problem and also a slower response.	Noted.
404.	Association of Pensioner Trustees in Ireland	39.	See response to question 12.	Noted.
405.	Assoprevidenza – Italian Association for supplement	39.	We agree to the analysis of EIOPA that a yearly assessment is very costly. Therefore we believe that all calculations can be done on a three-yearly basis.	Noted.
406.	Assuralia	39.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	Noted.

407.	Belgian Association of Pension Institutions (BVPI-	39.	Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?  BVPI-ABIP's strong preference is not to impose the SCR.	Noted.
408.	BNP Paribas Cardif	39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, BNP Paribas Cardif supports an annual calculation.  A lower frequency of assessment would imply a slower identification of a possible problem and also a slower response.	Noted.
409.	BT Group plc	39.	Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?  As stated previously, we do not believe there is a need for SCR but our view is that current approach of three yearly with approximate assessment yearly is appropriate	Noted.
410.	BT Pension Scheme Management Ltd	39.	We believe that the SCR process, given its complexity and expense, should only be required on a three-yearly basis. We would support the compromise approach laid out in paragraph 10.3.50, that the solvency requirements be carried out on a three-year cycle and that supervisors would be able to identify emerging problems in the intervening time by annual assessments of the technical provisions.	Noted.
411.	CEA	39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, the CEA supports an annual calculation. However, the frequency should be determined based on the principles of proportionality and materiality. More detailed measures should be included in the level 2 implementing measures.	Noted.

412.	Charles CRONIN	39.	<p>I do not believe that IORPs should be subject to SCRs for the reasons stated above. However I do believe that IORPs should undergo a thorough assessment of assets versus liabilities every three years. IORPs should monitor annually and plan using the tri-annual assumptions. However, as discussed above (my answer to question 13) valuing assets mark to market creates problems due to issues of market volatility. Hence the need for smoothing of asset values through the discounted income value method and mean reversion of bond yields in calculating liabilities.</p> <p>SCRs are more appropriate where the IORP acts as guarantor. Ideally the capital requirement should expand in a linear fashion with the size of the guarantee. However isolating the size of the guarantee and its associated risk is difficult. Hence I would suggest a level set as a percentage of total liabilities, without recourse to confidence levels. A three year assessment of the SCR would seem appropriate, subject to smoothing of the technical provisions (assets and liabilities).</p>	Noted.
413.	Chris Barnard	39.	<p>This is a balanced and difficult issue. Given my response to question 38 I would suggest that we need a proportionate approach here. The absolute minimum requirement should be for IORPs to assess the SCR on a three-yearly basis, with a simplified approach in intervening years. The simplified approach could make use of interpolation or roll-forward techniques for example, or only require the major risk factors to be assessed (e.g. interest rate, equity and credit risks). IORPs could be required to make additional assessments at any time if risks have changed significantly, or if required by the</p>	Noted.

			<p>supervisor.</p> <p>We should bear in mind that even yearly frequency is generally inadequate during periods of financial distress.</p>	
414.	CMHF (Centrale van Middelbare en Hogere Functionar	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
415.	De Unie (Vakorganisatie voor werk, inkomen en loop	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
416.	Derek Scott of D&L Scott	39.	In the UK we already have annual reports from actuaries under the Pensions Act 2004 to supplement the triennial valuation cycle from trust deeds and best practice.	Noted.
417.	Direction Générale du Trésor, Ministère des financ	39.	We think the SCR should be assessed at least on an annual basis notwithstanding the decisions on the time horizon.	Noted.
418.	Ecie vie	39.	We support an annual calculation.	Noted.
419.	EEF	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.	Noted.
420.	European Association of Public Sector Pension Inst	39.	<p>Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?</p> <p>According to EAPSPI no SCR is needed (see answer to #38).</p>	Noted.
421.	European Federation for	39.	EFRP's strong preference is not to impose the SCR.	Noted.

	Retirement Provision (EFRP)			
422.	European Metalworkers Federation	39.	See response question 22	Noted.
423.	European Mine, Chemical and Energy workers' Fede	39.	See previous	Noted.
424.	Federation of the Dutch Pension Funds	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
425.	Financial Reporting Council	39.	We consider that the requirement contained in article 15(3) of the IORP Directive concerning the calculation of technical provisions might also be applied to the assessment of solvency. This provides that the assessment should be provided annually but at the member state supervisor's discretion, a full assessment must be made every 3 years with an annual report considering adjustments for interim years.	Noted.
426.	FNV Bondgenoten	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
427.	Generali vie	39.	We support an annual calculation.	Noted.
428.	German Institute of Pension Actuaries (IVS\32\45\3	39.	If the SCR is to be determined on the basis of Solvency II regulations, then the assessment should be on three-yearly basis. An annual assessment would put considerable pressure on the IORP's resource infrastructure.	Noted.
429.	Groupe Consultatif Actuariel Européen.	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,	Noted.

			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).	
430.	Groupement Français des Bancassureurs	39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, FBIA supports an annual calculation.  A lower frequency of assessment would imply a slower identification of a possible problem and also a slower response.	Noted.
431.	PMT-PME-MnServices	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
432.	HM Treasury/Department for Work and Pensions	39.	Our view is that the current 3-yr review period (with more frequent reviews for weaker schemes) is sufficient.	Noted.
433.	Institute and Faculty of Actuaries (UK)	39.	A three year cycle with annual reviews appears proportionate. This is the current UK system.	Noted.
434.	KPMG LLP (UK)	39.	See Q34.	Noted.
435.	Le cercle des épargnants	39.	We support an annual calculation.	Noted.
436.	Macfarlanes LLP	39.	(CfA 6 Security mechanisms) Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?	Noted.

			Three-yearly.	
438.	Mercer	39.	If a simple, proportionate regime is imposed, annual testing might be appropriate. However, given the long term nature of most defined benefit provision, in line with the current regime we expect that three yearly would normally be adequate and unlikely to provide materially lower protection to members.	Noted.
439.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
440.	Montana Capital Partners AG	39.	A three-year basis would reflect the risk profile more appropriately compared to a one-year time horizon. A more flexible approach of taking the different asset classes into account would incorporate the risk and returns better. See statements under (37.)	Noted.
441.	National Association of Pension Funds (NAPF)	39.	<p>Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?</p> <p>As explained in answer to Q38 above, the NAPF's strong preference is not to impose the SCR at all.</p> <p>In any event, we believe that a one-year time horizon is totally inappropriate for IORPs. The core purpose of an IORP, as opposed to individual forms of provision, is to provide benefits that are equitable across generations by diversifying risks over</p>	Noted.

			membership and time. Measuring the performance of an IORP over a one-year horizon would rob it of the ability to carry out this function.	
443.	Pensioenfonds Zorg en Welzijn (PFZW)	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
444.	Predica	39.	As an annual assessment of the Solvency Capital Requirement leads to greater Members' and Beneficiaries' protection, Predica supports an annual calculation.  A lower frequency of assessment would imply a slower identification of a possible problem and also a slower response.	Noted.
445.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	39.	See response to 37.	Noted.
446.	PTK (Sweden)	39.	Our strong preference is not to impose the SCR.	Noted.
447.	Railways Pension Trustee Company Limited ("RPTCL	39.	Although RPTCL opposes the proposed measures for calculating the SCR, we believe that any requirements for reassessment of technical provisions or security mechanisms should only be for them to be carried out on a three-yearly basis.	Noted.
449.	TCO	39.	Our strong preference is not to impose the SCR.	Noted.
450.	Tesco PLC	39.	Do the stakeholders believe the IORP should assess the SCR on an annual or three-yearly basis?	Noted.

			We believe that 3-yearly is frequent enough to consider the funding of such long-term savings vehicles and this would also help to manage sponsor expenses in arranging for these reviews to be carried out. However, note that we don't believe the SCR is necessary for IORPS in the first place as in Q38.	
451.	The Association of Pension Foundations (Finland)	39.	We don't see SCR calculation technique suitable for pension funds. It is too complicated, massive and expensive and it doesn't take in consideration the characteristics of IORPs.	Noted.
452.	The Association of the Luxembourg Fund Industry (A	39.	The Respondents prefer not to impose the SCR. If there should be a SCR implied, a three-yearly assessment is appropriate.	Noted.
453.	The Society of Actuaries in Ireland	39.	<p>We believe a full solvency assessment should be required every 3 years with annual estimations. The details on the 3 year assessment will be a matter for Level 2 and the annual estimation should be proportionate. Any change which in the opinion of the actuary is material should require a reassessment of the SCR.</p> <p>Inconsistency with point 37 above re an annual assessment and a one year time horizon can be overcome by having appropriate annual monitoring of the scheme by the actuary in between the 3 year assessments.</p>	Noted.
454.	THE SOCIETY OF PENSION CONSULTANTS	39.	Three-yearly.	Noted.
455.	Towers Watson Deutschland GmbH	39.	Our strong preference is not to impose the SCR on IORPs. If the SCR is to be determined on the basis of Solvency II regulations, than the assessment should be on three-yearly basis. An annual assessment would put excessive pressure on most IORPs' resource infrastructure.	Noted.

456.	Transport for London / TfL Pension Fund	39.	A three-yearly assessment is appropriate, but for the reasons given in response to 38, we believe it is unnecessary to introduce a Solvency Capital Requirement.	Noted.
457.	UK Association of Pension Lawyers	39.	CfA 6 (Security mechanisms): Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?  Three-yearly.	Noted.
458.	UNI Europa	39.	See question 22	Noted.
459.	Universities Superannuation Scheme (USS),	39.	Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?  As explained in answer to Q38 above, USS's strong preference is not to impose the SCR at all.  In any event, we believe that a one-year time horizon is totally inappropriate for IORPs. The core purpose of an IORP, as opposed to individual forms of provision, is to provide benefits that are equitable across generations by diversifying risks over membership and time. Measuring the performance of an IORP over a one-year horizon would rob it of the ability to carry out this function.	Noted.
460.	Verband der Firmenpensionskassen (VFPK) e.V.	39.	No. As described above, we believe that risk-based capital requirements are not appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level. In any event, we believe that a one-year time horizon to	Noted.

			<p>assess the financial position of an IORP is totally inappropriate. The core purpose of an IORP, as opposed to individual forms of provision, is to provide benefits that are equitable across generations by diversifying risks over membership and time and taking advantage of the long-term liquidity premium. Measuring the performance of an IORP over a one-year horizon, would rob the IORP of the ability to carry out this function.</p>	
461.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	39.	Yes, IORPs should assess the SCR on an annual basis.	Noted.
462.	Whitbread Group PLC	39.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
463.	Zusatzversorgungskasse des Baugewerbes AG	39.	<p>48. We oppose the implementation of capital requirements based on Value-at-Risk calculations. However if the commission would go through with this idea, we would like to give the following comment:</p> <p>49. We agree to the analysis of EIOPA that a yearly assessment is very costly. Therefore we believe that all calculations can be done at least on a three-yearly basis, at the discretion of member states but with application of an one-year-horizon as requested in the answer to question 37.</p>	Noted.
464.	Towers Watson	39.	<p>40. Do the stakeholders believe that IORPs should assess the SCR on an annual or three-yearly basis?</p> <p>If it is appropriate to assess an SCR for IORPs (see question 38), then we believe that a three-yearly assessment would be proportionate, taking into account both the capacity of resources and the limited range of actions available to IORPs.</p>	Noted.

465.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	40.	See question 34	Noted.
466.	AbA Arbeitsgemeinschaft für betriebliche Altersver	40.	As described above, we do not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level. In any event, in a system where there is sponsor support, the possibility of funding deficits with recovery periods, the ability to reduce benefits and the existence of an insolvency protection scheme, the concept of an MCR makes no sense.	Noted.
467.	ABVAKABO FNV	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
468.	AEIP	40.	<p>83. AEIP rejects the idea of imposing minimum capital requirements as a general rule.</p> <p>84. What will be gained by making the minimum capital requirement dependent on the solvency capital requirement, as it is the case in Solvency II?</p> <p>85. The aim of a minimum capital requirement calculation under Solvency II is to allow in case of the insurance companies insolvency, to close the company for new business and start to transfer assets and liabilities to another insurance companies. This is different for IORP's. There are sponsor</p>	Noted.

			<p>guarantees and the possibility for benefit adjustments. Winding up the IORP would not help the members or beneficiaries especially if the scheme contains solidarity elements that cannot be transferred to another pension fund or insurance company.</p> <p>Therefore we suggest option 1 regarding the existence of MCR (10.3.102). Therefore any other options need not to be judged.</p>	
470.	AMICE	40.	<p>AMICE agrees with the application of an MCR upon IORPs provided it includes the security mechanisms mentioned above. The principle of proportionality should determine the frequency of the MCR calculation.</p>	Noted.
471.	AMONIS OFP	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>AMONIS OFP rejects the idea of imposing minimum capital requirements as a general rule.</p> <p><input type="checkbox"/> The aim of a minimum capital requirement calculation under Solvency II is to allow in case of the insurance companies insolvency, to close the company for new business and start to transfer assets and liabilities to another insurance companies. This is different for IORP's. IORPs are mostly set up to manage the pensions of a specific sponsor, and it is impossible for the sponsor to run away from the IORP.</p> <p>Therefore we suggest option 1 regarding the existence of MCR (10.3.102). Therefore any other options need not to be judged.</p>	Noted.

472.	ANIA – Association of Italian Insurers	40.	In principle a two level approach with the SCR as a strong target and the MCR as minimum target would be needed in order to cope with the risk based nature of the system. However, the consequences of falling below the threshold of the MCR should be defined. The ANIA believes that the threshold and consequences of a minimum capital requirement should be decided on the basis of a carefully executed QIS.	Noted.
473.	Association Française de la Gestion financière (AF)	40.	AFG believes that a uniformed minimum capital requirement (MCR) does not appear possible and is not desirable given the diversity of IORPs and the profound differences in the security mechanisms used across Europe to ensure the security of the pension promise made to pension schemes members.	Noted.
474.	Association of British Insurers	40.	The ABI would support EIOPA’s Option 1 of no introduction of a MCR as this would require IORPs to perform an additional burdensome calculation. A simplification of the MCR might be an easier and less burdensome approach. We find it difficult to accept imposing of a MCR on IORPs without detailed knowledge on the implications of a breach of the MCR for the IORP. We therefore would seek clarity from EIOPA on this issue.	Noted.
475.	Association of Consulting Actuaries (UK)	40.	An additional mandatory triggering level would be excessive and disproportionate in the case of many IORPs.	Noted.
476.	Association of French Insurers (FFSA)	40.	62. The FFSA believes that the process for insurers and IORPs should be similar. As such the Minimum Capital Requirement should also be applied to IORPs. Imposing a MCR would allow the supervisor to step in progressively and adequately regarding the potential breach respectively of the SCR and MCR.  In all cases the same principle should apply for retirement	Noted.

			schemes provided by the insurers.	
477.	Association of Pensioner Trustees in Ireland	40.	See response to question 12.	Noted.
478.	Assoprevidenza – Italian Association for supplement	40.	We share view in 10.3.81, so we agree with option 1.	Noted.
479.	Assuralia	40.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	
480.	BARNETT WADDINGHAM LLP	40.	<p>A new minimum capital requirement is unwarranted and will not add any benefit for pension scheme members. There are already several pension scheme funding-based triggers in place (set by the UK Pensions Regulator) for monitoring schemes. Where scheme funding falls below these triggers the Pensions Regulator has a number of powers for intervening.</p> <p>As noted in our response to question 12, under-funding does not affect members’ benefits; benefits are always paid out in full while a scheme sponsor remains solvent. Further under-funding should not necessarily affect a sponsor’s right to continue to offer future accrual, as all benefits accrued are backed by the sponsor. (This is in contrast to insurance companies which are required to stop writing new business if funding falls below a Minimum Capital Requirement.)</p>	Noted.

481.	Bayer AG	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.</p>	Noted.
482.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	40.	<p>What is the stakeholders view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can</p>	Noted.

			be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.	
483.	Belgian Association of Pension Institutions (BVPI-	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>BVPI-ABIP rejects the idea of imposing minimum capital requirements as a general rule.</p> <p>12. The aim of a minimum capital requirement calculation under Solvency II is to allow in case of the insurance companies insolvency, to close the company for new business and start to transfer assets and liabilities to another insurance companies. This is different for IORP's. IORPs are mostly set up to manage the pensions of a specific sponsor, and it is impossible for the sponsor to run away from the IORP.</p> <p>Therefore we suggest option 1 regarding the existence of MCR (10.3.102). Therefore any other options need not to be judged.</p>	Noted.
484.	BNP Paribas Cardif	40.	BNP Paribas Cardif believes that the process for insurers and IORPs should be similar. As such the Minimum Capital Requirement should also be applied to IORPs. Imposing a MCR would allow the supervisor to step in progressively and adequately regarding the potential breach respectively of the SCR and MCR.	Noted.

			In all cases the same principle should apply for retirement schemes provided by the insurers.	
485.	Bosch Pensionsfonds AG	40.	Our strong recommendation is Option 1: not to impose a uniform MCR for IORPs.	Noted.
486.	Bosch-Group	40.	Our strong recommendation is Option 1: not to impose a uniform MCR for IORPs.	Noted.
487.	BT Group plc	40.	What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?  We are not clear how the MCR is relevant for IORPs and this appears to have more rationale in an insurance context.	Noted.
488.	BT Pension Scheme Management Ltd	40.	We do not support a SCR and hence can not support a MCR.  Should one be put into place, we believe it is not practical nor appropriate to calculate the MCR on a quarterly basis, and believe it should not be required of IORPs more frequently than annually. We believe a good deal more work is necessary to ensure that the MCR calculation is made relevant to the nature and structure of IORPs and look forward to this being taken forward in detail before the MCR approach is formally adopted.	Noted.
489.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	40.	The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security	Noted.

			mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.	
490.	BUSINESSEUROPE	40.	The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.	Noted.
491.	CEA	40.	In principle a two level approach with the SCR as a strong target and the MCR as minimum target would be needed in order to cope with the risk based nature of the system. However, the consequences of falling below the threshold of the MCR should be defined. The CEA believes that the threshold and consequences of a minimum capital requirement should be decided on the basis of a carefully executed QIS.	Noted.
492.	Charles CRONIN	40.	I do not support the imposition of a MCR for IORPs, due to the difference between IORPs and insurance companies, highlighted in my answer to question 38, except where the IORP is acting as guarantor. In which case the frequency of calculation should be consistent with the SCR – every three	Noted.

			years.	
493.	Chris Barnard	40.	I would agree with imposing a minimum capital requirement (MCR) upon IORPs. This would be consistent with Solvency II and allow for a more frequent solvency assessment. I would recommend that the MCR calculation should be proportionate and employ a simplified approach (low complexity, re Paragraph 10.3.85). I agree with Paragraph 10.3.87 that the structure of the calculation should use readily available variables, although the definition of "written premiums" may need to be clarified in relation to IORPs. I would support a quarterly calculation for the MCR, which should be based on the latest annually-determined SCR.	Noted.
494.	CMHF (Centrale van Middelbare en Hogere Functionar	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
495.	De Unie (Vakorganisatie voor werk, inkomen en loop	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
496.	Direction Générale du	40.	Yes we agree on the usefulness of the introduction of a MCR.	Noted.

	Trésor, Ministère des financ			
497.	Ecie vie	40.	The Solvency II rules for MCR should be applied to IORPs and Insurance contracts in the same manner.	Noted.
498.	European Association of Public Sector Pension Inst	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>In EAPSPI's opinion no MCR according to Solvency II is needed. The existing provisions in the IORP I Directive (Article 17) are sufficient. And in addition the severe problems when adopting Solvency II's SCR and MCR as well as the existence of risk-mitigating elements and additional security mechanism in case of IORPs make a MCR according to Solvency II undesirable (see discussion of question #12 on HBS).</p>	Noted.
499.	European Federation for Retirement Provision (EFRP)	40.	EFRP's strong preference is not to impose a uniformed MCR. This is because of the kind of pension contract differs from Member State to Member State. This implies that it differs if IORPs can have a funding deficit or not. In some Member States this is not possible because IORPs cannot call on risk mitigating instruments. In some Member States, the pension deal is based on intergenerational risk sharing. In such kind of a pension deal, it is possible to have a funding deficit. Also when an IORP can call for sponsor support, it should be possible for an IORP to have a deficit and therefore a negative MCR.	Noted.
500.	European Fund and Asset	40.	EFAMA believes that a uniformed minimum capital requirement	Noted.

	Management Association (EF)		(MCR) does not appear possible and is not desirable given the diversity of IORPs and the profound differences in the security mechanisms used across Europe to ensure the security of the pension promise made to pension schemes members.	
501.	European Metalworkers Federation	40.	See response question 22	Noted.
502.	European Mine, Chemical and Energy workers' Fede	40.	See previous	Noted.
503.	Federation of the Dutch Pension Funds	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
504.	Financial Reporting Council	40.	We do not support the imposition of a MCR as well as a SCR as there would be additional costs to IORPs without clear benefits.	Noted.
505.	FNV Bondgenoten	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.

506.	Generali vie	40.	The Solvency II rules for MCR should be applied to IORPs and Insurance contracts in the same manner.	Noted.
507.	German Institute of Pension Actuaries (IVS\32\45\3	40.	Considering the requirement for a MCR is understandable. However, a definition for IORPs similar to that of Solvency II is not appropriate without significant and fundamental changes to occupational pensions in Germany. Furthermore, the current IORP directive is in a sense a similar regulation, providing as it does for the holding of a guarantee fund. This approach, based on a flat rate percentage should continue as it is practical.	Noted.
508.	GESAMTMETALL - Federation of German employer	40.	<p>What is the stakeholders view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.</p>	Noted.
509.	Groupe Consultatif Actuariel Européen.	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	Noted.

			<p>level that could trigger (further) supervisory action.</p> <p>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.</p> <p>Please also note that:</p> <ul style="list-style-type: none"> <li>- 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.</li> <li>- 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.</li> </ul>	
510.	Groupement Français des Bancassureurs	40.	<p>FBIA believes that the process for insurers and IORPs should be similar. As such the Minimum Capital Requirement should also be applied to IORPs. Imposing a MCR would allow the supervisor to step in progressively and adequately regarding the potential breach respectively of the SCR and MCR.</p>	Noted.

			In all cases the same principle should apply for retirement schemes provided by the insurers.	
511.	PMT-PME-MnServices	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
512.	HM Treasury/Department for Work and Pensions	40.	<p>Govt's view is that there is no case for an MCR for IORPs. The primary purpose of the SCR/MCR split in Solvency II is to provide for a ladder of intervention that enables supervisors to intervene while the insurance undertaking is still a going concern, avoiding the need to remove the undertaking's licence to trade. The situation for IORPs is fundamentally different:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> IORPs are not trading and therefore do not stand to have their licence withdrawn. The response to a breach of MCR would therefore never be the same as for insurance undertakings;</li> <li><input type="checkbox"/> The absolute need for a long recovery period if technical provisions are breached means that there is plenty of scope for gradual supervisory intervention. The MCR would therefore serve no additional purpose.</li> </ul> <p>More generally, it is concerning that the consultation does not address the consequences of breaching the SCR, the MCR or the level of technical provisions, or what the consequences</p>	Noted.

			might be for sponsor-backed IORPs that fail to recover their position during their agreed recovery period. This issue is fundamental, and reflects the key difference between IORPs and insurance undertakings, and should not be dismissed simply by saying that it “would have to be carefully considered”, as para 10.3.205 suggests.	
513.	IBM Deutschland Pensionskasse VVaG and IBM Deutsch	40.	The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.	Noted.
514.	Institute and Faculty of Actuaries (UK)	40.	Our view on the imposition of a minimum capital requirement (MCR) depends on the consequences of an IORP falling short of such a measure. If the sensible consequence of SCR is disclosure then the MCR probably adds little or no value.  If the consequence of MCR “failure” is to transfer resources from sponsor to IORP then this needs further analysis and such intervention, if required, should be at a national level and scheme specific.	Noted.
515.	KPMG LLP (UK)	40.	See Q34.	Noted.
516.	Le cercle des épargnants	40.	The Solvency II rules for MCR should be applied to IORPs and Insurance contracts in the same manner.	Noted.

517.	Macfarlanes LLP	40.	<p>48. (CfA 6 Security mechanisms) What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>49. For the reasons already stated, we do not think that change to the funding requirements for IORPs is required or appropriate, or likely to achieve any of the stated objectives of the European Commission.</p> <p>50. The purpose of the MCR is to trigger certain supervisory actions which will protect current and future customers on the basis that they have the option of choosing another insurance company that is better capitalised. The mechanisms appropriate to insurance companies are either inappropriate or inapplicable for IORPs (e.g. transferring the business of the IORP to another IORP) or prejudicial to members (e.g. by terminating it altogether).</p> <p>51. Equivalent steps would include terminating future accrual and forcing the transfer of the IORP's 'activities' to an insurance company by winding it up. These are sanctions currently available under the UK supervisor's statutory powers. Such actions are, however, detrimental to the members and beneficiaries rather than to other parties. Because of the employer's extensive legal obligations under UK law, the compulsory wind up of its scheme is likely to push many companies into insolvency.</p> <p>52. It is acknowledged that there may be some types of IORPs or other pension vehicles, such as the UK NEST, where similar measures could be implemented without detriment to members and beneficiaries, but differentiation between (a) company specific IORPs that are security for an employer's pension promises and (b) commercial IORPs and other vehicles</p>	Noted.
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			<p>that are trading with the public and whose liabilities are transferable without prejudice to their customers is needed.</p> <p>53. As the objective (protecting current and future customers) and purpose (triggering certain supervisory actions that achieve such protection without detriment to the customers) of the MCR do not apply to UK IORPs, we do not think it appropriate to impose the MCR to the majority of UK IORPs because it will not serve its purpose.</p> <p>54. The UK also has experience of using a minimum funding requirement. It created a false sense of security and became a standard measure of funding that was inappropriately low. We think introducing an MCR would be a regressive measure.</p>	
518.	Mercer	40.	<p>In Solvency II, the purpose of the MCR is to determine a point at which member state supervisory authorities are given stronger powers to intervene in the operation of an insurance company. For example, they can prevent the insurer from writing new business and take steps to transfer books of business to alternative providers.</p> <p>The position in the case of IORPs is less clear. Is it expected that supervisory authorities should force the immediate funding of an IORP without sufficient assets to meet its MCR; or that sponsoring employers should be required to transfer the liabilities to another provider? Both of these could be difficult for employers, particularly since they are likely to have prior calls on their available capital.</p> <p>A decision about a MCR is impossible without understanding its implication.</p>	Noted.

			<p>40 (contd) What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>See above.</p>	
519.	MHP (Vakcentrale voor Middengroepen en Hoger Perso)	40.	<p>In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.</p>	Noted.
521.	National Association of Pension Funds (NAPF)	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>The NAPF is opposed (as explained in Q38) to the SCR. And without an SCR, there is, of course, no need for an MCR either. The NAPF is, therefore, opposed to both.</p>	Noted.
523.	NORDMETALL, Verband der Metall- und	40.	<p>What is the stakeholders view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the</p>	Noted.

	Elektroindustr		<p>Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.</p>	
524.	Pan-European Insurance Forum (PEIF)	40.	<p>The focus of IORP II is on security for the member/beneficiary. This may be through security mechanisms provided 'outside' the IORP itself. However, it can be argued that for the purpose of security of the institution itself, a minimum capital requirement may be reasonable for all IORPs. The principle of proportionality has to be applied. The PEIF group of companies at this stage cannot reach a more detailed view.</p> <p>There is a need to ensure that regulatory and supervisory focus is clearly on MCR and to avoid regulators/supervisors pushing SCR as the primary threshold. Any lessons incorporated in IORP II on this should be extended to SII. In any event, the regimes for IORPs and insurers should be consistent.</p> <p>PEIF believes that it is not possible to provide an unconditional answer at this stage. See opening general comments.</p>	Noted.

525.	Pensioenfonds Zorg en Welzijn (PFZW)	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
526.	Predica	40.	Predica believes that the process for insurers and IORPs should be similar. As such the Minimum Capital Requirement should also be applied to IORPs. Imposing a MCR would allow the supervisor to step in progressively and adequately regarding the potential breach respectively of the SCR and MCR.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
527.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	40.	See response to 37.	Noted.
528.	PTK (Sweden)	40.	Our strong preference is not to impose a uniformed MCR. This is because of the kind of pension contract differs from Member State to Member State. This implies that it differs if IORPs can have a funding deficit or not. In some Member States this is not possible because IORPs cannot call on risk mitigating instruments. In some Member States, the pension deal is based on intergenerational risk sharing. In such kind of a pension deal, it is possible to have a funding deficit. Also when an IORP can call for sponsor support, it should be possible for an IORP to have a deficit and therefore a negative MCR.	Noted.

529.	Railways Pension Trustee Company Limited ("RPTCL	40.	<p>If it were decided to go ahead with applying the Solvency II requirements to pension schemes, RPTCL would reject the MCR on the basis that there is no parallel to the regulatory action that applies to a breach of the MCR by an insurer.</p> <p>Imposing an MCR would eat into sponsors' already limited or stretched budgets. The inevitable impacts will be closure of pension schemes in many cases.</p>	Noted.
530.	Standard Life Plc	40.	<p>We support EIOPA's Option 1 of the exclusion of an MCR on the basis of it being overly burdensome and of low incremental value to the idea of introducing an SCR / capital requirements. Very clear rules as to what requirements would result from breaching these first and last intervention points would need to be provided for consideration.</p>	Noted.
532.	TCO	40.	<p>Our strong preference is not to impose a uniformed MCR. This is because of the kind of pension contract differs from Member State to Member State. This implies that it differs if IORPs can have a funding deficit or not. In some Member States this is not possible because IORPs cannot call on risk mitigating instruments. In some Member States, the pension deal is based on intergenerational risk sharing. In such kind of a pension deal, it is possible to have a funding deficit. Also when an IORP can call for sponsor support, it should be possible for an IORP to have a deficit and therefore a negative MCR.</p>	Noted.
533.	THE ASSOCIATION OF	40.	<p>What is the stakeholders' view on imposing a minimum capital</p>	Noted.

	CORPORATE TREASURERS		<p>requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>We make no comment on the precise assesment of MCR and SCR but note your comment in</p> <p>10.3.78 that my imposing insurance like capital requirements "For existing members the security of their benefits could rise and be made more transparent. The impact on future employees depends on the reaction of employers, which may include closure of existing schemes for new entrants." We repeat our principal objection that it is of no benefit to produce rules that enhance safety to the extent that there are no company schemes available to employees.</p> <p>Conceptually we do have a problem in applying a requirement to hold excess capital to a pension fund that exists for its beneficiaries. To whom does that capital belong when the pension fund reaches the end of its life</p>	
534.	The Association of Pension Foundations (Finland)	40.	We don ´t see MCR calculation technique suitable for pension funds. It is too complicated, massive and expensive and it doesn't take in consideration the c4haracteristics of IORPs.	Noted.
535.	The Association of the Luxembourg Fund Industry (A	40.	The Respondents prefer not to impose a uniformed MCR. This is because of the kind of pension contract differs from Member State to Member State.	Noted.
536.	The Society of Actuaries in Ireland	40.	We do not agree with the concept of an MCR applying to IORPs. It would be an excessive requirement and would not provide any additional security on top of an SCR and a recovery plan that would already be in place.	Noted.

			<p>However if it is considered that an MCR should apply then it should not be overly complex to calculate. Consideration should be given to the type of assets are required to cover the MCR. In addition any minimum absolute MCR would need to be carefully defined relative to the technical provisions and/or assets of the scheme.</p>	
537.	THE SOCIETY OF PENSION CONSULTANTS	40.	<p>This is irrelevant to the UK. Regulatory intervention (including the potential for enforced winding up) under the existing regime would be triggered long before such a low funding level was reached.</p>	Noted.
538.	Towers Watson Deutschland GmbH	40.	<p>In keeping with our opinion on the introduction of the SCR, our strong preference is not to impose the MCR on IORPs. If it were accepted that the SCR should not be required for IORPs, then the MCR would also be inappropriate.</p> <p>The issue of regulatory intervention where capital requirements are breached needs very careful consideration for sponsor-backed IORPs. Such regulatory intervention is almost certain to have market consequences for the sponsors. The regulatory regime should give sufficient discretion to national regulators so that intervention takes account of the consequences for each sponsor, and maximises the potential benefit for IORP members.</p>	Noted.
539.	Trades Union Congress (TUC)	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation</p>	Noted.

			The TUC does not see the need for either the MCR or SCR. Technical provisions at the scheme specific funding level provide a sufficient degree of prudence.	
540.	UK Association of Pension Lawyers	40.	<p>CfA 6 (Security mechanisms): What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>For the reasons already stated (see the general comments we make in relation to question 38 above), we do not think changes to the funding requirements for IORPs is required or appropriate or likely to achieve any of the stated objectives of the European Commission.</p> <p>The purpose of the MCR is to trigger certain supervisory actions that are either inappropriate or inapplicable for IORPs or prejudicial to the members, such as cessation of activities or transferring the business of the insurance company to another insurance company or imposing prohibitions on the disposal of assets. The objective of such measures is to protect current and future customers on the basis that they have the option of choosing another insurance company that is better capitalised.</p> <p>Such measures do not translate well in relation to most UK IORPs. Equivalent steps would include terminating future accrual and forcing the transfer of the IORP's 'activities' to an insurance company by winding it up. These are sanctions currently available under the UK supervisor's statutory powers. Such actions are however detrimental to the members and beneficiaries rather than to other parties.</p> <p>As the objective (protecting current and future customers) and purpose (triggering certain supervisory actions that achieve</p>	Noted.

			<p>such protection without detriment to the customers) of the MCR do not apply to UK IORPs, we do not think it appropriate to impose the MCR to the majority of UK IORPs because it will not serve its purpose.</p> <p>The UK also has experience of using a minimum funding requirement. It created a false sense of security and became a standard measure of funding that was inappropriately low. We think introducing an MCR would be a regressive measure.</p>	
541.	UNI Europa	40.	See question 22	Noted.
542.	Universities Superannuation Scheme (USS),	40.	<p>What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>USS is opposed (as explained in Q38) to the SCR. And without an SCR, there is, of course, no need for an MCR either. USS is, therefore, opposed to both.</p>	Noted.
543.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	40.	<p>What is the stakeholders view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>The consultation document poses the question as to whether the special mechanisms which are only available to IORPs (as highlighted in answer to question 38), could be treated as equivalent to a solvency capital requirement (SCR) or a way of mitigating risk and therefore lowering the SCR. Any revision of</p>	Noted.

			the IORP Directive must take into account the specific security mechanisms available to IORPs, which vary across EU member states. However, it is difficult to see how these specificities can be quantified in the same way as capital requirements, as they are more of a qualitative nature, therefore measuring them is very difficult.	
544.	Verband der Firmenpensionskassen (VFPK) e.V.	40.	As described above, we do not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level. In any event, in a system where there is sponsor support, the possibility of funding deficits with recovery periods, the ability to reduce benefits and the existence of an insolvency protection scheme, the concept of an MCR makes no sense.	Noted.
545.	Verbond van Verzekeraars	40.	The objective of the MCR should be made clear before we could argue whether this is appropriate to IORP's.	Noted.
546.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	40.	In the Netherlands, comparable mechanisms as the MCR and SCR are currently used. The MCR is used as the level of funds (in excess of liabilities) that should be reached with a short term recovery plan. The SCR is used as the level of funds (in excess of liabilities) that should be reached with a long term recovery plan. We are in favour of using the MCR and SCR in exactly this way. In addition, we doubt the added value of making the MCR dependent on the SCR, as is the case under Solvency II regulation.	Noted.
547.	Whitbread Group PLC	40.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.

548.	Zusatzversorgungskasse des Baugewerbes AG	40.	<p>50. We regard the idea of imposing minimum capital requirements as completely inappropriate for IORPs. Furthermore nothing will be gained by making the MCR dependent on the SCR, as it is the case in Solvency II.</p> <p>51. The aim of a MCR calculation under Solvency II is to blow a whistle if an insurance company's insolvency is to expect shortly. Then the supervisor might close the company for new business and starts to transfer assets and liabilities to another insurance company. This is different for IORPs. There are sponsor guarantees and the possibility for benefit adjustments. Winding up the IORP would not help the members or beneficiaries especially if the scheme contains solidarity elements that cannot be transferred to another pension fund or insurance company.</p> <p>52. Therefore we suggest option 1 regarding the existence of MCR (10.3.102).</p>	Noted.
549.	Towers Watson	40.	<p>41. What is the stakeholders' view on imposing a minimum capital requirement (MCR) upon IORPs? What adjustments to the Solvency II rules are needed regarding the structure and frequency of the calculation?</p> <p>This is linked to the question about whether it is appropriate to impose an SCR on IORPs (see question 38). If it were accepted that the SCR should not be required for IORPs, then the MCR would also be inappropriate. That is not to say that a minimum threshold for regulatory action should not be set, but in our view, that minimum threshold should be set based on the outcomes it is expected to achieve.</p> <p>The issue of regulatory intervention where capital requirements are breached needs very careful consideration for sponsor-backed IORPs. Such regulatory intervention is almost certain</p>	Noted.

			to have market consequences for the sponsors. The regulatory regime should give sufficient discretion to national regulators so that intervention takes account of the consequences for each sponsor, and maximises the potential benefit for IORP members.	
550.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	41.	See question 34	Noted.
551.	AbA Arbeitsgemeinschaft für betriebliche Altersver	41.	<p>Our rejection of the holistic balance sheet approach rests in part on the difficulty in placing a value on the sponsor support and pension protection schemes. This would be a highly complex and therefore potentially costly exercise.</p> <p>Should the Commission nevertheless pursue this matter, we would suggest considering an approach which reflects the complementary nature of the sponsor support and insolvency protection scheme, which together would create a uniform level of protection across the Member State. As such, this risk mitigating mechanism could be reflected as a uniform factor applicable to all IORPs in the Member State.</p>	Noted.
552.	ABVAKABO FNV	41.	<p>A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.</p>	Noted.

553.	AEIP	41.	<p>86. A pension protection scheme is an instrument to provide pension security. In a holistic approach all the different security mechanisms should be included.</p> <p>87. The question remains on how they will be valued. We are concerned about the complexity and the subjectivity when determining parameters if this would be part of a holistic balance sheet. We support a qualitative rather than a quantitative approach. The question if they should reduce sponsor's insolvency risk or be treated in the holistic approach must be judged on national level due to the construction of the pension protection scheme. If the scheme protects the fund itself it has to be treated as a separate asset. If it protects only sponsors it has to be taken into account by reducing sponsor's insolvency risk.</p> <p>A sectorwide agreement in which liabilities are shared by a large number of employers has similar effects as a pension protection system.</p>	Noted.
555.	AMONIS OFP	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to market valuation of assets and liabilities as a general rule. One of the great advantages of an IORP is that it has risk mitigating mechanisms, like a pension protection scheme or sponsor support etc. that give extra protection. However if the European Commission would go through with this idea, we would like to give the following comments.</p>	Noted.

			<p>When an IORP is covered by a pension protection scheme (or a sponsor guarantee), it is not necessary for an IORP to have the same kind of capital requirements than an IORP without.</p> <p>AMONIS OFP is however concerned that any kind of protection fund will be (or become) government controlled/owned, thus inefficient and without any real protection, and used to finance the tax budget instead of hedging the risks it was created for. A protection fund should be organised and controlled by the pension sector, be financed by affiliated funds, there should be a Chinese wall with regard to any kind of government intervention. The technical issues are cumbersome, yet European examples exist today and could be used as a starting point.</p> <p>As stated before AMONIS OFP is strongly against the holistic balance sheet approach, but considers that a protection fund (like a sponsor covenant) has a role in a holistic risk assessment as an off-balance item.</p>	
556.	ANIA – Association of Italian Insurers	41.	It shall completely depend on the nature of the pension protection scheme if and this will determine whether it can be taken into account. Comparable pension schemes should be treated in a comparable way in order to avoid unlevel playing field between different institutions providing occupational pensions.	Noted.
557.	Association of British Insurers	41.	The ABI welcomes the allowance of pension protection schemes in EIOPA's response to the call for advice. The ABI has no preferred view on how this will be accounted for under the	Noted.

			IORP review, but as with the sponsor covenant would have concerns over the rules on how this would be valued.	
558.	Association of Consulting Actuaries (UK)	41.	It is correctly observed that “valuation of security mechanisms is a complex issue”. Introducing such complexity into the funding regime of IORPs is likely to be very burdensome. Inclusion of the value of the Pension Protection Fund to a given IORP as a standalone asset on anything other than a wholly simplistic basis would be hugely time-consuming. Inclusion as a reduction to insolvency risk presupposes that the insolvency risk is readily quantifiable (which it is not for many IORPs). Overall, we do not see an implicit or explicit valuation of such assets as a proportionate and workable element of a prudential supervision regime.	Noted. The final response has noted that the detailed implementation of the HLB would require further investigation.
559.	Association of French Insurers (FFSA)	41.	63. In general, protection schemes should not be taken into account as taking them into account could lead to “moral hazard” problems. The inclusion of protection schemes was not taken on board in Solvency II. Similar arguments apply for pension protection schemes.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
560.	Association of Pensioner Trustees in Ireland	41.	See response to question 12.	Noted.
561.	Assoprevidenza – Italian Association for supplement	41.	We agree with option 1  A pension protection scheme is an instrument to provide pension security. In a holistic approach all the different security mechanisms should be included. The question remains on how they will be valued: a double taking into account should be avoided.	Noted.

			<p>The question if they should reduce sponsor's insolvency risk or valued as a separate asset must be judged on national level due to the construction of the pension protection scheme. If the scheme protects the fund itself it has to be valued as a separate asset. If it protects only sponsors it has to be taken into account by reducing sponsor's insolvency risk.</p>	
562.	Assuralia	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>Cfr. Q 12</p> <p>The members of Assuralia are managing more than 80% of occupational pensions in Belgium. They include mutual, co-operative, joint-stock and limited insurance companies. The response hereunder needs to be understood together with the following remarks:</p> <p>1/ With state pensions under pressure it is necessary to ensure that occupational pensions are safe and affordable. Prudential rules and capital requirements for long-term pension business must consistently protect all pension beneficiaries, regardless of whether they are affiliated with an insurance company or an IORP.</p> <p>2/ Prudential rules and capital requirements must respect the long-term perspective of occupational pension provision without resulting in excessive volatility of own funds and solvency ratios. The European Commission and the European</p>	Noted.

		<p>Parliament are presently considering these issues in the context of the Omnibus II directive and the Solvency II implementing measures.</p> <p>3/ To the extent that differences between regimes are not justified (as stated by draft response nr. 2.6.2), Solvency II and IORP II need to be aligned in order to achieve a consistent level of protection of beneficiaries:</p> <p>a) With regard to the pension institutions, there seems to be no reason not to apply a prudential regime equivalent to Solvency II to IORPs to the extent that they bear a certain risk (e.g. operational risk). This goes both for quantitative and qualitative requirements.</p> <p>b) With regard to the pension obligation as such, Solvency II rules seem to be adequate to quantify at least the liabilities of the total pension obligation. On the asset side, we would suggest a very cautious approach with regard to the idea of recognizing sponsor covenants and pension protection plans as assets to cover the liabilities of an IORP in the newly proposed Holistic Balance Sheet (HBS). Appropriate transitional regimes and sufficiently long recovery periods may be a better alternative to cope with a situation where the tangible assets held by IORPs do not cover pension liabilities sufficiently.</p> <p>4/ The objective of European prudential requirements is to ensure that beneficiaries all over the EU can reasonably trust that they will effectively receive the occupational pension benefits that have been promised to them (harmonized security level). These requirements set the practical and financial boundaries of what can realistically be promised and</p>	
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		<p>therefore need to be respected by national rules and agreements in the social field.</p> <p>Pension protection schemes</p> <p>Pension protection schemes (PPS) are last resort protection mechanisms that intervene in case of bankruptcy of the pension vehicle or the plan sponsor. They are to a large extent comparable with insurance guarantee schemes. The draft paper considers whether the existence of such PPS should be accounted for in the HBS, thereby allowing a PPS to cover technical provisions and risk buffers.</p> <p>We propose caution when reflecting on PPS to cover the technical provisions and risk buffers of IORPs. The dangers of covering solvency capital and/or technical provisions by a PPS are considerable:</p> <p>a. PPS are last resort protection mechanisms that redistribute the consequences of bankruptcy of the pension vehicle or the plan sponsor over the market or tax payers. Allowing PPS to cover technical provisions and risk buffers will provide an incentive for pension vehicles and plan sponsors to take undesirable levels of risk ('moral hazard').</p> <p>b. A call on the full capacity of PPS would entail considerable risks for society. By introducing a PPS public authorities assume the final responsibility for the occupational pensions that have been promised by employers. Although PPS are important to restore and maintain confidence, it is fair to say that the more technical provisions and solvency buffers are being covered by a pension protection plan in the HBS, the more the liability of the state grows. Counting on such large state interventions economically comes down to transferring (part of) the cost of occupational pensions to future generations of tax-payers. It does not help to achieve the</p>	
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			<p>European Commission's objective of creating adequate, safe and sustainable pensions (cfr. Green Paper on Pensions of 7 July 2010, p. 1).</p> <p>The fact that PPS participation is not suitable to cover technical provisions or solvency capital does not mean that it is irrelevant. It could for example be useful for supervisors to regularly monitor the risk that the PPS implies for the market and (ultimately) for tax-payers.</p>	
563.	Bayer AG	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As highlighted in response to question 38, we are strongly opposed against solvency capital requirement for IORPs as they are currently intended.</p> <p>As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.</p>	Noted.

			<p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides insurance for all benefits accrued at the date of insolvency up to a certain amount (at the moment about 90,000 euros a year) which should cover 100 % of promises made by employers via IORPs. Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension</p>	
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			<p>entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of Germany to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
564.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	41.	<p>What is the stakeholder view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor´s insolvency risk or by valuing it as a separate asset?</p> <p>As highlighted in response to question 38, we are strongly opposed against solvency capital requirement for IORPs as they are currently intended. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not</p>	Noted.

			<p>agree that solvency capital requirements are necessary.</p> <p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides insurance for all benefits accrued at the date of insolvency up to a certain amount (at the moment about 90,000 euros a year) which should cover 100 % of promises made by employers via IORPs. Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational</p>	
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			retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of Germany to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.	
565.	Belgian Association of Pension Institutions (BVPI-	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of assets and liabilities as a general rule. One of the great advantages of an IORP is that it has risk mitigating mechanisms, like a pension protection scheme or sponsor support etc. that give extra protection. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>When an IORP is covered by a pension protection scheme (or a</p>	Noted.

			<p>sponsor guarantee), it is not necessary for an IORP to have the same kind of capital requirements than an IORP without.</p> <p>BVPI-ABIP is concerned about the complexity and the subjectivity when determining parameters if a pension protection fund and considers that there should be simpler approaches.</p> <p>As stated before BVPI-ABIP is strongly against the holistic balance sheet approach, but considers that a protection fund (like a sponsor covenant) should in a holistic approach (not balance sheet) be mentioned off-balance.</p>	
566.	BNP Paribas Cardif	41.	<p>In general, protection schemes should not be taken into account as taking them into account could lead to “moral hazard” problems. The inclusion of protection schemes was not taken on board in Solvency II. Similar arguments apply for pension protection schemes.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
567.	Bosch Pensionsfonds AG	41.	<p>As stated under 12. and 38. we strongly reject the suitability of holistic balance sheet and SCR-calculation according to Solvency II-rules for IORPs. We also again emphasize the complexity and cost involved in putting a value to pension protection schemes for all European IORPs.</p> <p>Pensions protection schemes are an essentially important security mechanism for IORPs. They should therefore be taken in account - in combination with employer support - as part of</p>	Noted.

			a qualitative evaluation, making the proposed complex and costly quantitative calculation / requirements obsolete for IORPs.	
568.	Bosch-Group	41.	<p>As stated under 12. and 38. we strongly reject the suitability of holistic balance sheet and SCR-calculation according to Solvency II-rules for IORPs. We also again emphasize the complexity and cost involved in putting a value to pension protection schemes for all European IORPs.</p> <p>Pensions protection schemes are an essentially important security mechanism for IORPs. They should therefore be taken in account - in combination with employer support - as part of a qualitative evaluation, making the proposed complex and costly quantitative calculation / requirements obsolete for IORPs.</p>	Noted.
570.	BRITISH PRIVATE EQUITY AND VENTURE CAPITAL ASSOCIA	41.		
571.	BT Group plc	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As with sponsor support, pension protection schemes represent one of the key differences between insurance companies and IORPs and therefore it is essential that they should be taken into account as part of the security provided to pension schemes. In the context of the holistic balance sheet it is not clear whether this should be included on the asset or liability side. If it is not included as an asset, it should be included in the liability measure – for example, this might allow the</p>	Noted.

			removal of the SCR or adjusting the confidence interval to a significantly lower level	
572.	BT Pension Scheme Management Ltd	41.	Though we do not support the introduction of holistic balance sheets, should they be brought in we would strongly favour Option 1 in relation to pension protection arrangements: that they should be included as an asset in assessing the IORP's balance sheet. We regard the benefit of pension protection arrangements as significant in terms of the protection of consumers and believe that if the balance sheet approach is used this positive benefit would best be recognised through their inclusion as an asset on the balance sheet of those IORPs which enjoy the benefit of such structures.	Noted.
573.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	41.	As highlighted in response to question 38, we are not in favour of a solvency capital requirement for IORPs. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.	Noted.
574.	BUSINESSEUROPE	41.	As highlighted in response to question 38, we are not in favour of a solvency capital requirement for IORPs. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee system (which exist in a number of	Noted.

			member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.	
575.	CEA	41.	It shall completely depend on the nature of the pension protection scheme and this will determine whether it can be taken into account. Comparable pension schemes should be treated in a comparable way in order to avoid an unlevel playing field between different institutions providing occupational pensions.	Noted.
576.	Charles CRONIN	41.	I support EIOPA's option 1, to include Pension Protection Schemes (PPS) in the solvency framework as a contingent asset in the balance sheet and with effects in the calculation of capital requirements. However I agree with the moral hazard issue, concerning risky activities, mentioned as a negative impact to that option. Hence an improvement may be not to include PPS as a contingent asset, but conceptually as an asset (described as the PPS), but not included in the sum of assets in the HBS. Visually a value placed adjacent to the sum of assets (financial assets, contingent financial assets and sponsor's covenant, but not included in the sum of assets).	Noted.
577.	Chris Barnard	41.	The analysis regarding pension protection schemes is not unreasonable. However, I disagree with the analysis in Paragraphs 10.3.124 – 10.3.125 on comparisons between pension protection schemes and insurance guarantee schemes. Both serve a similar function, which is to provide last-resort protection to members and beneficiaries / policyholders, when IORPs / insurance companies are unable to fulfil their	Noted.

			<p>commitments, and we should consider substance over form. If pension protection schemes are included in the solvency framework, then there will be an unlevel playing field with the insurance sector.</p> <p>I would caution against aggressively including pension protection schemes in the solvency framework for the following reasons:</p> <ul style="list-style-type: none"> <li>- valuations would be less comparable between IORPs with differing levels of pension protection;</li> <li>- the valuation of the pension protection is very subjective in the tail conditions that would be expected to apply when the protection should be called upon;</li> <li>- the valuation of the pension protection could become a multi-agent problem, as pension protection schemes apply to multiple IORPs. This is different from sponsor support, where the only other agent to consider is the sponsor itself;</li> <li>- their inclusion could lead to systemic issues in the sense that all the IORPs covered by the same pension protection scheme would presumably hold lower assets and capital. This could lead to a greater possibility of systemic call on the pension protection scheme in times of financial distress.</li> <li>- The above result, i.e. IORPs systemically holding lower assets and capital almost implies that the pension protection scheme is a "joint sponsor" of the IORPs, rather than last-resort protection.</li> </ul> <p>If pension protection schemes should be included in the solvency framework, I would rather support option 2, which would include them in the solvency framework through the credit risk of the sponsor used in the valuation of sponsor support. This has the advantage of simplicity over option 1,</p>	
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			<p>which is too complex and subjective to include in a robust valuation.</p> <p>Note that under option 2 we can still value and disclose the quantitative impact of the pension protection scheme by valuing the sponsor support with and without the adjustment to the credit risk of the sponsor due to the pension protection scheme. The differences in the two calculations of capital requirements and the valuation of the sponsor support as an asset would quantify the protection provided by the pension protection scheme.</p>	
578.	CMHF (Centrale van Middelbare en Hogere Functionar	41.	<p>A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.</p>	Noted.
579.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	41.	<p>CBI members do not support measuring pension protection systems as assets</p> <p>As in the case of the employer covenant, CBI members are strongly opposed to measuring the value of pension protection systems, such as the Pension Protection Fund (PPF) in the UK,</p>	Noted.

			<p>as an asset.</p> <p>In the case of the PPF, the Fund is a safety net of last resort for all private secur funded IORPs in the UK. The PPF protects 100% of pensions in payment and 90% of any future pension promise made to a scheme member in the event of the sponsoring employer going insolvent. The Fund is financed through individual levies paid by eligible employers every year.</p> <p>The high level of security provided to scheme members means that ultimately the PPF is a nearly full guarantee of any pension promise, therefore valuing it as an asset would only makes sense if it would cover the entire funding requirements of the IORP, if not it would always be undervalued. Equally, the cost of measuring the strength of the PPF would be quite significant and this would have to be covered by participating employers further increasing their costs.</p>	
580.	De Unie (Vakorganisatie voor werk, inkomen en loop	41.	<p>A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.</p>	Noted.

581.	DHL Services Limited	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As with sponsor support, pension protection schemes represent one of the key differences between insurance companies and IORPs and therefore it is essential that they should be taken into account as part of the security provided to pension schemes.</p> <p>As we have set out above, we do not agree with the concept of a holistic balance sheet deriving from the Solvency II framework. If, however, this approach were to be pursued, then the pension protection scheme must be given full value, as providing complete security in respect of all benefits covered by that protection scheme.</p>	Noted.
582.	DHL Trustees Limited	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As with sponsor support, pension protection schemes represent one of the key differences between insurance companies and IORPs and therefore it is essential that they should be taken into account as part of the security provided to pension</p>	Noted.

			<p>schemes.</p> <p>As we have set out above, we do not agree with the concept of a holistic balance sheet deriving from the Solvency II framework. If, however, this approach were to be pursued, then the pension protection scheme must be given full value, as providing complete security in respect of all benefits covered by that protection scheme.</p>	
583.	Direction Générale du Trésor, Ministère des financ	41.	<p>On the issue of PPS, we have to keep in mind the comparison with the insurance undertakings and Solvency2 where insurance guarantee schemes are not taken into account to lower the capital requirements. We have to maintain an option of non-inclusion in the box of options since it is not a mere technical debate but a sensitive issue in terms of level playing field and of prudential assessment.</p>	Noted.
584.	Ecie vie	41.	<p>The inclusion of protection schemes is not considered in Solvency Directive.</p> <p>The same principle should apply for insurance contracts and IORPs.</p>	Noted.
585.	EFI (European Federation of Investors)	41.	<p>There is a risk of moral hazard. This should be studied more carefully</p>	Noted.
586.	European Association of Public Sector Pension Inst	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p>	Noted.

			<p>In EAPSPI's opinion there exist various risk-mitigating elements and additional security mechanism in case of IORPs. If one of these elements is in place this has to be accounted for in terms of capital requirements.</p> <p>But there is no need to quantify and integrate these mechanisms within a HBS similar to a Solvency II-SCR-type balance sheet; here complexities and subjectivities in determining necessary parameters abound (see a detailed discussion of the related problems within the answer to question #12). Therefore in EAPSPI's opinion a more heuristic method of consideration and capital requirement reduction is necessary.</p>	
587.	European Federation for Retirement Provision (EFRP)	41.	<p>One of the great advantages of an IORP is that it has risk mitigating mechanisms, like a pension protection scheme. A pension protection scheme is an instrument to provide pension security and therefore has to be taken into account. When an IORP is covered by a pension protection scheme, it is not necessary for an IORP to have the same kind of capital requirements than an IORP without. The same holds for other kind of risk mitigating mechanisms, just like for example sponsor support, intergenerational risk sharing and conditionality of pension benefits.</p> <p>The EFRP is concerned about the complexity and the subjectivity when determining parameters if a pension protection fund would be part of a holistic balance sheet. There should be simpler methods to allow for capital relief in case of sponsor support.</p>	Noted.

588.	European Metalworkers Federation	41.	See response question 22	Noted.
589.	European Mine, Chemical and Energy workers' Fede	41.	See previous	Noted.
590.	FAIDER (Fédération des Associations Indépendantes)	41.	There is a risk of moral hazard. This should be studied more carefully	Noted.
591.	Federation of the Dutch Pension Funds	41.	A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.	Noted.
592.	Financial Reporting Council	41.	We consider the analysis regarding pensions protection schemes draws out some of the theoretical issues. However, we agree with the conclusion in paragraph 10.3.136 that further work should be carried out, including a quantitative impact study, before taking any decisions on this matter.	Noted.
593.	FNV Bondgenoten	41.	A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic	Noted.

			balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.	
594.	GAZELLE CORPORATE FINANCE LTD	41.	We have a concern about the concept of treating the provision of a Pension Protection Scheme as an asset. This seems highly questionable; the sponsor is either ongoing or insolvent, and a PPS is only of value in the latter case; it may involve different benefits as is certainly the case in the UK. We consider the attempted analogy with reinsurance to be highly misleading, as reinsurance is a mechanism for risk transfer not an asset.	Noted.
595.	Generali vie	41.	The inclusion of protection schemes is not considered in Solvency Directive.  The same principle should apply for insurance contracts and IORPs.	Noted.
596.	German Institute of Pension Actuaries (IVS\32\45\3	41.	Since pension protection schemes considerably reduce the default risk for beneficiaries should the sponsor default, it is only right that such systems are included as a risk minimising factor within the holistic balance sheet approach.	Noted.
597.	GESAMTMETALL - Federation of German employer	41.	What is the stakeholder view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?	Noted.

			<p>As highlighted in response to question 38, we are strongly opposed against solvency capital requirement for IORPs as they are currently intended. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate.</p> <p>As highlighted in response to question 40, valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.</p> <p>Excursion to the German insolvency protection system for IORP:</p> <p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured.</p> <p>The PSVaG guarantees full protection against the insolvency of company with regard to the pension claims. Thus it is more than justified to acknowledge our protection scheme as regular</p>	
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			<p>and efficient protection scheme for IORPs. In view of the complete protection provided by the PSVaG-system, there is no need for further protective mechanisms.</p> <p>In total, the existing protection in the German model on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of all pension entitlements. Further mechanisms of any kind would impose an additional burden on IORPs and thus be counterproductive, as they would endanger present and future employee pension entitlements.</p> <p>To GESAMTMETALL, the decision to implement the PSVaG as the core of the German system of occupational pension provision was an important step towards a sustainable German pension system as a whole. To ignore this decision would penalize all German employers who supported this innovative and successful model by building-up IORPs under the protection of the PSVaG. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
598.	Groupe Consultatif Actuariel Européen.	41.	<p>We think that this should be the subject of additional research.</p> <p>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</p>	Noted.

			<p>mechanism were provided by a suitably creditworthy private sector insurance arrangement then its existence would be allowed for, within limits, within Solvency II.</p> <p>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.</p> <p>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).</p> <p>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.</p>	
599.	Groupement Français des Bancassureurs	41.	In general, protection schemes should not be taken into account as taking them into account could lead to "moral hazard" problems. The inclusion of protection schemes was not taken on board in Solvency II. Similar arguments apply for pension protection schemes.	Noted.

			In all cases the same principle should apply for retirement schemes provided by the insurers.	
600.	PMT-PME-MnServices	41.	A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.	Noted.
601.	IBM Deutschland Pensionskasse VVaG and IBM Deutsch	41.	As highlighted in response to question 38, we are not in favour of a solvency capital requirement for IORPs. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.	Noted.
602.	Institute and Faculty of	41.	In the UK the Pension Protection Fund (PPF) does exist and	Noted.

	Actuaries (UK)		<p>does provide additional (and in some cases significant) security to the beneficiary and so we believe there is a case for its inclusion as either an asset or as a liability-offset on the holistic balance sheet. However there are practical difficulties in placing a value on this security which would need to be solved before such an approach could be implemented.</p> <p>Similarly we believe there is a case for taking the existence of the PPF into account in the setting of the security level (by confidence level or otherwise), which should be to be determined at a national level.</p>	
603.	KPMG LLP (UK)	41.	<p>If there is value in a protection scheme, it would be better regarded as an asset. Its value could be difficult to determine, but it would be even more difficult to determine adjustments to a sponsor's insolvency risk.</p>	Noted.
604.	Le cercle des épargnants	41.	<p>The inclusion of protection schemes is not considered in Solvency Directive.</p> <p>The same principle should apply for insurance contracts and IORPs.</p>	Noted.
605.	Macfarlanes LLP	41.	<p>55. (CfA 6 Security mechanisms) What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>56. We do not agree that pension protection schemes can be treated as assets of the IORP on a holistic balance sheet.</p> <p>57. In the UK, the current pension protection scheme is not a contingent asset of the IORP. It is an additional means put in place by the UK government for protecting the members from the risk of insolvency of the employer (as required by existing</p>	Noted.

			<p>EU legislation). Because such arrangements are in place, the security of members' benefits is not dependent either on the capital held by the IORP or indeed the support afforded by the sponsor. For this reason it is not necessary for UK IORPs to have the same level of capital requirements as is appropriate for an insurance company.</p> <p>58. Pension protection schemes should not go on the holistic balance sheet. Instead, their existence should correctly be recognised as a reason why IORPs that are covered by such schemes do not need to be funded like insurance companies using a Solvency II based SCR.</p>	
606.	Mercer	41.	In principle, and in the context of our previous comments in relation to the holistic balance sheet, we agree that there is a place for pension protection schemes. Our preference would be for it to be valued as a separate asset.	Noted.
607.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	41.	A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.	Noted.
609.	National Association of Pension Funds (NAPF)	41.	What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance	Noted.

			<p>sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>The NAPF does not accept the case for the holistic balance sheet. But, if the EC decides to take the proposal forwards, then it should certainly recognise the role of pension protection schemes.</p> <p>The NAPF would argue, in fact, that the existence of the sponsor covenant and Pension Protection Fund in the UK, together with other security mechanisms such as governance arrangements and the role of the Pensions Regulator, means that there is no need for an extra element in the form of a SCR.</p>	
611.	NORDMETALL, Verband der Metall- und Elektroindustr	41.	<p>What is the stakeholder view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As highlighted in response to question 38, we are strongly opposed against solvency capital requirement for IORPs as they are currently intended. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee</p>	Noted.

			<p>system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.</p> <p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides insurance for all benefits accrued at the date of insolvency up to a certain amount (at the moment about 90,000 euros a year) which should cover 100 % of promises made by employers via IORPs. Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of</p>	
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			<p>members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of Germany to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
613.	Pensioenfonds Zorg en Welzijn (PFZW)	41.	<p>A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic balance sheet approach were to be chosen by the European Commission. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities</p>	Noted.

			are lowered at the transfer to the pension protection scheme.	
614.	Pensions Sicherungs-Verein aG (PSVaG), Köln.	41.	<p>Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). For further details see "General comment".</p> <p>Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs).</p> <p>In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of members/beneficiaries of IORPs.</p> <p>Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements.</p> <p>Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements.</p> <p>Not taking pension protection schemes into account would not reflect the basic decisions of German legislators to implement</p>	Noted.

			<p>the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly.</p> <p>With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
615.	Predica	41.	<p>In general, protection schemes should not be taken into account as taking them into account could lead to “moral hazard” problems. The inclusion of protection schemes was not taken on board in Solvency II. Similar arguments apply for pension protection schemes.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
616.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	41.	<p>Not much difference between option 1) and 2) as long as the value of the PPS is reflected. Note that introducing a PPS, introduces (partially) PAYGO elements into funded pension schemes: in case of failure society pays the bill, in a very similar way to a PAYGO system.</p>	Noted.
617.	PTK (Sweden)	41.	<p>One of the great advantages of an IORP is that it has risk mitigating mechanisms, like a pension protection scheme. A pension protection scheme is an instrument to provide pension</p>	Noted.

			security and therefore has to be taken into account. When an IORP is covered by a pension protection scheme, it is not necessary for an IORP to have the same kind of capital requirements than an IORP without. The same holds for other kind of risk mitigating mechanisms, just like for example sponsor support, intergenerational risk sharing and conditionality of pension benefits.	
618.	Punter Southall Limited	41.	It is certainly true that the existence of a pension protection scheme is a fundamental part of the risk-mitigation framework that applies to IORPs. However, we do not see the need for a formal valuation of the pension protection scheme as part of a holistic balance sheet. Rather, the availability of pension protection schemes demonstrates the fundamental difference between pensions and insurance, and highlights that it is inappropriate to apply insurance regulation to pensions.	Noted.
619.	Railways Pension Trustee Company Limited ("RPTCL	41.	If it were decided to go ahead with applying the Solvency II requirements to pension schemes, RPTCL would consider it appropriate to take account of the pension protection schemes such as the UK's Pension Protection Fund.	Noted.
620.	Siemens Aktiengesellschaft (Germany)	41.	What is the stakeholder view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?  As highlighted in response to question 38, we are strongly	Noted.

			<p>opposed against solvency capital requirement for IORPs as they are currently intended. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. Valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.</p> <p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides insurance for all benefits accrued at the date of insolvency up to a certain amount (at the moment about 90,000 euros a year) which should cover 100 % of promises made by employers via IORPs. Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement</p>	
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			<p>provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of Germany to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
621.	Siemens Pensionsfonds AG (GER)	41.	<p>What is the stakeholder view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p>	Noted.

			<p>As highlighted in response to question 38, we are strongly opposed against solvency capital requirement for IORPs as they are currently intended. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. Valuing the employer covenant and any pension guarantee system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.</p> <p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides insurance for all benefits accrued at the date of insolvency up to a certain amount (at the moment about 90,000 euros a year) which should cover 100 % of promises made by employers via IORPs. Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). Given this complete and thorough protection</p>	
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			<p>system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of Germany to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
622.	Standard Life Plc	41.	<p>We welcome the proposed recognition for pension protection schemes in EIOPA's response to the call for advice. As with the sponsor covenant we would want to be sure that the rules over</p>	Noted.

			how this is valued are appropriate.	
624.	TCO	41.	One of the great advantages of an IORP is that it has risk mitigating mechanisms, like a pension protection scheme. A pension protection scheme is an instrument to provide pension security and therefore has to be taking into account. When an IORP is covered by a pension protection scheme, it is not necessary for an IORP to have the same kind of capital requirements as an IORP without. The same holds for other kind of risk mitigating mechanisms, just like for example sponsor support, intergenerational risk sharing and conditionality of pension benefits.	Noted.
625.	Tesco PLC	41.	18.	
626.	THE ASSOCIATION OF CORPORATE TREASURERS	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>Our response here is similar to Q 33 namely:</p> <p>The ACT does not accept that IORPs need to be funded up to an insurance comparable level however if regulation is seeking to find a comparable basis then it is right to find some methodology for evaluating the pension protection elements, and the holistic balance sheet would be one way of doing that. However much will depend on the the methodologies to ascribe value given that the pension protection benefit is contingent.</p>	Noted.
627.	The Association of Pension Foundations (Finland)	41.	We don't support appliance articles 87-99, but pension protection scheme should be regarded as assets.	Noted.

628.	The Association of the Luxembourg Fund Industry (A	41.	<p>A pension protection scheme is an instrument to provide pension security and therefore has to been taking into account.</p> <p>The Respondents are concerned about the complexity and the subjectivity when determining parameters if a pension protection fund would be part of a holistic balance sheet. There should be simpler methods to allow for capital relief in case of sponsor support.</p>	Noted.
629.	The Hundred Group of Finance Directors (UK)	41.	<p>As with sponsor support, pension protection schemes represent one of the key differences between insurance companies and IORPs and therefore it is essential that they should be taken into account as part of the security provided to pension schemes.</p> <p>As we have set out above, we do not agree with the concept of a holistic balance sheet deriving from the Solvency II framework. If, however, this approach were to be pursued, then the pension protection scheme must be given full value, as providing complete security in respect of all benefits covered by that protection scheme.</p>	Noted.
630.	The Society of Actuaries in Ireland	41.	<p>This is largely not applicable in an Irish context. Currently we have a limited pension protection scheme when an employer is insolvent and the scheme winds up. In these cases a scheme may make a claim for any outstanding sponsor contributions prior to wind up/insolvency.</p> <p>However in countries where such schemes exist we do agree with including them on the holistic balance sheet. Option 2</p>	Noted

			would be our preferred route for valuing a pension protection scheme – reduce the credit risk of the sponsor. However we acknowledge that Option 4 is also worth considering as it would enhance the security for members.	
631.	THE SOCIETY OF PENSION CONSULTANTS	41.	The UK Pension Protection Fund (PPF) is clearly a valuable member protection mechanism, which suggests that it should be valued as an asset or, as a minimum, communicated explicitly to IORP members. Valuing the PPF as an asset is clearly a greater challenge. The analogy to an insurance asset is strong in the UK. The PPF expressly backstops a large proportion of scheme liabilities in the event of employer default. It seems to us conceptually misconceived to try to shoe-horn this into employer default risk measurement.	Noted.
632.	Towers Watson Deutschland GmbH	41.	Since pension protection schemes considerably reduce the default risk for beneficiaries should the sponsor default, it is only right that such systems are included as a risk minimising factor within the holistic balance sheet approach. We consider it more appropriate to recognising it as an asset, since recognising it by reducing the sponsor’s insolvency risk does not necessarily mean that it increases the value of the employer covenant, because the latter is not only dependent on the credit worthiness of the sponsor.	Noted.
633.	Trades Union Congress (TUC)	41.	<p>What is the stakeholders’ view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor’s insolvency risk or by valuing it as a separate asset?</p> <p>The TUC values the role of pension protection schemes when</p>	Noted.

			<p>pension schemes become insolvent through no fault of scheme members.</p> <p>While we do not see the need for the holistic balance sheet, if the Commission decides to take the holistic balance sheet forward then the pension protection scheme should be included in it.</p> <p>In the UK the sponsor covenant overseen by the Pensions Regulator, the Pension Protection Fund and governance arrangements provide additional security for schemes which further ameliorate the need for the SCR.</p>	
634.	UK Association of Pension Lawyers	41.	<p>CfA 6 (Security mechanisms): What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As noted in our answer to question 34, we do not support the core premise of adapting Solvency II for the generality of IORPs. However, given the existence of a pension protection scheme, if a holistic balance sheet approach were to be adopted (on which, see our comments in response to question 12) value for it should be taken into account. In other words, it should be valued as a separate asset, though there are numerous complexities with such an approach that would need to be given proper consideration.</p>	Noted.
635.	UNI Europa	41.	See question 22	Noted.

636.	Universities Superannuation Scheme (USS),	41.	<p>What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>USS does not accept the case for the holistic balance sheet. But, if the EC decides to take the proposal forwards, then it should certainly recognise the role of pension protection schemes.</p> <p>USS would argue, in fact, that the existence of the sponsor covenant and Pension Protection Fund in the UK, together with other security mechanisms such as governance arrangements and the role of the Pensions Regulator, means that there is no need for an extra element in the form of a SCR.</p>	Noted.
637.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	41.	<p>What is the stakeholder view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?</p> <p>As highlighted in response to question 38, we are strongly opposed against solvency capital requirement for IORPs as they are currently intended. As a consequence, we do not believe that the solution put forward by EIOPA for a 'holistic balance sheet' is appropriate. As highlighted in response to question 40, valuing the employer covenant and any pension guarantee</p>	Noted.

			<p>system (which exist in a number of member states) as assets, would be very difficult as the measurement of it would be incredibly complicated for employers. In any case, as highlighted in response to question 38, the existence of such security mechanisms for IORPs are precisely why we do not agree that solvency capital requirements are necessary.</p> <p>At this point it might be helpful to explain the insolvency protection system in Germany briefly. The Pensions-Sicherungs-Verein aG ("PSVaG") is the institution which was given the legal task to fulfil pension promises in case of the insolvency of employers in Germany. This pension protection institution was founded in 1974 as a mutual insurance association. The PSVaG now has more than 90,000 members (employers) representing a great part of the whole German economy. Over 10 million employees and retirees are currently insured. The PSVaG usually provides insurance for all benefits accrued at the date of insolvency up to a certain amount (at the moment about 90,000 euros a year) which should cover 100 % of promises made by employers via IORPs. Insolvency insurance provided by the PSVaG protects employees' entitlements to pension benefits from an insolvent company pension to the extent that claims for said benefits cannot be fully covered by an institution for occupational retirement provision (IORP). Given this complete and thorough protection system, it makes sense and is entirely appropriate to take such pension protection schemes into account under a regulatory protection scheme for institutions for occupation retirement provision (IORPs). In view of the complete protection provided by the PSVaG-system, there would appear to be no need for further significant (and possibly expensive) protective mechanisms for the protected entitlements of</p>	
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			<p>members/beneficiaries of IORPs. Existing protection on the basis of employer covenants and pension protection schemes is complete and sufficient to ensure protection of pension entitlements. Further mechanisms of any kind which would impose an additional burden on institutions for occupational retirement provision (IORPs), sponsoring employers or members/beneficiaries would be counterproductive, as they would actually endanger present and future employee pension entitlements. Not taking pension protection schemes into account would not reflect the basic decisions of Germany to implement the PSVaG as the core of the German system of occupational pension provision. It would also be contradictory to the holistic-balance-sheet-approach which is the explicit consideration of all mechanisms that are so far taken into account implicitly. With regard to the two options in which pension protection schemes are taken into account the result should be the same in Germany. Backed by thousands of employers representing a great part of the German economy the PSVaG and/or the sponsor support would always be strong enough to cover the difference between the liabilities and the financial assets of the IORP.</p>	
638.	Verband der Firmenpensionskassen (VFPK) e.V.	41.	<p>The multi-level controls for the defined benefits will almost completely eliminate the employer`s default risk so this and other security aspects should always be taken into account when considering the risk bearing capacity of individual IORPs.</p>	Noted.
639.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	41.	<p>A pension protection scheme is an instrument to provide pension security. In a holistic balance sheet all the different security mechanisms are included. Therefore, if appropriate and already present in a Member State, it is logical to include a pension protection scheme as a separate asset, if a holistic</p>	Noted.

			balance sheet approach were to be chosen by the EC. Note that a pension protection scheme may also impact the value of the liabilities, in which case the effect should be split up between the asset side and liability side of the holistic balance sheet. This occurs for example if liabilities are lowered at the transfer to the pension protection scheme.	
640.	Whitbread Group PLC	41.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
641.	Zusatzversorgungskasse des Baugewerbes AG	41.	53. A pension protection scheme is an instrument to provide pension security. In a holistic approach all available security mechanisms should be included. Any holistic approach has to judge the contents and effects of security mechanisms and not only their formal (non-) existence. Therefore we like to stress that industry-wide multiemployer pension funds in which liabilities are shared by a large number of employers have similar effects on the sponsor support's security as a pension protection system. Our fund handles around 5000-7000 employer insolvencies every year without any harm to beneficiaries due to the solidarity based construction of the scheme. The effects of the IORP's scheme design offset the necessity of a pension protection system.	Noted.
642.	Towers Watson	41.	42. What is the stakeholders' view on the analysis regarding pension protection schemes? If included in the holistic balance sheet, should pension protection schemes be taken into account by reducing the sponsor's insolvency risk or by valuing it as a separate asset?  The UK Pension Protection Fund (PPF) provides 'compensation' for a significant and specified part of the benefits provided by	Noted.

			<p>defined benefit IORPs. It would therefore seem reasonable to include a value for this cover as an asset in the holistic balance sheet. This would be similar to the treatment of reinsurance recoveries for an insurer.</p> <p>However, there are important challenges with recognising the cover provided by the PPF as an asset. It would need to be considered how the asset would be valued. Logically, the value of the asset to be recognised would be related to the cover it provides for the IORP, ie the level of underfunding of the IORP relative to the value of liabilities taken into account by the PPF. However, this would create a moral hazard risk by permitting an asset to be taken into account that is larger for the IORPs that are most underfunded. In our view, therefore, it would be difficult to justify reducing IORPs' capital requirements because of cover provided by the PPF, as that would increase the risks to the PPF (and hence the cost of the PPF for remaining IORPs, which is met by way of levies).</p> <p>One of the arguments we put forward in our response to question 38 for not prescribing an SCR for IORPs is the existence of the PPF. If it were accepted that the SCR is not appropriate for IORPs, then it could be argued that the existence of the PPF would already have been implicitly allowed for in the holistic balance sheet. An explicit allowance for the PPF would not therefore be needed.</p>	
643.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	42.	See question 34	Noted.
644.	AbA Arbeitsgemeinschaft für betriebliche Altersver	42.	As described above, we do not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level.	Noted.

			Should the Commission, however, pursue the matter, it would seem reasonable to apply a uniform methodology for determining a capital requirement for operational risk for both DB and DC schemes.	
645.	ABVAKABO FNV	42.		
646.	AEIP	42.	<p>88. DC schemes are the most insurance-like IORP's. We agree that operational risk is very important for DC schemes where investment risk is borne by plan members with the possibility that it could be reduced under specific circumstances where there exist other provisions against operational risk. EIOPA should consider the option to reduce the requirements for operational risk, when an IORP is able to show that its operational risk procedures are appropriate.</p> <p>89. AEIP is in favour of option 3.</p> <p>If capital requirements were to be imposed, they may be tailored to the actual risk profile. We find it sensible to distinguish between DC and other types of schemes since the security mechanisms discussed above (i.e. sponsor guarantee) covers operational risk as well as all other kinds of risk.</p>	Noted.
648.	AMONIS OFP	42.	<p>Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>AMONIS OFP considers that the protection of scheme members in DC schemes where all investment risks are borne by the scheme members is of uttermost importance, but AMONIS OFP</p>	Noted.

			rejects the idea of imposing capital requirements based on mark-to market valuation of assets and liabilities as a general rule and stress that the eventual impact of the implementation of this measure should be assessed before taking any stance on this question.	
649.	ANIA – Association of Italian Insurers	42.	The ANIA fully agrees that capital requirements for operational risk should also be applied to DC schemes, even where the investment risk is borne by the plan members. This should be done in a similar way as is done for the capital requirements for unit-linked life insurance products where the investment risk is completely borne by the insured.	Noted.
650.	Association Française de la Gestion financière (AF	42.	<p>We don't understand why losses due to operational risk events would be relevant only in situations where members or beneficiaries bear the investment risk. In fact, it could be argued that operational risk is higher in other kind of schemes (such as schemes offering guarantees/other benefits).</p> <p>When the IORP has outsourced functions, we strongly believe that the need for capital requirements against operational risk would have to take into account the capital requirements already imposed, for instance, on external asset managers through UCITS IV, MiFID or AIMFD. Overall, if operational risk is already covered, there is no need for additional capital requirement.</p>	Noted.
651.	Association of British Insurers	42.	The ABI opposes the need for IORPS having to reserve for operational risk, rather this should be covered by cash flow as per the response to Question 68.	Noted.

			<p>Within the UK we believe that the biggest risk to members of DC schemes is "investment risk". There are adequate provisions in place within the UK pension regulatory framework to minimise operational risk, and UK employment law would require employers to make good any benefit deficiencies caused by the incorrect payment of contributions.</p> <p>Any additional contribution required to fund the additional capital requirements would effectively be an extra tax on the employer and possibly the members of the scheme. It will be difficult enough for small to medium size employers who do not already have adequate pension provision to fund the additional cost of establishing a scheme and contributing the minimum levels required by UK law required under automatic enrolment. Adding an additional requirement to fund for extra capital will increase that burden. There is also a risk that employers who are currently contributing at levels above that which is required for automatic-enrolment may be forced to divert a proportion of those contributions to fund the additional capital requirement. This would reduce the level of pension provision for the members of such schemes, thereby going against the basic fundamental principle to provide good quality retirement outcomes.</p> <p>The ABI stresses that not reserving for operational risk does not mean the member would lose out, but rather that the IORP has the responsibility to rectify the members' position, just not necessarily through capital reserves. It is difficult to see how this would work in practice e.g. where there is a trust and a sponsoring employer and a provider as parties within the IORP, where would the capital requirements need to be fulfilled/who would fund them? Any capital requirements for operational risk</p>	
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			should take account of any capital requirements already in place through other Directives (e.g. Solvency II, UCITS, MiFID).	
652.	Association of Consulting Actuaries (UK)	42.	As regards DC schemes, the calculation and maintenance of a reserve to cover operational risk adds significantly to frictional costs. In the UK, the logical consequence is for the sponsor may be to move to a contract basis where this reserve is "implicit" and is in fact paid for by members by way of lower returns, thus losing all the advantages of trustee oversight.	Noted.
653.	Association of French Insurers (FFSA)	42.	64. The FFSA fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
654.	Association of Pensioner Trustees in Ireland	42.	See response to question 12.	Noted.
655.	Assoprevidenza – Italian Association for supplement	42.	We agree with option 3. Yes for capital requirement but tailored. We agree that operational risk is very important for DC scheme, but it could also have impact in other kind of schemes even if in a more long period (reducing interest, increasing costs, so, at the end, negative impact on benefits).  It could be reduced under specific circumstances where there exist other provisions against operational risk. EIOPA should consider the option to reduce the requirements for operational risk, when an IORP is able to show that its operational risk procedures are appropriate.	Noted.
656.	Assuralia	42.	Do stakeholders agree that capital requirements for operational	Noted.

			<p>risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>To the extent that differences between regimes are not justified (as stated by draft response nr. 2.6.2), Solvency II and IORP II need to be aligned in order to achieve a consistent level of protection of beneficiaries. There is no reason not to apply a prudential regime equivalent to Solvency II to IORPs to the extent that they bear a certain risk. Any IORP bears at least an operational risk.</p>	
657.	Balfour Beatty plc	42.	<p>Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>Operational risk for both DC IORPs and contract-based arrangements is generally covered by the employer covenant. Good governance practices minimise operational risk to sponsors.</p> <p>Any capital requirements for operational risk would be either paid from members' pots or the employers would reduce contributions so that their total cost remained unchanged. In both scenarios members' benefits would be lower.</p>	Noted.

			<p>We also believe that it is important that both DC IORPs and contract-based schemes that employers contribute to are treated in the same way. We therefore do not agree that there should be any capital requirements for operational risk, any such risk should be managed through governance and supervisory measures.</p>	
658.	Bayer AG	42.	<p>Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>Because we do not agree with the introduction of risk-based capital requirements we do also not see the need for harmonisation for DC schemes.</p> <p>In case that the commission deals with this matter it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. Higher costs would lead to an increase in the overall scheme charge for the employee.</p>	Noted.

659.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	42.	<p>42. Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>Because we do not agree with the introduction of risk-based capital requirements we do also not see the need for harmonisation for DC schemes. In case that the commission deals with this matter it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. Higher costs would lead to an increase in the overall scheme charge for the employee.</p>	Noted.
660.	Belgian Association of Pension Institutions (BVPI-	42.	<p>Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>BVPI-ABIP considers that the protection of scheme members in</p>	Noted.

			DC schemes where all investment risks are borne by the scheme members is of uttermost importance, but BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of assets and liabilities as a general rule and stress that the eventual impact of the implementation of this measure should be assessed before taking any stance on this question.	
661.	BNP Paribas Cardif	42.	BNP Paribas Cardif fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
663.	BT Group plc	42.	Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?  No. This appears to be an excessively prudent approach. Capital requirements for operational risk should not be applied to DC schemes. Any such requirements would have to be funded either directly by the member, or by the sponsoring employer who would be almost certain to reduce the contributions it pays to the scheme on behalf of the member. Either way, the member would receive lower retirement income in consequence.	Noted.

			We believe that operational risks are better addressed through governance and supervisory measures rather than through a quantitative approach of this kind.	
664.	BT Pension Scheme Management Ltd	42.	We make no comment on the appropriate rules for DC scheme structures.	Noted.
665.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	42.	Because we do not agree with the introduction of risk-based capital requirements we do also not see the need for harmonisation for DC schemes. In case that the commission deals with this matter it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. Higher costs would lead to an increase in the overall scheme charge for the employee.	Noted.
666.	BUSINESSEUROPE	42.	Given the growing trend towards provision of defined contribution (DC) schemes, it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. Higher costs would lead to an increase in the overall scheme charge for the employee.	Noted.

667.	BVI Bundesverband Investment und Asset Management	42.	From our point of view, the differentiation should not be made between DB and DC. Rather, the question is whether the IORP itself bears the operational risk and whether the claims/benefits of members might be affected in an unintended way or not.	Noted.
668.	CEA	42.	The CEA fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members. This should be done in a similar way as is done for the capital requirements for unit-linked life insurance products where the investment risk is completely borne by the insured. In this context it should however be noted that in some Member States DC schemes will contain several investment alternatives for the contributions agreed in the scheme, including alternatives (products) where the plan members are offered guarantees and therefore do not bear the investment risk. See also Q49 and Q91.	Noted.
669.	Charles CRONIN	42.	Capital requirements place an extra cost on scheme M & B and administrative burdens on both scheme boards and supervisors. Given the not-for-profit status of all IORPs, there is no personal or corporate interest from IORP board members to pursue a risk seeking strategy in order gain a profit. The two main operational risks are fraud and incompetence, where in my opinion the board collectively and severally should be liable. Rather than fund this risk through capital requirements, I suggest that the board ought to insure itself against these risks. Whilst an annual insurance premium would be a cost on the scheme, the administrative and supervisory costs would be reduced to providing proof of adequate cover (to be determined at level 2). The size of the premium would be	Noted.

			market determined by the scale of the scheme and the quality of its people and governance structure. This maybe a more effective solution, given the limited resources available to supervisors. This solution would include all schemes, DB and DC.	
670.	Chris Barnard	42.	<p>I agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members. This would be consistent with Solvency II.</p> <p>I would recommend option 2 for simplicity; however those IORPs implementing an internal model-type approach should be permitted to make a more accurate assessment of operational risk within their internal model framework.</p>	Noted.
671.	CMHF (Centrale van Middelbare en Hogere Functionar	42.		
672.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	42.	<p>Employer affordability and flexibility are crucial to high-quality DC</p> <p>Given the growing trend towards provision of defined contribution (DC) schemes, it is important to avoid introducing rules at EU level which significantly increase the costs of operating such shemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many cases in DC, for example in the case of group personal pensions (GPPs), employees are the ones that pay the administration charge for the scheme, therefore an increase in</p>	Noted.

			<p>costs would directly affect them. CBI members believe that improving employee engagement is crucial to achieving good member outcomes, rather than changing the structure of schemes.</p> <p>It is right that EIOPA should look at ensuring that employers and scheme governance structures, whether through a trust or a provider, do carry out their duties appropriately. But to completely exonerate the individual saver from any responsibility in ensuring his or her pension delivers a good income in retirement is seriously misguided.</p> <p>We are fully aware of the difficulty of increasing employee engagement with pensions. But that difficulty cannot be an excuse to lay all of the responsibility of ensuring good member outcomes on employers and scheme providers. CBI surveys show that employers are fully committed to helping their employees achieving a better income in retirement. In the UK, the average employer contribution in DC is almost ten per cent, while the average employee contribution is just five per cent. Even during the worst period of the last recession, from 2007 to 2009, 15 per cent of employers increased their contributions to DC schemes. To solve low take-up and contribution rates, employers have also put measures in place to increase employee engagement. For example, almost half of employers communicate with employees regarding the benefits of joining the company's pension scheme and/or offer generic or individual financial advice regarding retirement saving.</p> <p>DC at its best is a partnership. Employers provide financial and</p>	
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			<p>administrative support, while employees recognise their responsibility to plan for retirement and make their own contributions. Promoting understanding of DC schemes among employees must be a part of the better member outcomes equation. A 2008 CBI report put forward seven key lessons on how to create that partnership. These were based in the experience of employers providing high-quality DC:</p> <ol style="list-style-type: none"> <li>1. Scheme design must meet the needs of employer and employee. Employers must be clear about the objectives for pensions and how it fits the firm's people strategy.</li> <li>2. Employees who feel involved, who are informed and consulted about their scheme and its design will value their employer's commitment more highly.</li> <li>3. High quality communication through appropriate media is vital to ensuring employees understand the benefits of the scheme and the choices they have to make.</li> <li>4. Raising general financial awareness ensures informed decision-making, helping employees understand how to get the best out of their DC plan. Employers understand that employee needs vary over a lifetime – from first employment, through mid-career to the point of retirement.</li> <li>5. Overcoming employee inertia is essential as too many employees do not take advantage of the benefits on offer –</li> </ol>	
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			<p>innovative joining techniques can be explored to boost take-up.</p> <p>6. Good governance benefits employers and employees – ensuring employees get a good deal, feel involved and value the scheme.</p> <p>7. Individual choices should be supported. DC puts power into the hands of scheme members – often including investment choice. Scheme design should reflect this, with well-chosen default funds and a simple approach for members choosing to manage their own portfolios.</p>	
673.	De Unie (Vakorganisatie voor werk, inkomen en loop	42.		
674.	Derek Scott of D&L Scott	42.	<p>I strongly disagree with the proposal to include an ‘operational risk’ buffer for pension schemes that are purely DC. In the UK, there is significant case law that is based on the premise that in situations where a member has suffered loss through error, that he/she must be put back in the position that he/she would have been had that error not occurred. Moreover, this requirement is applied against the party that has been responsible for the loss. A buffer is, therefore, unnecessary – indeed it might perversely act as a moral hazard.</p>	Noted.
675.	DHL Services Limited	42.	<p>Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in</p>	Noted.

			<p>the area of operational risk?</p> <p>We do not believe that capital requirements for operational risk should be applied to DC schemes. Any such requirements would have to be funded either directly by the member, or by the sponsoring employer who would be almost certain to reduce the contributions it pays to the scheme on behalf of the member. Either way, the member would receive lower retirement income in consequence.</p> <p>We believe that operational risks are better addressed through governance measures and supervisory measures rather than through a quantitative approach of this kind.</p>	
676.	DHL Trustees Limited	42.	<p>Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>We do not believe that capital requirements for operational risk should be applied to DC schemes. Any such requirements would have to be funded either directly by the member, or by the sponsoring employer who would be almost certain to reduce the contributions it pays to the scheme on behalf of the member. Either way, the member would receive lower retirement income in consequence.</p>	Noted.

			We believe that operational risks are better addressed through governance measures and supervisory measures rather than through a quantitative approach of this kind.	
677.	Ecie vie	42.	We agree that capital requirement for operational risk should be applied to DC schemes.  The same principles should apply for insurance contracts and IORPs.	Noted.
678.	European Association of Public Sector Pension Inst	42.	Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?  EAPSPI in general agrees with the principle that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members. The capital requirement for operational risk shall not be risk-sensitive and shall be shaped to incentivize the implementation of risk-management structures within the IORPs. Therefore EIOPA should incorporate the possibility to reduce the capital add-on for operational risks if an IORP demonstrates the adequateness of its operational risk handling.	Noted.
679.	European Federation for Retirement Provision (EFRP)	42.	The EFRP does not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level.	Noted.

			<p>The operational risks of Defined Contribution schemes are generally already covered by other Directives (UCITS, AIFM and MIFID Directive). Therefore it would be advisable to look carefully to the elements of operational risks that have been covered by other Directives already. According to the EFRP the best way to tackle operational risks is through a focus on better governance and appropriate risk management.</p>	
680.	European Fund and Asset Management Association (EF)	42.	<p>We don't understand why losses due to operational risk events would be relevant only in situations where members or beneficiaries bear the investment risk. In fact, it could be argued that operational risk is higher in other kind of schemes (such as schemes offering guarantees/other benefits).</p> <p>It is also unclear why the operational losses would necessarily be borne by the IORP itself or the sponsoring undertaking managing the schemes in situations where members don't bear the investment risk.</p> <p>We therefore don't consider it sensible to distinguish between DC and other schemes in the area of operational risk.</p> <p>When the IORP has outsourced functions, we strongly believe that the need for capital requirements against operational risk would have to take into account the capital requirements already imposed, for instance, on external asset managers through UCITS IV, MiFID or AIMFD. Overall, if operational risk is already covered, there is no need for additional capital requirement.</p>	Noted.

681.	European Metalworkers Federation	42.	See response question 22	Noted.
682.	European Mine, Chemical and Energy workers' Fede	42.	See previous	Noted.
683.	Federation of the Dutch Pension Funds	42.		
684.	Financial Reporting Council	42.	The level of capital requirement for operational risk for DC schemes is likely to be relatively small. We would suggest that a proportionate approach would be not to require a capital requirement because there will usually be a sponsor with sufficient resources to cover the operational risk.	Noted.
685.	FNV Bondgenoten	42.		
686.	Generali vie	42.	We agree that capital requirement for operational risk should be applied to DC schemes.  The same principles should apply for insurance contracts and IORPs.	Noted.
687.	German Institute of Pension Actuaries (IVS\32\45\3	42.	In principle we agree that operational risk should always be considered and controlled. However, a differentiation between DC and DB plans should not be made. DB plans have an implicit operational risk and should be included here too. To allow for the different characteristics of pension schemes in member states, the valuation should not be performed on a uniform basis.	Noted.

688.	GESAMTMETALL - Federation of German employer	42.	<p>42. Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>As we do not agree with the introduction of risk-based capital requirements, we neither see the need for harmonisation for DC schemes. In case that the European Commission deals with this matter it is important to avoid introducing regulation at EU level which significantly increase the costs of operating such schemes, e.g. EU regulation detailing how schemes should be designed. If such schemes become too costly, it is very likely that employers will lower their contributions or even will be unable to offer such schemes in the future. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. In this case higher costs would lead to an increase in the overall scheme charge for the employee.</p>	Noted.
689.	Groupe Consultatif Actuariel Européen.	42.	<p>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</p>	Noted.

			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.	
690.	Groupement Français des Bancassureurs	42.	<p>FBIA fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
691.	PMT-PME-MnServices	42.		
692.	HM Treasury/Department for Work and Pensions	42.	<p>We do not agree that capital should be held to cover operational risk for DC schemes – particularly for sponsor-backed schemes. Product and service providers will already hold capital to cover operational risks. The additional costs – both of capital requirements and the additional administrative burden – would be passed straight on to scheme members, without any obvious improvements to the scheme’s security (particularly for sponsored IORPs where the sponsor bears the risk anyway). Given the current low returns on DC schemes, even small additional costs are likely to reduce their attractiveness at a point in time where a significant expansion of DC schemes will be critical in helping Member States respond to the challenges of the ageing population. We are therefore strongly in favour of Option 1.</p>	Noted.

693.	IBM Deutschland Pensionskasse VVaG and IBM Deutsch	42.	Given the growing trend towards provision of Defined Contribution (DC) schemes, it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes.	Noted.
694.	IMA (Investment Management Association)	42.	<p>Operational risk exists in all schemes, both DB and DC, regardless of investment approach and where member risk lies. In DC, there are a number of areas of operational risk, but the holistic balance sheet approach needs better to specify these as providers of IORPs will already have mechanisms in place to deal with operational risk.</p> <p>Should these capital requirements be uniform or tailored to the actual risk profile?</p> <p>If the issue is operational risk, rather than investment risk, it is difficult to see what is meant by risk profile.</p> <p>Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>In investment terms, the distinction may not be particularly helpful. However, with respect to administration, we do find a distinction sensible. There are a range of areas relating to specific member contributions and the investment and attribution of these that are fairly unique to DC.</p>	Noted.
695.	Institute and Faculty of Actuaries (UK)	42.	We believe that any measure concerning capital requirements for occupational risk for DC IORPs must be proportionate and that in practice this means that it should be covered by employer covenant.	Noted.

			We note that contract-based DC arrangements to which the sponsor contributes (or provides a payroll deduction facility) also carry operational risk to the sponsor so we believe that these should also be considered in this section.	
696.	KPMG LLP (UK)	42.	Only if the members are likely to bear any costs of operational failures. If such failures are the responsibility of outsourced providers, or employers, they should not be included.	Noted.
697.	Le cercle des épargnants	42.	We agree that capital requirement for operational risk should be applied to DC schemes.  The same principles should apply for insurance contracts and IORPs.	Noted.
698.	Macfarlanes LLP	42.	(CfA 6 Security mechanisms) Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?  No. Such capital requirements merely add cost for members diminishing the benefits they receive from their DC funds. Operational risk (in the form of theft, fraud or administrative error) may not ultimately lie with members or with the IORP but with external administrators or third parties and there may be many means of redress. If the risk does not lie with the members or the IORP, it is not appropriate for them to fund a reserve to cover such risks. Irrecoverable operational risk is also unlimited in amount (subject to the totality of the assets of the IORP). It is therefore difficult to determine an appropriate	Noted.

			capital requirement and the protection provided may not be sufficient. The distinction between defined contribution and defined benefit schemes in relation to operational risk is not clear.	
699.	Mercer	42.	<p>No. It might be sensible to require DC schemes to carry reserves (over and above the value of members' funds) related to short term future administration costs and the cost of winding up the scheme in the event of employer insolvency. However, where the investment risks are borne by members, the only other operational risk the members should face that could affect them financially is fraud: to ask IORPs that are managed fraudulently to carry additional funds against this risk seems unlikely to provide material protection to members.</p> <p>As the consultation document notes, in the UK a separate arrangement to protect members against fraud has been established, which is financed by a levy imposed on all UK registered IORPs. This seems a more reasonable protection regime for this type of arrangement.</p>	Noted.
700.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	42.		
702.	National Association of Pension Funds (NAPF)	42.	Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in	Noted.

			<p>the area of operational risk?</p> <p>Defined contribution pension schemes already ensure that they can cope with unexpected costs arising from operational risks; the funds for these costs are covered as part of the contributions made by employees and employers. There is no need for a new capital requirement on DC schemes to cover these risks.</p> <p>The UK's DC IORPs also benefit from:</p> <ul style="list-style-type: none"> <li>- internal controls;</li> <li>- audit requirements;</li> <li>- capital requirements that already apply to their providers and fund managers through the UCITs Directive.</li> </ul> <p>It would be better to focus on ensuring that all DC schemes have good governance arrangements to minimise the risk of operational failure.</p> <p>The NAPF, therefore, favours Option One – leave the IORP Directive unchanged.</p> <p>The NAPF is also concerned that the introduction of new capital requirements for trust-based DC IORPs would create an uneven playing field between trust-based and contract-based provision,</p>	
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			thereby incentivising a shift towards contract-based schemes.	
703.	NEST Corporation	42.	<p>We can understand the interest there would be in providing assurance to members and other stakeholders that a defined contribution (DC) scheme such as NEST has properly addressed operational risk. Currently NEST is financed by a loan from the UK Government and operational risk is effectively mitigated through this.</p> <p>However, once the loan finance is repaid, the question of how large a capital buffer would be required to offset operational risk , and the form of that capital (e.g. actual or contingent) would need to be addressed. The Fiduciary Duty of the Trustee to act in Members' interest would point us to a settlement where using members' pension contributions to create a capital buffer, rather than applying the contributions directly towards their pensions, would need to be justified. In the interest of our members we would want to be clear on the size of the buffer, the risk it is managing, the rationale for its size, ownership of the buffer, and how it would actually be operated.</p> <p>We would be keen to contribute to any further work on this issue and more generally fully consider whether capital is the only mitigant of operational risk and how a capital buffer would work with other measures to mitigate operational risk. Any attempt to introduce such a buffer needs to be carefully considered, with the full impact measured. The necessity of such a buffer in a trust based scheme, given the prudent person principle, should also be assessed.</p>	Noted.

705.	NORDMETALL, Verband der Metall- und Elektroindustr	42.	<p>42. Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>Because we do not agree with the introduction of risk-based capital requirements we do also not see the need for harmonisation for DC schemes. In case that the commission deals with this matter it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. Higher costs would lead to an increase in the overall scheme charge for the employee.</p>	Noted.
706.	OECD Secretariat to the Working Party on Private P	42.	<p>Do stakeholders agree that capital requirements for operation risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operation risk?</p> <p>Capital requirements for operational risk in DC plans are not common practice in OECD countries. Compulsory insurance to</p>	Noted.

			cover the risk of, for example, fraud is a more common approach.	
707.	Pensioenfonds Zorg en Welzijn (PFZW)	42.		
708.	Predica	42.	<p>Predica fully agrees that capital requirements for operational risk should also be applied to DC schemes where the investment risk is borne by the plan members.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
709.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	42.	All risks should be included in a risk assessment. See also response to 37.	Noted.
710.	PTK (Sweden)	42.	<p>The PTK does not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level.</p> <p>Should the Commission, however, pursue the matter, it would be advisable to look carefully to the elements of operational risks already covered by the UCITS, AIFM and MIFID Directive.</p>	Noted.
711.	Railways Pension Trustee Company Limited ("RPTCL)	42.	RPTCL rejects this proposal, pending further analysis. RPTCL is the trustee of one of the largest UK DC schemes (BRASS) and we would be very concerned about unintended consequences of the application of capital requirements.	Noted.

712.	Standard Life Plc	42.	<p><input type="checkbox"/> We do not agree that operational risks should be applied to DC pension schemes although we recognise that there are various routes to DC pension provision which may involve regulated life offices. Whilst it may be more straightforward to identify operational risks it is usually much more difficult to quantify the risks of these events. Rather than holding capital against such a spectrum of frequently binary risks it would be preferable for DC schemes to focus on the prevention of operational risk through robust processes, outsourcing decisions etc. Focusing proactively on prevention rather than a subjective quantification, and a resulting cash strain on the sponsor, would be more appropriate.</p> <p><input type="checkbox"/> It should also be noted that a life office selling DC pensions would already hold risk capital against perceived operational risks associated with such products.</p>	Noted.
714.	TCO	42.	<p>TCO does not believe that risk-based capital requirements are appropriate for IORPs and, therefore, see no need for harmonization of solvency requirements at the EU level.</p> <p>Should the Commission, however, pursue the matter, it would be advisable to look carefully to the elements of operational risks already covered by the UCITS, AIFM and MIFID Directive.</p>	Noted.
715.	The Association of Pension Foundations (Finland)	42.	<p>We don't agree with the suggestion that pure DC schemes should be required to have capital requirement for operational risks. It is not relevant. It is not clear who should pay those assets and to whom those assets should belong in case of dismantling. Where would possible yield be steered. It would encourage to dismantle pension fund and transfere assets to</p>	Noted.

			pension insurance company. Otherwise it would then be reasonable that same kind of exclusion would be used as it is used in 4 article of solvency II directive. This would take consideration proportionality.	
716.	The Association of the Luxembourg Fund Industry (A	42.	<p>Yes, the Respondents agree that, measures to control operational risks should be applied to DC schemes where investment risk is borne by plan members.</p> <p>However, such measures should not increase capital requirement but rather be implemented as part of the risk management system.</p> <p>The EFRP is in favour of option 3 and calls for flexibility. This option proposes the introduction of a capital requirement to specifically address the operational risk, with the possibility that it could be reduced under specific circumstances where there is other provision against operational risk. EIOPA should consider the option to reduce the requirements for operational risk, when an IORP is able to show that its operational risk procedures are appropriate. In such a case capital requirements for operational risk are not/less necessary and a certain mechanism provides the right incentive for adequate risk management.</p>	Noted.
717.	The Hundred Group of Finance Directors (UK)	42.	We do not believe that capital requirements for operational risk should be applied to DC schemes. Any such requirements would have to be funded either directly by the member, or by the sponsoring employer who would be almost certain to reduce the contributions it pays to the scheme on behalf of the member. Either way, the member would receive lower retirement income in consequence.	Noted.

			We believe that operational risks are better addressed through governance and supervisory measures rather than through a quantitative approach of this kind.	
718.	The Society of Actuaries in Ireland	42.	We agree that capital requirements for Operational Risk should apply to DC schemes but should be tailored to reflect the actual risk profile. We would select Option 3 as the preferred method of allowing for Operational Risk as it would encourage good risk management and controls within the scheme. It would also be important to distinguish between DB and DC scheme in allowing for Operational Risk. In addition we consider that where the asset management and administration is outsourced to a regulated provider, which will be the case in the vast majority of Irish DC schemes, there would be no requirement for the IORP to hold a reserve for Operational Risk.	Noted.
719.	THE SOCIETY OF PENSION CONSULTANTS	42.	We disagree. This would have the practical effect of eliminating DC provision via IORPs in the UK, to the detriment of members. Sponsors would immediately switch to contract based schemes, where insurers pass on the costs of maintaining operational risk capital to members in a non-transparent way. In practice employers (whether as the result of regulatory action or not) usually pick up the bill for losses occasioned by operational failures, although the UK legislative framework provides for redress by any third party, which is instrumental in any such loss. If employers are forced to reserve for these contingencies, they will walk away and the UK DC pensions market will become less competitive – which is unlikely to be in the interests of members/participants.	Noted.

720.	Towers Watson Deutschland GmbH	42.	Conceptually, we agree that operational risk should always be considered and controlled, whether a DC or a DB plan is being considered. Taking into account the different characteristics of IORPs as opposed to insurers as well as the complexities of determining its value, this aspect of risk may be ignored for practical purposes.	Noted.
721.	UK Association of Pension Lawyers	42.	<p>CfA 6 (Security mechanisms): Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>No. Such capital requirements merely add cost for members diminishing the benefits they receive from their DC funds. Operational risk (in the form of theft, fraud or administrative error) may not ultimately lie with members or with the IORP but with external administrators or the perpetrators and there may be many means of redress. If the risk does not lie with the members or the IORP, it is not appropriate for them to fund a reserve to cover such risks. Irrecoverable operational risk is also unlimited in amount (subject to the totality of the assets of the IORP). It is therefore difficult to determine an appropriate capital requirement and the protection provided may not be sufficient. The distinction between DC and DB funds in relation to operational risk is not clear.</p>	Noted.
722.	UNI Europa	42.	See question 22	Noted.
723.	Universities Superannuation Scheme	42.	Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is	

	(USS),		borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?	
724.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	42.	<p>42. Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>Because we do not agree with the introduction of risk-based capital requirements we do also not see the need for harmonisation for DC schemes. In case that the commission deals with this matter it is important to avoid introducing rules at EU level which significantly increase the costs of operating such schemes. For example, EU rules detailing how schemes should be designed. If such schemes become too costly, it is likely to lead to employers lowering their contributions or being unable to offer such schemes. Equally, in many contract-based schemes, such as group personal pensions, it is actually the employee who bears the cost of scheme administration. Higher costs would lead to an increase in the overall scheme charge for the employee.</p>	Noted.
725.	Verband der Firmenpensionskassen (VFPK) e.V.	42.	For the measurement of operational risks in DC and DB plans a consistent approach would be practical. Any additional allocation risks due to conflicts of interests between members should be taken into account when assessing operational risks in	Noted.

			form of a risk premium.	
726.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	42.		
727.	Whitbread Group PLC	42.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
728.	Zusatzversorgungskasse des Baugewerbes AG	42.	54. We support option 3. We find it sensible to distinguish between DC and other types of schemes since the security mechanisms discussed above (i.e. sponsor guarantee) covers operational risk as well as all other kinds of risk.	Noted.
729.	Towers Watson	42.	<p>43. Do stakeholders agree that capital requirements for operational risk should be applied to DC schemes where investment risk is borne by plan members? Should these capital requirements be uniform or tailored to the actual risk profile? Do stakeholders find it sensible to distinguish between DC and other schemes in the area of operational risk?</p> <p>No, we do not agree that capital requirements for operational risk should be applied to 'pure' DC schemes. Contract-based (third pillar) DC arrangements to which the sponsor contributes (or provides a payroll deduction facility) also carry operational risk to the sponsor. In this regard, it is important to have a level playing field between DC IORPs and contract-based arrangements, otherwise employers will simply abandon IORPs and move to third pillar contract-based provision. We believe that this would be to the disadvantage of members and employers, because DC IORPs generally enjoy a higher level of governance under UK trust law.</p> <p>Operational risk for both DC IORPs and contract-based</p>	Noted.

			arrangements is generally provided by the employer covenant. Good governance practices minimise operational risk to sponsors.	
730.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	43.	See question 34	Noted.
731.	AbA Arbeitsgemeinschaft für betriebliche Altersver	43.	We believe that the current Article 16 (2) of the IORP Directive is completely adequate in regulating the powers of supervisors in the case of deteriorating financial conditions. Thus, we agree with Option 1 of EIOPA's recommendation.	Noted.
732.	ABVAKABO FNV	43.	<p>According to the PF, Article 136 of the Solvency II Directive could be valuable for IORPs. When IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	Noted.
733.	AEIP	43.	90. Except from the general provision in Article 136 all following article do not reflect the situation of IORP's where	Noted.

			<p>sponsors or participants bear the risk.</p> <p>91. AEIP supports article 136 of the Solvency II Directive. Indeed, when the IORP disposes of procedures to identify deteriorating financial conditions, they will know how to act in stress situations.</p> <p>92. Applying article 141 would require amendments to make it suitable for IORP's. They are not confronted with the possible dilemma between the interests of policyholders and of shareholders like this is the case for commercial insurance companies. IORP's have stakeholders, sponsors and beneficiaries that are all victims of financial stress situations. In such a case, the primary action of the board of the IORP and in case the situation deteriorates too far also of the supervisor, should not be to restore as fast as possible the solvency position, but to take appropriate measures for all of the stakeholders.</p>	
735.	AMONIS OFP	43.	<p>What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p><input type="checkbox"/> Except from the general provision in Article 136 all following article do not reflect the situation of IORP's where sponsors or participants bear the risk.</p> <p><input type="checkbox"/> AMONIS OFP supports article 136 of the Solvency II Directive. Indeed, when the IORP disposes of procedures to identify deteriorating financial conditions, they will know how to act in stress situations.</p> <p>Applying article 141 would require amendments to make it suitable for IORP's. They are not confronted with the possible dilemma between the interests of policyholders and of</p>	Noted.

			shareholders like this is the case for commercial insurance companies. IORP's have stakeholders, sponsors and beneficiaries who are all victims of financial stress situations. Should this be the case, the first action taken by the board and, in case of further deterioration taken by the supervisor, should not be to restore as fast as possible the solvency position, but to take appropriate measures for all of the stakeholders. Taking in consideration the specific nature of IORPs and the important differences that exist throughout Europe, and their importance for/possible impact on the funding of the European economy it is important that the current flexible position on recovery plans is retained	
736.	ANIA – Association of Italian Insurers	43.	The ANIA agrees with EIOPA that these measures are suitable for IORPs provided the proportionality principle is duly taken account of.	Noted.
737.	Association of British Insurers	43.	The ABI agrees with EIOPA on Articles 136 and 141 provided the principle of proportionality applies.	Noted.
738.	Association of Consulting Actuaries (UK)	43.	<p>We agree that monitoring the financial position is as important for IORPs as it is for insurance companies; however, the objective is different, as is the recourse to additional finance, the appropriate timescales for rectification and the motivation for providing the pension in the first instance.</p> <p>For UK IORPs this monitoring objective is in practice met at present via proper internal controls and governance mechanisms, and more formally as a result of the required actuarial valuation reporting cycle. If such a monitoring process were also to be more formal and continuous, it would indeed potentially be an extra administrative burden on IORPs and supervisors.</p> <p>Having potentially thousands of IORPs reporting to the</p>	Noted.

			<p>supervisor on market downturns would serve no purpose.</p> <p>It is therefore optimal to have supervision defined at Member State level, on a risk-based approach as appropriate to the size and nature of the IORPs within that Member State. This relates not only to triggers and ongoing monitoring requirements, but also timescales and appropriate lengths and contents of recovery plans (having regard to the need to protect jobs within the sponsor).</p>	
739.	Association of French Insurers (FFSA)	43.	<p>65. The FFSA agrees with EIOPA that Article 136 and 141 of Solvency II measures are suitable for IORPs.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
740.	Association of Pensioner Trustees in Ireland	43.	See response to question 12.	Noted.
741.	Assoprevidenza – Italian Association for supplement	43.	We agree with EIOPA advice on art. 136 and 141	Noted.
742.	Assuralia	43.	<p>The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.</p>	Noted.
743.	Bayer AG	43.	What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136	Noted.

			and 141 of Solvency II  We agree with option 1 of EIOPA's recommendation.	
744.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	43.	43. What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II  We agree with option 1 of EIOPA's recommendation.	Noted.
745.	Belgian Association of Pension Institutions (BVPI-	43.	What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?  13. Except from the general provision in Article 136 all following article do not reflect the situation of IORP's where sponsors or participants bear the risk.  14. BVPI-ABIP supports article 136 of the Solvency II Directive. Indeed, when the IORP disposes of procedures to identify deteriorating financial conditions, they will know how to act in stress situations.  Applying article 141 would require amendments to make it suitable for IORP's. They are not confronted with the possible dilemma between the interests of policyholders and of shareholders like this is the case for commercial insurance companies. IORP's have stakeholders, sponsors and beneficiaries who are all victims of financial stress situations.	Noted.

			Should this be the case, the first action taken by the board and, in case of further deterioration taken by the supervisor, should not be to restore as fast as possible the solvency position, but to take appropriate measures for all of the stakeholders. Taking in consideration the specific nature of IORPs and the important differences that exist throughout Europe, and their importance for/possible impact on the funding of the European economy it is important that the current flexible position on recovery plans is retained	
746.	BNP Paribas Cardif	43.	BNP Paribas Cardif agrees with EIOPA that Article 136 and 141 of Solvency II measures are suitable for IORPs.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
747.	Bosch Pensionsfonds AG	43.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
748.	Bosch-Group	43.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
749.	BT Group plc	43.	-	
750.	BT Pension Scheme Management Ltd	43.	We believe that the analysis and approach are appropriate.	Noted.
751.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	43.	BAVC agrees with option 1 of EIOPA's recommendation.	Noted.
752.	CEA	43.	The CEA agrees with EIOPA that these measures are suitable for IORPs provided the proportionality principle is duly taken account of.	Noted.
753.	Charles CRONIN	43.	EIOPA's analysis on the duties of IORPs and the powers of	Noted.

			<p>supervisors under deteriorating conditions with respect to Articles 136 to 141 of Solvency II are fairly presented. However they highlight the significant operational differences between IORPs and Insurance companies. In my opinion Articles 14 and 16 of the existing IORP Directive adequately cover the issues raised on supervisory intervention and recovery plans.</p>	
754.	Chris Barnard	43.	<p>I agree with the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Articles 136 and 141 of Solvency II.</p> <p>I strongly agree that any application of such provisions to IORPs should reflect the characteristics of IORPs and pension arrangements generally. The most important characteristic of IORPs is not necessarily the long-term nature of their liabilities and investment time horizons, as this could equally apply to insurance companies, but rather that the IORP is linked with the sponsor, which in many cases is the employer. Recitals (14), (18) and (20) of the IORP Directive are particularly pertinent here.</p>	Noted.
755.	CMHF (Centrale van Middelbare en Hogere Functionar	43.	<p>According to the CMHF, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional</p>	Noted.

			<p>supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	
756.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	43.		
757.	De Unie (Vakorganisatie voor werk, inkomen en loop	43.	<p>According to the UNIE, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	Noted.

758.	DHL Services Limited	43.	<p>What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p>Given that deteriorating conditions in the context of IORPs generally arise from market conditions, it seems unnecessary for IORPs to have to inform supervisors when these circumstances occur.</p>	Noted.
759.	DHL Trustees Limited	43.	<p>What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p>Given that deteriorating conditions in the context of IORPs generally arise from market conditions, it seems unnecessary for IORPs to have to inform supervisors when these circumstances occur.</p>	Noted.
760.	Direction Générale du Trésor, Ministère des financ	43.	We think that the conditions introduced in Solvency 2 for insurance undertakings regarding the deterioration of financial conditions could inspire the IORP directive revision.	Noted.
761.	Ecie vie	43.	We consider Article 136 and 141 of Solvency II are suitable to IORPs.	Noted.
762.	European Association of Public Sector Pension Inst	43.	What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?	Noted.

			EAPSPI agrees. IORPs must be able to measure their financial position in general as well as the specific case of deteriorating conditions. Furthermore IORPs have to inform the supervisor who can take measures to improve the situation. But these measures have to account for the actual solvency situation as well as the fact that there is no conflict of interest for IORPs between stakeholders or policyholders and shareholders due to its not-mainly-for-profit nature.	
763.	European Federation for Retirement Provision (EFRP)	43.	<p>According to the EFRP, Article 136 of the Solvency II Directive could be valuable for IORPs. When IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. This is in relation with Social Labour Law. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	Noted.
764.	European Metalworkers	43.	See response question 22	Noted.

	Federation			
765.	European Mine, Chemical and Energy workers' Fede	43.	See previous	Noted.
766.	Federation of the Dutch Pension Funds	43.	<p>According to the PF, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	Noted.
767.	Financial Reporting Council	43.	We consider that Article 136 would need to be adapted for IORPs. As recognised in paragraph 10.3.177 there would potentially be an extra administrative burden on IORPs and supervisors. We consider that this could be significant for smaller IORPs. Therefore we believe that a proportionate approach is required which might take account of the size of the IORP, the level of funding and the nature of the deterioration. A principles based approach would be appropriate allowing IORPs to adopt an approach which is appropriate and proportionate for their circumstances.	Noted.

768.	FNV Bondgenoten	43.	<p>According to FNV BG, Article 136 of the Solvency II Directive could be valuable for IORPs. When IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	Noted.
769.	Generali vie	43.	We consider Article 136 and 141 of Solvency II are suitable to IORPs.	Noted.
770.	German Institute of Pension Actuaries (IVS\32\45\3	43.	In Germany, IORPs are already currently obliged to inform the supervisor when their financial situation worsens (e.g. by having to perform stress test). The German supervisors have wide-reaching powers to impose measures to ensure that obligations are met. The rules applicable to benefit reductions require the IORP to obtain the supervisor's approval before implementation.	Noted.
771.	GESAMTMETALL - Federation of German	43.	43. What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case	Noted.

	employer		<p>of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II</p> <p>We agree with option 1 of EIOPA's recommendation.</p>	
772.	Groupe Consultatif Actuariel Européen.	43.	<p>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.</p>	Noted.
773.	Groupement Français des Bancassureurs	43.	<p>FBIA agrees with EIOPA that Article 136 and 141 of Solvency II measures are suitable for IORPs.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
774.	PMT-PME-MnServices	43.	<p>According to us, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions</p>	Noted.

			should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.	
775.	Institute and Faculty of Actuaries (UK)	43.	Any additional reporting should be proportionate to the consequences that flow and the likely actions of the regulator. It seems to us that the actions available to supervisors in the UK are likely to be limited: future benefit accrual has already ceased in the majority of UK private sector defined benefit IORPs which means that it is not possible to restrict them further, leaving only actions that do not require transfer of capital from sponsor to the IORP.	Noted.
776.	Le cercle des épargnants	43.	We consider Article 136 and 141 of Solvency II are suitable to IORPs.	Noted.
777.	Macfarlanes LLP	43.	<p>59. (CfA 6 Security mechanisms) What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p>60. Article 136 covers the requirements for insurance companies to have procedures in place for identifying and notifying deteriorating financial conditions. The principle of monitoring and reporting changes in financial conditions can be extended to IORPs. In the UK, there are already requirements applicable to IORPs which could fall within Article 136.</p> <p>61. The challenge is in the detail. This relates particularly to the level and frequency of any monitoring, the level of investigation required, the associated cost and available supervisory actions and the need for redress or action on what</p>	Noted.

			<p>may be a short term deterioration in financial conditions in relation to what are long-term liabilities. If the monitoring of short term deterioration in financial conditions results in supervisory action or increased funding obligations over the short term, this may increase volatility and pro-cyclicality in a manner that is unnecessary and harmful to pension provision overall. It is doubtful if the increased costs which will inevitably form part of such a system are justified, given existing provisions. The change could amount to change for change's sake.</p> <p>62. Article 141 (supervisory powers to protect policy holders in deteriorating circumstances). It is impossible to comment as the views expressed at 10.3.196 are too vague. We agree that any measures should be 'proportionate' and 'suitable'. Clearly what is proportionate and suitable for an insurance company marketing to the public and covering a variety of unpredictable risks will be very different to what is proportionate and suitable for conventional company IORPs. As already noted, pension liabilities are long term and predictable. Normal funding ensures that these liabilities can be met without prejudicing the health of the sponsor. The only risk of early 'hits' relates to the solvency of the sponsors.</p> <p>63. We would add that any interference with the existing financial rights of members and beneficiaries or sponsors, both employers and guarantors, needs strong justification. It is a revision of both the 'social contract as referred to on 10.6.8 and the legal contracts made by private parties.</p> <p>64. Also, the purpose of benefit adjustment mechanisms that may be in place is to address deteriorating circumstances for the protection of members and beneficiaries and they strike a particular balance in terms of risk sharing and solidarity.</p>	
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778.	Mercer	43.	<p>We agree with the principles that IORPs should monitor their financial position and be prepared to take steps for its recovery in the event that it falls below certain levels that could be predetermined. We also agree that some notification requirements would be appropriate, although without information on the way the holistic balance sheet approach could affect the way schemes are financed it is difficult to determine what would be proportionate. Broadly, we understand that supervisory authorities will want more information about schemes with greater risk profiles (including lower funding levels), but do not agree that they should be able to access information arbitrarily. Thus, we would suggest that a requirement for information requirements to be proportionate to the risk should be included in any amended IORP Directive.</p> <p>However, we also wonder what role supervisory authorities will have. IORPs generally have different mechanisms for managing the risk of underfunding than those available to insurance companies. For example, IORPs with no recourse to contributing employers in relation to underfunding can often reduce benefits (so there is explicit conditionality in the benefit structure); where the sponsor covenant is of value to the IORP, future contributions might be forthcoming. Taking the timing of these payments entirely out of the hands of the employer would risk undermining its ability to operate profitably and attract shareholders or other entities prepared to finance it.</p>	Noted.
779.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	43.	According to the MHP, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.	Noted.

			<p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	
780.	National Association of Pension Funds (NAPF)	43.	<p>What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p>The NAPF agrees that IORPs should continually monitor their financial position and notify significant deteriorations (and how they intend to address them) to the supervisory authorities.</p> <p>However, these requirements are already adequately covered by Article 16.1 of the IORP Directive and by the 'Prudent Person Principle'. There is no need to import sections of Solvency II in order to cover this point.</p>	Noted.

782.	NORDMETALL, Verband der Metall- und Elektroindustr	43.	<p>43. What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II</p> <p>We agree with option 1 of EIOPA's recommendation.</p>	Noted.
783.	Pan-European Insurance Forum (PEIF)	43.	<p>Assuming that emerging Solvency II regime is the model to follow, then in principle we support EIOPA' view concerning Article 136 and 141 of Solvency II. However, the proportionality principle must be given due account and the provisions should be adapted to the solvency regime established for IORPs.</p> <p>Reflection should be given as to the consequences of not meeting a recovery plan. IORPs should take a long-term view of the interest of the employees and pensioners including continued employment. Clarity of position and possible outcomes should be more important than forced, formulaic actions</p> <p>However, please see opening general comments. In any event, the regimes for IORPs and insurers should be consistent.</p>	Noted.
784.	Pensioenfonds Zorg en Welzijn (PFZW)	43.	<p>According to us, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders,</p>	Noted.

			<p>which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	
785.	Predica	43.	<p>Predica agrees with EIOPA that Article 136 and 141 of Solvency II measures are suitable for IORPs.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
786.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	43.	Agree. See also response to 37.	Noted.
787.	PTK (Sweden)	43.	<p>In our opinion, Article 136 of the Solvency II Directive could be valuable for IORPs. When IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional</p>	Noted.

			<p>supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. This is in relation with Social Labour Law. PTK wants to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	
788.	Railways Pension Trustee Company Limited ("RPTCL	43.	We have not considered this question.	Noted.
789.	TCO	43.	<p>In our opinion, Article 136 of the Solvency II Directive could be valuable for IORPs. When IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. This is in relation with Social Labour Law. TCO wants to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer</p>	Noted.

			in control of the situation.	
790.	The Association of Pension Foundations (Finland)	43.	Article 136 is suitable for IORPs.	Noted.
791.	The Association of the Luxembourg Fund Industry (A	43.	<p>The Respondents agree that deteriorating financial conditions should have an impact on the investments and risk management applied to the relevant IORP in application of the prudent man principle. However due to the nature of DC schemes, we believe that additional capital requirement are inconsistent with the nature of such schemes.</p> <p>The Respondents are also afraid that additional capital requirement could dissuade employers from setting up DC schemes.</p>	Noted.
792.	The Hundred Group of Finance Directors (UK)	43.	Given that deteriorating conditions in the context of IORPs generally arise from market conditions, it seems unnecessary for IORPs to have to inform supervisors when these circumstances occur. It is not clear what benefit there would be for the UK Pensions Regulator to receive notifications from 7,000 schemes that they are affected by deteriorating financial conditions. We therefore disagree with this proposal.	Noted.
793.	The Society of Actuaries in Ireland	43.	We would agree with the adoption for IORPs of the duties and powers outlined in Solvency II. However careful consideration of the timelines is required and the long term commitment of IORPs should be acknowledged. The burden of reporting should also be considered. Excessive reporting requirements may not serve its intended objective if demands on Regulators are excessive and IORPs have high costs in meeting these	Noted.

			deadlines.	
794.	THE SOCIETY OF PENSION CONSULTANTS	43.	We are strongly of the view that the UK supervisor's powers are more than sufficient under the existing regime. In particular the Pensions Regulator has the power to order the wind up of pension schemes.	Noted.
795.	Towers Watson Deutschland GmbH	43.	In Germany, IORPs are already currently obliged to inform the supervisor when their financial situation worsens (e.g. by having to perform stress test). The German supervisors has wide-reaching powers to impose measures to ensure that obligations are met. The rules applicable to benefit reductions require the IORP to obtain the supervisor's approval before implementation.	Noted.
796.	Transport for London / TfL Pension Fund	43.	The existing IORP Directive gives adequate coverage to IORPs monitoring their financial position and notifying significant deteriorations to their supervisory authorities. So there is no need for Articles 136 and 141 of Solvency II to be introduced.	Noted.
797.	UK Association of Pension Lawyers	43.	<p>CfA 6 (Security mechanisms): What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p>Article 136 (requirements for insurance companies to have procedures in place for identifying and notifying deteriorating financial conditions). The principle of monitoring and reporting changes in financial conditions can be extended to IORPs. In the UK, there are already requirements applicable to IORPs which could fall within Article 136.</p> <p>The challenge is in the detail, particularly as to the level and</p>	Noted.

			<p>frequency of any monitoring, the level of investigation required and associated cost and available supervisory actions and the need for redress or action on what may be short term deterioration in financial conditions in relation to what are long-term liabilities. If monitoring of short term deterioration in financial conditions results in supervisory action or increased funding obligations over the short term, this may increase volatility and pro-cyclicality in a manner that is unnecessary and harmful to pension provision overall.</p> <p>Article 141 (supervisory powers to protect policy holders in deteriorating circumstances). It is impossible to comment as the views expressed at 10.3.196 are too vague. We agree that any measures should be 'proportionate' and 'suitable'. Clearly what is proportionate and suitable for an insurance company marketing to the public and covering a variety of unpredictable risks will be very different to what is proportionate and suitable in relation to non-trading bodies holding assets as security for an employer's pension promises and administering them where the only risk of early 'hits' relates to the solvency of the sponsors.</p> <p>We would add that any interference with the existing financial rights of members and beneficiaries or sponsors, both employers and guarantors, needs strong justification. It is a revision of both the 'social contract as referred to on 10.6.8 and the legal contracts made by private parties.</p> <p>Also, the purpose of benefit adjustment mechanisms that may be in place is to address deteriorating circumstances for the protection of members and beneficiaries and they strike a particular balance in terms of risk sharing and solidarity.</p>	
798.	UNI Europa	43.	See question 22	Noted.

799.	Universities Superannuation Scheme (USS),	43.	<p>What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?</p> <p>USS agrees that IORPs should continually monitor their financial position and notify significant deteriorations (and how they intend to address them) to the supervisory authorities.</p> <p>However, these requirements are already adequately covered by Article 16.1 of the IORP Directive and by the 'Prudent Person Principle'. There is no need to import sections of Solvency II in order to cover this point.</p>	Noted.
800.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	43.	<p>43. What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II</p> <p>We agree with option 1 of EIOPA's recommendation.</p>	Noted.
801.	Verband der Firmenpensionskassen (VFPK) e.V.	43.	<p>Internal processes exist to meet the IORPs' duties to report any deterioration of the financial position to the supervisory authority. The supervisory authority has the right to take all measures necessary to ensure that these obligations are met. This must be in relation to the company's solvency situation. It is necessary to clarify whether the statutory regulations for stabilization have been overruled by the supervisory authority.</p>	Noted.

802.	VHP2 (Vakorganisatie voor middelbaar en hoger pers)	43.	<p>According to the VHP2, Article 136 of the Solvency II Directive could be valuable for IORPs. If IORPs have procedures in place to identify deteriorating financial conditions, they are well prepared how to handle in a situation of stress.</p> <p>The inclusion of Article 141 in a revised IORP Directive is appropriate only with some amendments to reflect specific IORP situations. An insurance company has shareholders, which implies that the interests of the shareholders could be opposed to the interests of policy holders. However, IORPs do not have shareholders and have only stakeholders, which are all negatively hurt by a financial shock. Any additional supervisory action in case of deteriorating financial conditions should therefore not focus purely on restoring a solvent position, but on a fair distribution of any necessary measures. We want to stress however that such a decision is primarily the task of the board of trustees and not of the supervisor. Any overruling power should therefore only be allowed in case the board is no longer in control of the situation.</p>	Noted.
803.	Whitbread Group PLC	43.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
804.	Zusatzversorgungskasse des Baugewerbes AG	43.	55. Except from the general provision in Article 136 all following articles do not reflect the situation of IORPs where sponsors or participants bear the risk and should not find access in any regulatory framework for IORPs.	Noted.
805.	Towers Watson	43.	44. What is the stakeholders' view on the analysis regarding the duties of IORPs and the powers of supervisors in the case of deteriorating financial conditions as introduced by Article 136 and 141 of Solvency II?	Noted.

			<p>In principle, the provisions of Articles 136 and 141 appear reasonable for IORPs. The key is to ensure that they are applied in a proportionate manner.</p> <p>There may be grounds for more regular reporting to the national regulator in the event of deteriorating financial conditions. For example, it would be straightforward to make annual actuarial reports available. However, we would be concerned if there were a proposal to require the provision of detailed information to the regulator on a more-frequent basis, given the limited capacity for IORPs to take short-term action in response and constraints on resources. There seems to be scope for significant increase in costs for IORPs in calculating and reporting their financial position during very volatile market conditions, and for national regulators in deciding what to do with the information. Responses to deteriorating conditions usually emerge over a period of time by discussion between IORPs and their sponsors.</p> <p>Similarly, the powers of regulators and their application in deteriorating financial conditions should be commensurate with the range of responses available to IORPs. The objectives of regulators should be to secure the best longer-term outcomes for members and to avoid pro-cyclical behaviours. These objectives might be best served by relaxing shorter-term regulatory requirements rather than strengthening them.</p>	
806.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	44.	See question 34	Noted.
807.	AbA Arbeitsgemeinschaft für betriebliche Altersver	44.	We believe that the current Article 16 of the IORP Directive is completely adequate in regulating the powers of supervisors in the case of deteriorating financial conditions.	Noted.

			Recovery periods should be determined with reference to the duration of the liabilities and be agreed on with the national supervisor on a case by case basis. For example, an IORP with a young membership and hence long liability duration should be allowed a longer recovery period than an IORP which is closed to new members.	
808.	ABVAKABO FNV	44.	<p>The PF is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is - economically - an advantage of IORPs. The revised IORP should take this into account.</p>	Noted.

			It is the opinion of the PF, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore the PF pleads for a quantitative impact assessment, before a decision is taken about recovery periods.	
809.	AEIP	44.	<p>93. A holistic assessment of the need for recovery plans is necessary. The provision within IORP I seems to reflect better the situation than the provision within the Solvency II regime. This is especially true regarding the recovery periods.</p> <p>94. Too short recovery periods would put an unnessessary burden on sponsors, or would seriously harm the pension benefits of the participants without a real need to do so. What IORP's have to do is provide liquidity during the recovery period. By doing so a fixed length of the recovery period is not a stringent necessity.</p> <p>95. AEIP is therefore very much in favour of option 1. This option retains the current flexible position on recovery periods.</p> <p>96. The recovery periods of Solvency II are not appropriate for IORPs. Short recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>97.</p> <p>98. In contrast to banks or insurance companies, there exists for IORP's no risk for a 'run on the bank'. IORPs manage long-term liabilities, and can economically support longer recovery periods than insurance companies or banks A revision</p>	Noted.

			<p>of the IORP Directive should take this into account.</p> <p>AEIP thinks that several quantitative impact assessments are needed before deciding on recovery periods.</p>	
812.	AMICE	44.	<p>AMICE suggests the creation of a specific process (not identical to the one in Solv II) in case of a breach of the SCR. In such a case, the “early warning indicator” character of the SCR must be taken into account and therefore all remedies to return to full SCR coverage should follow a flexible approach, taking account of scale, nature and complexity of the IORP and the national context. We would expect that for IORPs the recovery periods are defined in years rather than trimesters.</p>	Noted.
813.	AMONIS OFP	44.	<p>What is the stakeholders’ view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>AMONIS OFP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>AMONIS OFP is very much in favour of option 1. This option retains the current flexible position on recovery periods.</p> <p>The recovery periods out of Solvency II are not appropriate for IORPs. The OECD paper “The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations” (2010) shows that the current recovery</p>	Noted.

			<p>periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have longer recovery periods than insurance companies or banks, because of the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs'. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is our opinion, that when IORPs will be confronted with the shorter recovery periods from Solvency II, this would not only seriously harm the pension provision for participants, but it will also harm the total economy: short recovery periods forces IORPs to a procyclical investment; contribution and benefit policy.</p> <p>Therefore AMONIS OFP advises EIOPA to plead for a series of quantitative impact assessments, before a decision is taken about recovery periods.</p>	
814.	ANIA – Association of Italian Insurers	44.	According to the ANIA the general principles of the Articles 138 and 139 should apply to IORPs. However, the recovery periods agreed by the Supervisors should be flexible, based on the nature of the IORP, the specific characteristics of the IORP and the national system it operates in. As such the ANIA agrees on	Noted.

			option 3.	
815.	Association of British Insurers	44.	The ABI would agree with EIOPA's Option 1 that allows for the current flexible approach on recovery plans. The length of the plans should be based on the nature and characteristics of the IORP and the Member State in which is provided.	Noted.
816.	Association of Consulting Actuaries (UK)	44.	It is vital given the number and diversity of IORPs and sponsors, given also the potential impact on jobs and the economy, that flexibility (including that related to length of recovery period) is retained.  Inflexibility could result in an avoidable insolvency and loss of employment. A risk-based approach needs to be taken, on a case by case basis, bearing in mind the sheer numbers of IORPs under discussion.	Noted.
817.	Association of French Insurers (FFSA)	44.	66. The general principles of the Articles 138 and 139 of the Solvency II Directive should apply to IORPs. However, the recovery period should be consistent with the time horizon (see Q33). It should also be made a distinction between recovery plans regarding SCR, MCR and technical provisions, these situations does not require the same response.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
818.	Association of Pensioner Trustees in Ireland	44.	See response to question 12.	Noted.
819.	Assoprevidenza – Italian Association for supplement	44.	We agree with option 1: this option retains the current flexible position on recovery periods.  Too short recovery periods would put an unnecessary burden on sponsors, or would seriously harm the pension benefits of the participants without a real need to do so. What IORP's have	Noted.

			<p>to do is provide liquidity during the recovery period. By doing so a fixed length of the recovery period is not a stringent necessity.</p> <p>The recovery periods of Solvency II are not appropriate for IORPs. Short recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>We think that a quantitative impact assessment is needed before deciding on recovery periods.</p>	
820.	Assuralia	44.	<p>The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.</p>	Noted.
821.	Balfour Beatty plc	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>We agree with EIOPA that recovery plans for IORPs should be,</p>	Noted.

			<p>and indeed must be, flexible. Most UK IORPs are already trying to rectify their current underfunding over as short a period as the sponsor can reasonably afford. Too high a funding requirement for the pension scheme may simply result in sponsors ceasing to trade. Generally, members are best served by ensuring that the sponsor continues in business providing covenant backing for its IORP. National regulators are best placed to address the right balance between funding a deficit and protecting the sponsor's covenant.</p> <p>As we do not believe the SCR (and hence also the MCR) is appropriate for IORPs, then the distinction between Articles 138 and 139 is unnecessary.</p>	
822.	Bayer AG	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency.</p>	Noted.

823.	BDA Bundesvereinigung der Deutschen Arbeitgeberver	44.	<p>12. 44. What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency. The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cash flow and the drying out of credit lines, mass insolvencies and job losses were avoided by national regulators allowing longer recovery plan periods to be put in place, which were negotiated between employers and scheme trustees. This protects affordability and ensures the solvency of scheme sponsoring employers. Therefore we believe that the current Article 16 of IORP Directive is adequate in regulating the powers fo supervisors.</p>	Noted.

824.	Belgian Association of Pension Institutions (BVPI-	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>BVPI-ABIP rejects the idea of imposing capital requirements based on mark-to market valuation of liabilities as a general rule. However if the European Commission would go through with this idea, we would like to give the following comments.</p> <p>BVPI-ABIP is very much in favour of option 1. This option retains the current flexible position on recovery periods.</p> <p>The recovery periods out of Solvency II are not appropriate for IORPs. The OECD paper “The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations” (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have longer recovery periods than insurance companies or banks, because of the long-term character of the liabilities of an IORP and the fact that IORPs cannot be subject</p>	Noted.
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			<p>to 'bank-runs'. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of BVPI-ABIP, that when IORPs will be confronted with the shorter recovery periods from Solvency II, this would not only seriously harm the pension provision for participants, but it will also harm the total economy: short recovery periods forces IORPs to a procyclical investment; contribution and benefit policy.</p> <p>Therefore BVPI-ABIP advises EIOPA to plead for a series of quantitative impact assessments, before a decision is taken about recovery periods.</p>	
825.	BNP Paribas Cardif	44.	<p>The general principles of the Articles 138 and 139 of the Solvency II Directive should apply to IORPs. However, the recovery period should be consistent with the time horizon (see Q33). It should also be made a distinction between recovery plans regarding SCR, MCR and technical provisions, these situations does not require the same response.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
826.	Bosch Pensionsfonds AG	44.	<p>We are very much in favour of option 1 - to retain the current flexible position on recovery plans. We believe that Art. 16 of the existing Directive is completely adequate in regulating the role of supervisors in the case of deteriorating financial conditions. Recovery plans should be determined with reference to the specific situation of the IORP and be agreed with the national supervisor on a case by case basis. The</p>	Noted.

			length of recovery periods in particular should adequately reflect the long-term character of pension liabilities and certainly be much longer than for insurance companies.	
827.	Bosch-Group	44.	We are very much in favour of option 1 - to retain the current flexible position on recovery plans. We believe that Art. 16 of the existing Directive is completely adequate in regulating the role of supervisors in the case of deteriorating financial conditions. Recovery plans should be determined with reference to the specific situation of the IORP and be agreed with the national supervisor on a case by case basis. The length of recovery periods in particular should adequately reflect the long-term character of pension liabilities and certainly be much longer than for insurance companies.	Noted.
829.	BRITISH PRIVATE EQUITY AND VENTURE CAPITAL ASSOCIA	44.		
830.	BT Group plc	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The solvency capital requirements should not be applied to IORPs at all and therefore do not think there is a role for a recovery plan in this context. We believe that there is a need for Recovery Plans to meet the Technical Provisions. The framework should be flexible and the UK framework that means companies should not pay more than is reasonably affordable is sound. Paying contributions at a faster rate would put undue and unnecessary strain on companies leading to less</p>	Noted.

			funds being available for investment in growth and jobs creation. This is another area that should be considered further in the quantitative impact assessment.	
831.	BT Pension Scheme Management Ltd	44.	We believe that the analysis and approach are appropriate. In particular, we note that we strongly agree with the proposed longer period for recovery - we believe that 15 years is the appropriate length of time for IORPs. If risk free rates/capital requirements were to be implemented, then recovery periods would need to be increased significantly to ensure that this dramatic step did not have significant pro-cyclical impacts and to allow sponsors to maintain some stability in the level of their financial support to IORPs.	Noted.
832.	Bundesarbeitgeberverband Chemie e.V. (BAVC)	44.	The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency. The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cash flow and the drying out of credit lines, mass insolvencies and job losses were avoided by national regulators allowing longer recovery plan periods to be put in place, which were negotiated between employers and scheme trustees. This protects affordability and ensures the solvency of scheme sponsoring employers. Therefore we believe that the current Article 16 of IORP Directive is adequate in regulating the powers of supervisors.	Noted.

833.	BUSINESSEUROPE	44.	<p>The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency. The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cash flow and the drying out of credit lines, mass insolvencies and job losses were avoided by national regulators allowing longer recovery plan periods to be put in place, which were negotiated between employers and scheme trustees. This protects affordability and ensures the solvency of scheme sponsoring employers.</p>	Noted.
834.	CEA	44.	<p>According to the CEA the general principles of the Articles 138 and 139 should apply to IORPs. However, the recovery periods agreed by the Supervisors should be flexible, based on the nature of the IORP, the specific characteristics of the IORP and the national system it operates in. As such the CEA agrees on option 3.</p>	Noted.
835.	Charles CRONIN	44.	<p>In view of the answer above, I do not support using Articles 138 and 139 from Solvency II as the basis for developing recovery plans and maintaining minimum capital ratios, with possibly the exception of IORPs that guarantee benefits without recourse to a sponsor. The key point is that the nature of IORP liabilities is very different from the liabilities of insurance companies. This means that IORPs can have much longer duration recovery plans, in the order of 15 years as mentioned</p>	Noted.

			in paragraph 10.3.190 of EIOPA's draft advice, as opposed to six months as required under Article 138(3) of Solvency II.	
836.	Chris Barnard	44.	<p>I agree with the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II. Recovery periods with regards to the SCR and the MCR should be flexible, taking into account the nature and characteristics of the IORP.</p> <p>The main reasons to allow IORPs longer recovery periods than prescribed by Solvency II are:</p> <p>1) the nature of IORPs and the characteristics of the institution and the national system they operate in. In many cases the IORP is sponsored by the employer, and we should consider the financial condition of the IORP and sponsor holistically. If the sponsor can only viably fund a longer-term recovery plan, this should be acceptable, as long as the plan is reasonable. It is not a good idea to unreasonably force a sponsoring employer into insolvency.</p> <p>2) The liabilities of IORPs are long term in nature, with less volatile outgoings compared with insurance companies.</p>	Noted.
837.	CMHF (Centrale van Middelbare en Hogere Functionar	44.	<p>The CMHF is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the</p>	Noted.

			<p>European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of the CMHF, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore the CMHF pleads for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
838.	CONFEDERATION OF BRITISH INDUSTRY (CBI)	44.	<p>CBI members are strongly opposed to prescription on the length of recovery periods at European level</p> <p>The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must carry out full valuations every year and a put in place significantly shorter recovery plans to the currently available ones is not appropriate. For example, currently in the</p>	Noted.

			<p>UK the average recovery plan has a length of nine years, substantially shortening that would put companies' cashflow under significant pressure and would inevitably lead to mass insolvencies in many EU Member States, much higher unemployment and lower growth</p> <p>The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cashflow and the drying out of credit lines, mass insolvencies were avoided by national regulators allowing longer recovery plan periods, protecting affordability and ensuring the solvency of scheme sponsoring employers.</p> <p>CBI members support the retention on the current system in which scheme trustees and the employer agree the length of the recovery plan by looking at the overall financial position of both the scheme and the sponsoring employers. Ultimately, the best form of security for a pension scheme is a solvent employer, significantly shortening recovery plans would only put that security at risk unnecessarily.</p>	
839.	De Unie (Vakorganisatie voor werk, inkomen en loop	44.	<p>De Unie is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than</p>	Noted.

			<p>prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is - economically - an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of De Unie, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore De Unie pleads for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
840.	Derek Scott of D&L Scott	44.	I do not think it is necessary to make any changes to the existing recovery period regime, which is based on affordability of contributions and approval by the Pensions Regulator, as this generally works well. Regulatory guidance was developed to be consistent with the existing IORP Directive.	Noted.
841.	DHL Services Limited	44.	What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods - with regard to the SCR and	Noted.

			<p>possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>We do not believe that solvency capital requirements should be applied to IORPs at all and therefore do not think there is a role for a recovery plan in this context.</p> <p>We do think however that there is a role for recovery plans in the context of sponsor-backed schemes that are not yet fully funded on the basis of their technical provisions. Such recovery plans should be set at a level that sponsors can afford. We welcome the recognition by EIOPA that it is reasonable for recovery periods to be longer for IORPs than for insurance companies.</p>	
842.	DHL Trustees Limited	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>We do not believe that solvency capital requirements should be applied to IORPs at all and therefore do not think there is a role for a recovery plan in this context.</p>	Noted.

			We do think however that there is a role for recovery plans in the context of sponsor-backed schemes that are not yet fully funded on the basis of their technical provisions. Such recovery plans should be set at a level that sponsors can afford. We welcome the recognition by EIOPA that it is reasonable for recovery periods to be longer for IORPs than for insurance companies.	
843.	Direction Générale du Trésor, Ministère des financ	44.	In general, we believe that the calendar and length of recovery period for IORP should be as close as possible to those applicable to insurance undertakings. Nevertheless, this decision obviously depends on the time horizon issue raised in question 37. There should also be consistent choices in terms of recovery periods regarding the breach of the MCR and of the SCR.	Noted.
844.	Ecie vie	44.	We consider Article 138 and 139 of Solvency II are suitable to IORPs.  The recovery period should be consistent with the time horizon (with the risk).  The same principle should apply for insurance contracts and IORPs.	Noted.
845.	EEF	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	Noted.

			the risk of reducing significantly job security.	
846.	European Association of Public Sector Pension Inst	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>EAPSPI sees the main difference between insurance undertakings and IORPs as the duration of liabilities. Because of the very long and stable duration of IORPs' liabilities recovery periods in times of an adverse development of the financial conditions might cover a longer time span, too. This essential difference must be considered. The length of the recovery period should be flexible and at the discretion of the supervisory authority in due consideration of the specific situation of the IORP. Therefore EAPSPI suggests choosing Option 1.</p> <p>Furthermore EAPSPI wants recall the possibility of pro-cyclical effects if IORPs are forced into herding behavior because of too short recovery plans. IORPs in general are more able to cope with short-term fluctuations than other institutions in financial markets; hence this advantage and its macroeconomic stabilizing effect should be facilitated (see answers to CfA 8 for a more detailed argumentation).</p>	Noted.
847.	European Federation for	44.	The EFRP strongly supports option 1. This option retains the	Noted.

	Retirement Provision (EFRP)		<p>current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have longer recovery periods than insurance companies or banks, because of the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs'. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of the EFRP, that when IORPs will be confronted with the shorter recovery periods like in Solvency II, this would not only seriously harm the pension provision for participants, but it will also harm the total economy: short recovery periods forces IORPs to a procyclical investment; contribution and benefit policy. Therefore the EFRP advises EIOPA to plead for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
848.	European Metalworkers Federation	44.	See response question 22	Noted.

849.	European Mine, Chemical and Energy workers' Fede	44.	See previous	Noted.
850.	Federation of the Dutch Pension Funds	44.	<p>The PF is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is - economically - an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of the PF, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore the PF pleads for a quantitative impact assessment, before a</p>	Noted.

			decision is taken about recovery periods.	
851.	Financial Reporting Council	44.	<p>Articles 138 and 139 are written for insurance companies and in their current form are unsuitable for IORPs. We consider that the requirements for recovery plans should be written from first principles for IORPs rather than modifying the Solvency II requirements.</p> <p>We consider that a maximum 15 year recovery plan for IORPs will normally be reasonable although there might be exceptional circumstance where a longer plan could be justified. For this reason we would not support hard-coding a maximum term within regulation.</p>	Noted.
852.	FNV Bondgenoten	44.	<p>FNV BG is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than</p>	Noted.

			<p>the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of FNV BG, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore FNV BG pleads for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
853.	Generali vie	44.	<p>We consider Article 138 and 139 of Solvency II are suitable to IORPs.</p> <p>The recovery period should be consistent with the time horizon (with the risk).</p> <p>The same principle should apply for insurance contracts and IORPs.</p>	Noted.
854.	German Institute of Pension Actuaries (IVS\32\45\3	44.	<p>The length of the recovery period should be aligned with the duration of the liabilities, i.e. with a generally very long duration and should be agreed upon with the supervisor. In doing so, the effect of any surrenders and lump sum options should be considered.</p> <p>Hence the periods prescribed in Articles 138 and 139 of Solvency II are too rigid and in most cases, too short.</p>	Noted.
855.	GESAMTMETALL - Federation of German employer	44.	<p>12. 44. What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a</p>	Noted.

			<p>combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II) is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency.</p> <p>The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cash flow and the drying out of credit lines, mass insolvencies and job losses were avoided by national regulators allowing longer recovery plan periods to be put in place, which were negotiated between employers and scheme trustees. Therefore we believe that the current Article 16 of IORP Directive is adequate in regulating the powers for supervisors.</p>	
856.	Groupe Consultatif Actuariel Européen.	44.	<p>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.</p> <p>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</p>	Noted.

			<p>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.</p> <p>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.</p>	
857.	Groupement Français des Bancassureurs	44.	<p>The general principles of the Articles 138 and 139 of the Solvency II Directive should apply to IORPs. However, the recovery period should be consistent with the time horizon (see Q33). It should also be made a distinction between recovery plans regarding SCR, MCR and technical provisions, these situations does not require the same response.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
858.	PMT-PME-MnServices	44.	<p>We are very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs.</p>	Noted.

			<p>According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is in our opinion, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore we pleads for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
859.	HM Treasury/Department for Work and Pensions	44.	The length of the recovery plan should be determined on the basis of the level of risk that the IORP will not be able to meet its liabilities (ie. cash-flow requirements) while it is under-capitalised. Although, in general, shortfalls should be	Noted.

		<p>eliminated as quickly as the sponsor can reasonably afford, given the long duration and high level of predictability of IOPRs liabilities, long recovery periods are entirely appropriate. This is completely different to insurance, where liabilities tend to be much more short term, and there is therefore always a risk of being unable to meet those liabilities during any period in which they are undercapitalised.</p> <p>Furthermore, long recovery periods are essential to preventing a temporary deficit hitting the balance sheet of the sponsoring employer during stressed markets, which would lead to unnecessary insolvencies of the sponsoring employer. The worst way to enhance short-term security of the IORP would be to force the sponsor into insolvency. This would then put the IORP – and any backing Pension Protection Scheme - under even greater pressure (in the worst case scenario, in the UK it could create a downward spiral whereby increasing insolvencies create unsustainable pressure on the Pension Protection Fund which then requires a large increase in contributions from solvent IORPs which pushes more IORPs and sponsoring employers into insolvency). It would also have a strongly pro-cyclical effect.</p> <p>At least for sponsor-backed IORPs, the recovery period for any shortfall in technical provisions should therefore be as long as the sponsor reasonably needs in order to ensure affordability, consistent with ensuring that the IORP can meet its cash-flow requirements during the recovery period. National supervisors need to retain the flexibility to set a reasonable recovery period based on their assessment of the risk both to the scheme members and to the sponsoring employer.</p>	
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860.	IBM Deutschland Pensionskasse VVaG and IBM Deutsch	44.	The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must carry out a full review of its funding position every year and any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cashflow under significant pressure. Longer periods of deficit recovery plans for IORPs are therefore necessary.	Noted.
861.	Institute and Faculty of Actuaries (UK)	44.	As covered in other comments we do not accept that the direct imposition of Solvency II SCR or MCR are automatically appropriate funding targets in respect of the significant historic benefits in the UK. There should be a clear political acknowledgement that the significant enhancement of security is required before agreeing the methodology for achieving this goal. The current UK system has a proportionate and flexible regime aimed at a gradual improvement in solvency (and is demonstrably achieving that aim). Additional regulatory burdens would not necessarily enhance this.  If significantly higher security than present is sought then significant transition must be allowed as flexibility for national regulators. It must also be recognised that IORPs do not, in general, have the ability to raise further capital.	Noted.
862.	Le cercle des épargnants	44.	We consider Article 138 and 139 of Solvency II are suitable to IORPs.  The recovery period should be consistent with the time horizon (with the risk).	Noted.

			The same principle should apply for insurance contracts and IORPs.	
863.	Macfarlanes LLP	44.	<p>65. (CfA 6 Security mechanisms) What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>66. We prefer Option 1, retaining the IORP Directive.</p> <p>67. As discussed at question 43 above, setting new funding obligations requires strong justification.</p> <p>68. There are good reasons why funding obligations for some IORPs should be flexible. Our response is focused on UK IORPs providing (or providing security for) defined benefit promises.</p> <p>69. The primary obligation of the employer and sponsor under UK IORPS that are defined benefit in nature (and their trustee boards) is to ensure that the pension promises which are made are duly delivered. The IORP, as a legally ring-fenced vehicle separate from the employer's business, provides security against the risk of default by the employer or sponsor. Funding (the gradual setting aside of assets to meet liabilities) can and should be flexible in order enhance security for the pension promise and avoid prejudicing the sponsor and the consequent survival of the IORP.</p> <p>70. Solvency II is designed to ensure that insurance companies have sufficient capital to act as a buffer in the event of 'hits' to the insurance company. The nature of the insurance</p>	Noted.

			<p>companies' business is that they are exposed to a variety of risks that may create such 'hits'. In contrast, IORP liabilities are predictable, and the main risk of 'hits' is the risk of an acceleration of funding obligations in the event of the sponsor's insolvency. There is a real risk that fixed obligations to meet SCR or MCR over an arbitrary and unnecessarily short period could themselves create new 'hits' that cause the employer and therefore the IORP to fail. Flexibility in funding is therefore not only permissible and beneficial but also necessary.</p> <p>71. It is unnecessary and risky for these IORPs to be required to meet short recovery plans on a prescriptive basis. Given the long term nature of the pension liabilities, if solvency measures used have a one-year time-scale and high confidence levels, there will be significant volatility. This may not be damaging if long recovery period are used. If short recovery periods are used, regulation will have created artificial, pro-cyclical strains on sponsors, increasing the risk of 'hits' (i.e. defaults of sponsors) and prejudicing the survival of the IORPs and defined benefit pension provision. The detrimental impact for European business as a result hardly needs stating.</p> <p>72. The purpose of the recovery plan must be considered. Under Solvency II, recovery plans to the SCR and MCR are intended to protect current and future customers by ensuring that they are protected from trading with insurance companies which have insufficient buffers to withstand the various risks to which they are exposed. Such risks include a range of unexpected events creating liabilities or 'hits'. Specifically, the failure to comply with a recovery plan (particularly in respect of the MCR) can trigger supervisory action such as requiring the insurance company to cease its activities and to transfer its business to another insurer.</p> <p>73. For a UK IORP, similar supervisory powers already exist</p>	
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			<p>(related to current IORP Directive funding requirements), i.e. the supervisor can require termination of benefit accrual for existing and new members in the event of a breach of funding requirements and can force the transfer of liabilities not to another IORP but to an insurance company or the UK pension protection scheme.</p> <p>74. However, if short term or fixed recovery periods were used or recovery plans to a lower and more rigid MCR were used, these supervisory powers would come into play more frequently because of the volatility and pro-cyclicality of such funding measures. We believe this is neither proportionate nor suitable. It would lead to a reduction in pension provision at least on a defined benefit basis.</p> <p>75. We recognise different considerations may apply in relation to DC IORPs and IORPs and other pension vehicles, such as UK NEST, which act like insurance companies in selling annuities and long term investments to the public.</p>	
864.	Mercer	44.	<p>We agree that, where IORPs are underfunded relative to a particular target measure, they should be required to put in place plans to reach the target. However, the nature of these plans is likely to differ depending on the sources of capital available to the IORP in relation to accrued rights. Where IORPs have no recourse to contributing employers in respect of accrued rights, they can often treat certain benefits as conditional and make reductions; where there is recourse to the employer, additional contributions are often requested. Both models are legitimate, but both risk imposing costs on particular generations due to risks adopted in respect of other generations. Of course, in an ideal world the new risk that emerges due to underfunding would be removed as quickly as possible, but this could result in unfair outcomes to members</p>	Noted.

			<p>and to employers, their employees and shareholders. So the speed over which the recovery plan is met should be proportionate: nothing is served by pushing employers into insolvency, or cutting one cohort of members' benefits more severely than necessary, just because rules impose too short a recovery plan.</p> <p>Transitional measures will also be relevant to this. If the revised Directive is implemented when funding levels are low relative to the standard required and short recovery plans are imposed, then there will be immediate and possibly inadvertent consequences.</p>	
865.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	44.	<p>The MHP is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact</p>	Noted.

			<p>that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of the MHP, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore the MHP pleads for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
867.	National Association of Pension Funds (NAPF)	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The NAPF favours option one – retain the current flexible position on recovery periods.</p> <p>Allowing IORPs to have longer recovery periods than insurance companies recognises the distinctive nature of pensions, which are paid out over the long-term in a largely predictable manner. It also recognises that, as long-term institutions, IORPs should be allowed to 'ride out' periods of poor economic and investment performance in the expectation that the resulting deficits will be eliminated as conditions improve over</p>	Noted.

			<p>the medium term.</p> <p>It is, of course, essential that recovery periods are approved by the national supervisor.</p> <p>The NAPF is concerned that EIOPA’s advice (at para 10.3.194) appears to envisage restricting recovery periods that bring IORPs back to the MCR level – (effectively the same as technical provisions) to a shorter timeframe than the 15 years mentioned in para 10.3.190. This would massively restrict sponsors’ flexibility and would increase the risk of accelerated DB scheme closures explained in our answer to Q12 above.</p> <p>However, the NAPF notes that EIOPA’s advice on these points is unclear. This is a key area in which further consideration and explanation is required.</p>	
869.	NORDMETALL, Verband der Metall- und Elektroindustr	44.	<p>12. 44. What is the stakeholders’ view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The long-term nature of pension liabilities in IORPs calls for a</p>	Noted.

			<p>different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency. The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cash flow and the drying out of credit lines, mass insolvencies and job losses were avoided by national regulators allowing longer recovery plan periods to be put in place, which were negotiated between employers and scheme trustees. This protects affordability and ensures the solvency of scheme sponsoring employers. Therefore we believe that the current Article 16 of IORP Directive is adequate in regulating the powers fo supervisors.</p>	
870.	OECD Secretariat to the Working Party on Private P	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>Recovery periods should take into account the long-term nature of IORP obligations.</p> <p>Furthermore, the OECD believes that supervisory oversight</p>	Noted.

			<p>should be proportionate, flexible and risk-based.</p> <p>During the 2008 financial crisis, regulators and supervisors in many countries allowed flexibility in recovery rules in order to avoid materialising losses at the bottom of the market and put undue burden on cash-strapped plan sponsors. See the OECD Working Paper on "Private Pensions and Policy Responses to the Financial and Economic Crisis", <a href="http://www.oecd.org/dataoecd/37/54/42601323.pdf">http://www.oecd.org/dataoecd/37/54/42601323.pdf</a>.</p>	
872.	Pensioenfonds Zorg en Welzijn (PFZW)	44.	<p>We are in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of social and labour law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a pro-cyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that</p>	Noted.

			<p>pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>We feel that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore PFZW urges for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
873.	Predica	44.	<p>The general principles of the Articles 138 and 139 of the Solvency II Directive should apply to IORPs. However, the recovery period should be consistent with the time horizon (see Q33). It should also be made a distinction between recovery plans regarding SCR, MCR and technical provisions, these situations does not require the same response.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
874.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	44.	Option 3. See also response to 37. (Recovery plan)	Noted.
875.	PTK (Sweden)	44.	<p>PTK is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. The OECD paper “The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations” (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the</p>	Noted.

			<p>pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have longer recovery periods than insurance companies or banks, because of the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs'. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is our opinion, that when IORPs will be confronted with the shorter recovery periods from Solvency II, this would not only seriously harm the pension provision for participants, but it will also harm the total economy: short recovery periods forces IORPs to a procyclical investment; contribution and benefit policy. Therefore the PTK advises EIOPA to plead for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
876.	Punter Southall Limited	44.	<p>We do not believe that a Solvency Capital Requirement is applicable to sponsor-backed IORPS. Recovery plans do, however, have a part to play where assets are insufficient to cover technical provisions. Periods of up to 15 years may be appropriate, so long as security exists that the benefits will ultimately be paid (for example, in the form of the sponsor covenant and/or any payment protection scheme).</p>	Noted.

877.	Railways Pension Trustee Company Limited ("RPTCL	44.	<p>RPTCL does not consider it appropriate to make any changes to the existing recovery period regime, which, in the UK, is based on affordability of contributions and approval by the Pensions Regulator and generally works well.</p> <p>Due to the shared cost nature of the majority of RPTCL's pension schemes, 40% of any shortfall of assets relative to technical provisions is met by contributing members to the schemes. There are around 85,000 such members. RPTCL is therefore very concerned that any amendments to the recovery period regime, in particular any amendments which take away flexibility, would have a very significant and adverse financial impact on these 85,000 contributing members of RPTCL's schemes.</p>	Noted.
878.	Reed Elsevier Group plc	44.	<p>It is preferable to allow significant flexibility in any regulation of the length of a recovery period given the very long life of a pension scheme and the variety of unpredictable financial and economic scenarios that may face a pension scheme during its life. Accelerated recovery plans can have a detrimental impact on the health of the employer and its ability to remain competitive and provide employment. In extremis, if the health of the employer is sufficiently weakened, it will impact upon the security of the pension scheme.</p> <p>We would support setting a normal limit of 15 - 20 years with the length dependent upon the strength of the sponsor's covenant. It is probably wise to allow the domestic regulator input into establishing recovery plans. This would allow the local regulator to set longer periods if conditions warranted</p>	Noted.

			<p>such action.</p> <p>The conditions when a recovery period could be extended would include:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Extreme unforeseen financial or economic conditions, such as very low and unsustainable bond yields resulting in an unrealistic deficit against technical reserves</li> <li><input type="checkbox"/> General sustained economic weakness, similar to a depression, that made rapid payment into recovery plans a systemic risk</li> <li><input type="checkbox"/> Specific conditions relating to a company that might make it particularly vulnerable to a more rapid rate of recovery payments</li> </ul>	
880.	TCO	44.	<p>TCO is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p>	Noted.

			<p>IORPs should have longer recovery periods than insurance companies or banks, because of the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs'. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is our opinion, that when IORPs will be confronted with the shorter recovery periods from Solvency II, this would not only seriously harm the pension provision for participants, but it will also harm the total economy: short recovery periods forces IORPs to a procyclical investment; contribution and benefit policy. Therefore TCO advises EIOPA to plead for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
881.	Tesco PLC	44.	<p>19. What is the stakeholder's view on the analysis regarding the submission of recovery plans and the length of recovery periods? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPS be flexible, fixed or a combination of both? What would be the reasons- if any – to allow IORPS longer recovery periods than prescribed by Solvency II?</p> <p>20. Flexible – as in the current regime which works well. In the UK we have the Pensions Regulator to review that the length is appropriate to the needs of the members and has the power to intervene if this isn't the case. This allows country specific issues to be factored into the length of the plan – which</p>	Noted.

			<p>are relevant to each company's ability to pay off a deficit.</p> <p>We share EIOPA's view that it's appropriate to have a longer recovery period than under Solvency II for IORPS – to take into account different factors than apply to an IORP, in particular the benefit of ongoing support of a sponsoring employer allowing a much longer period of repayment.</p>	
882.	THE ASSOCIATION OF CORPORATE TREASURERS	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>On the assumption that the concepts of MCR and SCR are adopted we support the advice of EIOPA in para 10.3.190 that there be a fairly long period for recovery plans, even out to 15 years. We believe that the adoption of excessively prudent transfer valuations would lead to the closure of UK DB schemes. Allowing a longer recovery period would defer some of the cash flows and at least avoid the immediate insolvency of numerous sponsors. A supervisor should moderate the reasonableness of proposals.</p>	Noted.
883.	The Association of Pension Foundations (Finland)	44.	<p>We support option 1. for it's flexibility. Current recovery periods for IORPs are longer and occupational pensions are linked to member countries Social and Labour laws, so we see it appropriate to leave this issue to Member countries consideration. For insurance companies a shorter recovery period is perceivable because in shortage of assets and without sponsor support benefits may be endangered.</p>	Noted.
884.	The Association of the	44.	<p>The Respondents are very much in favour of option 1. This</p>	Noted.

	Luxembourg Fund Industry (A)		<p>option retains the current flexible position on recovery periods.</p> <p>After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p>	
885.	The Hundred Group of Finance Directors (UK)	44.	<p>We do not believe that solvency capital requirements should be applied to IORPs at all and therefore do not think there is a role for a recovery plan in this context.</p> <p>We do think, however, that there is a role for recovery plans in the context of sponsor-backed schemes that are not yet fully funded on the basis of their technical provisions. Such recovery plans should be set at a level that sponsors can reasonably afford and may therefore last for as long as 15-20 years provided that there is continued backing for the deficit recovery contributions in the form of sponsor covenant and/or contingent assets.</p> <p>We welcome the recognition by EIOPA that it is reasonable for recovery periods to be longer for IORPs than for insurance companies.</p>	Noted.
886.	The Society of Actuaries in Ireland	44.	<p>We agree in principle with the requirements to submit recovery plans. However, the timescales set out in Article 138(2) and 139(2) if an MCR is required are too short for IORPs, as there is usually a need to consult with employer and employee representatives in agreeing a recovery plan. Recovery plans</p>	Noted.

			should have a longer term for meeting SCR. Longer periods will better reflect the nature of the liabilities, short term volatility and avoid short term pro cyclicity. Insurer's liabilities have different characteristics and therefore require tighter time lines for recovery. In particular a pension scheme may technically be insolvent but still represent a high level of security for the member's future benefit.	
887.	THE SOCIETY OF PENSION CONSULTANTS	44.	We are strongly of the view that the current UK regime works well and counsel against the imposition of one size fits all rules.	Noted.
888.	Towers Watson Deutschland GmbH	44.	<p>The periods prescribed in Articles 138 and 139 of Solvency II are too rigid and in most cases, too short.</p> <p>For IORPs, the length of the recovery period should be flexible and aligned with the duration of the liabilities, i.e. with a generally very long duration and should be agreed upon with the supervisor. Account should also be taken of an IORP's capacity for loss absorption by additional contributions from the sponsor. In doing so, a balanced decision needs to be made between the best interests of the beneficiaries on the one hand and the potential of an employer burdened by too stringent funding requirements for his IORP.</p>	Noted.
889.	Trades Union Congress (TUC)	44.	<p>What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p>	Noted.

			<p>We agree with EIOPA that the IORP Directive should be retained to allow flexibility on recovery plans tailored to the specific circumstances of individual schemes. This would allow recovery plans in the order of 15 years, although they should be longer if appropriate. However they should be as short as possible as is reasonably affordable (para 10.3.190). We recognise that the recovery plan would need to be approved by the national supervisor, the Pensions Regulator in the case of the UK.</p>	
890.	Transport for London / TfL Pension Fund	44.	<p>We concur with EIOPA's view that it is appropriate for IORPs to have longer and more flexible recovery plans than insurance companies are allowed under Solvency II.</p>	Noted.
891.	UK Association of Pension Lawyers	44.	<p>CfA 6 (Security mechanisms): What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods - with regard to the SCR and possibly the MCR - for IORPs be flexible, fixed or a combination of both? What would be the reasons - if any - to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>Article 138 (options for recovery plans). We prefer Option 1, retaining the IORP Directive.</p> <p>As discussed at question 43 above, setting new funding obligations requires strong justification. There are also good reasons why funding obligations for some IORPs should be flexible. Our response is focussed on UK IORPs providing (or providing security for) defined benefit promises. The primary</p>	Noted.

			<p>obligation of the employer and sponsor under UK IORPs that are defined benefit in nature is to ensure the pension promises are made. The funding of the IORP as the ring-fenced vehicle provides security against the risk of default by the employer or sponsor. Such funding can and should be flexible in order enhance security for the pension promises and avoid pro-cyclicality which may threaten the survival of the IORP by prejudicing the sponsors.</p> <p>Solvency II is designed to ensure insurance companies have sufficient capital to act as a buffer in the event of 'hits' to the insurance company. The nature of the insurance companies' business is that they are exposed to a variety of risks that may create such 'hits'. In contrast, the main risk of 'hits' to IORPs is the risk of an acceleration of the funding obligations in the event of the insolvency of the sponsors. There is a real risk that regulatory burdens such as fixed obligations to meet SCR or MCR funding obligations over an arbitrary and unnecessarily short period could create the 'hits' that cause the IORP to fail. Flexibility is therefore not only permissible and beneficial in avoiding pro-cyclicality and damping volatility but also necessary.</p> <p>It is unnecessary and may be risky to have short recovery plans for these IORPs. Given the long term nature of the pension liabilities, if solvency measures used have a one-year time-scale and high confidence levels, there will be significant volatility. This may not be damaging if long recovery period are used. If short recovery periods are used, regulation will have created artificial, pro-cyclical strains on sponsors, increasing the risk of 'hits' (i.e. defaults of sponsors) and prejudicing the survival of these IORPs and defined benefit pension provision.</p> <p>The purpose of the recovery plan must be considered. Under Solvency II, recovery plans to the SCR and MCR are intended</p>	
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			<p>to protect current and future customers by ensuring that they are protected from trading with insurance companies that have insufficient buffers to withstand the various risks to which they are exposed, which includes a range of unexpected events creating liabilities or 'hits'. Specifically, failure to comply with a recovery plan (particularly in respect of the MCR) can trigger supervisory action such as requiring the insurance company to cease its activities and to transfer its business to another insurer.</p> <p>For a UK IORP, similar supervisory powers already exist (related to current IORP Directive funding requirements), i.e. the supervisor can require termination of benefit accrual for existing and new members in the event of breach of funding requirements and can force the transfer of liabilities not to another IORP but to an insurance company or the UK pension protection scheme.</p> <p>However, if short term or fixed recovery periods were used or recovery plans to a lower and more rigid MCR were used, these supervisory powers would come into play more frequently because of the volatility and pro-cyclicality of such funding measures. We believe this is not proportionate or suitable. It would lead to a reduction in pension provision at least on a defined benefit basis.</p>	
892.	UNI Europa	44.	See question 22	Noted.
893.	Universities Superannuation Scheme (USS),	44.	What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?	Noted.

			<p>USS favours option one – retain the current flexible position on recovery periods.</p> <p>Allowing IORPs to have longer recovery periods than insurance companies recognises the distinctive nature of pensions, which are paid out over the long-term in a largely predictable manner. It also recognises that, as long-term institutions, IORPs should be allowed to ‘ride out’ periods of poor economic and investment performance in the expectation that the resulting deficits will be eliminated as conditions improve over the medium term.</p> <p>It is, of course, essential that recovery periods are approved by the national supervisor.</p> <p>USS is concerned that EIOPA’s advice (at para 10.3.194) appears to envisage restricting recovery periods that bring IORPs back to the MCR level – (effectively the same as technical provisions) to a shorter timeframe than the 15 years mentioned in para 10.3.190. This would massively restrict sponsors’ flexibility and would increase the risk of accelerated DB scheme closures explained in our answer to Q12 above.</p> <p>However, USS notes that EIOPA’s advice on these points is unclear. This is a key area in which further consideration and explanation is required. One point to consider is that defined benefit schemes in the United Kingdom having on-going</p>	
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			<p>support in the form of the covenant provided by their sponsoring employers and this should be taken into account when reviewing recovery periods. It would be unwise to introduce a system of recovery plans that results in unfair and unrealistic pension costs crippling sponsoring employers with the result that such sponsors have no option but to cease future accrual of defined benefits under the IORP that they sponsor.</p>	
894.	vbw – Vereinigung der Bayerischen Wirtschaft e. V.	44.	<p>12. 44. What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>The long-term nature of pension liabilities in IORPs calls for a different approach regarding recovery periods to that included in Solvency II. This means that deficits are not as relevant as they can be recuperated over time. Therefore, the proposal that the scheme must have any deficit repaid back by the employer within a year (as in Solvency II), is not appropriate. This would put companies' cash flow under significant pressure, in many cases pushing them over the edge into insolvency. The recent recession is a clear illustration of the benefits of having a more flexible approach to recovery periods. Despite the significant impact on company cash flow and the drying out of credit lines, mass insolvencies and job losses were avoided by national regulators allowing longer recovery plan periods to be</p>	Noted.

			put in place, which were negotiated between employers and scheme trustees. This protects affordability and ensures the solvency of scheme sponsoring employers. Therefore we believe that the current Article 16 of IORP Directive is adequate in regulating the powers fo supervisors.	
895.	Verband der Firmenpensionskassen (VFPK) e.V.	44.	Recovery periods should be oriented to the duration lifecycle of the commitments and should be individually clarified with the local supervisory authority. Possible special features make it impractical to establish a fixed recovery period.	Noted.
896.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	44.	<p>The VHP2 is very much in favour of option 1. This option retains the current flexible position on recovery periods. The recovery periods out of Solvency II are not appropriate for IORPs. According to us recovery periods are part of Social and Labour Law. The OECD paper "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations" (2010) shows that the current recovery periods in the different Member States are much longer than prescribed in Solvency II. Shorter recovery periods will stimulate IORPs to a procyclical investment policy, which does not only harm the pension incomes, but also the European Economy as a whole. After the crisis in 2008, many national regulators decided to lengthen the recovery period due to the character of the crisis. Such kind of flexibility should also be possible in the revised IORP Directive.</p> <p>IORPs should have much longer recovery periods than insurance companies or banks, because of several reasons: (i) the long-term character of the liabilities of an IORP and the fact that pension funds cannot be subject to 'bank-runs', (ii) the duration of an insurance contract is - in general - shorter than the duration of a pension contract, and (iii) the fact that</p>	Noted.

			<p>pension funds have the ability of steering mechanisms, like contribution policy, indexation policy and the possibility to reduce pension rights. This is – economically – an advantage of IORPs. The revised IORP should take this into account.</p> <p>It is the opinion of the VHP2, that if IORPs will be confronted with the shorter recovery periods from Solvency II, this would seriously harm the pension provision for participants. Therefore the VHP2 pleads for a quantitative impact assessment, before a decision is taken about recovery periods.</p>	
897.	Whitbread Group PLC	44.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
898.	Zusatzversorgungskasse des Baugewerbes AG	44.	56. The provision within IORP I (Article 16) seems to reflect better the situation than the provision within the Solvency II regime. This is especially true regarding the recovery periods.	Noted.
899.	Towers Watson	44.	<p>45. What is the stakeholders' view on the analysis regarding the submission of recovery plans and the length of recovery periods as introduced by Articles 138 and 139 of Solvency II? Should the recovery periods – with regard to the SCR and possibly the MCR – for IORPs be flexible, fixed or a combination of both? What would be the reasons – if any – to allow IORPs longer recovery periods than prescribed by Solvency II?</p> <p>We agree with EIOPA that recovery plans for IORPs should be, and indeed must be, flexible. Most UK IORPs are significantly underfunded, and are already trying to rectify this over as short a period as the sponsor can reasonably afford. There is no benefit in putting a sponsor out of business by imposing too high a pension funding requirement. In most cases, the best outcome for members will be secured by ensuring that the sponsor continues in business providing covenant backing for</p>	Noted.

			<p>its IORP. National regulators are best placed to address the right balance between funding a deficit and protecting the sponsor's covenant.</p> <p>Given our previous argument that the SCR (and hence also the MCR) is not appropriate for IORPs, then the distinction between Articles 138 and 139 would not need to be made.</p>	
900.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	45.	See question 34	Noted.
901.	AbA Arbeitsgemeinschaft für betriebliche Altersver	45.	IORPs should not be restricted in their ability to freely dispose of assets unless the interests of the beneficiaries are in any way endangered.	Noted.
902.	ABVAKABO FNV	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
903.	AEIP	45.	<p>99. AEIP agrees that a supervisor might be allowed to impose a prohibition to free disposal of the assets within the IORP.</p> <p>This should however be limited to extreme cases of mismanagement which should in principle be at first addressed by the fit and proper regulation. We repeat that there is no conflict of interest between sponsors and members / beneficiaries. Especially if sponsors guarantee the ultimate benefits, there is no risk arising for beneficiaries. If the deterioration of assets or the financial situation as a whole was caused by market conditions or biometrical risk, supervisory actions can only be the same as management actions: raise contributions, lower accrued rights or benefits.</p>	Noted.
905.	AMONIS OFP	45.	Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140	Noted.

			<p>allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?</p> <p>As far as all earlier and further remarks against capital requirements for IORP's are taking in consideration, AMONIS OFP agrees that a supervisor might be allowed to impose a prohibition to free disposal of the assets within the IORP.</p>	
906.	ANIA – Association of Italian Insurers	45.	Yes, the ANIA agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.	Noted.
907.	Association of British Insurers	45.	The ABI agrees with EIOPA on the introductions of Articles 137 and 140 of the Solvency II Directive.	Noted.
908.	Association of French Insurers (FFSA)	45.	<p>67. The FFSA agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
909.	Association of Pensioner Trustees in Ireland	45.	See response to question 12.	Noted.
910.	Assoprevidenza – Italian Association for supplement	45.	We agree	Noted.
911.	Assuralia	45.	The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	Noted.

912.	Belgian Association of Pension Institutions (BVPI-	45.	<p>Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?</p> <p>As far as all earlier and further remarks against capital requirements for IORP's are taking in consideration, BVPI-ABIP agrees that a supervisor might be allowed to impose a prohibition to free disposal of the assets within the IORP.</p>	Noted.
913.	BNP Paribas Cardif	45.	<p>BNP Paribas Cardif agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
914.	Bosch Pensionsfonds AG	45.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
915.	Bosch-Group	45.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
916.	BT Pension Scheme Management Ltd	45.	We would be content to support this extension.	Noted.
917.	CEA	45.	Yes, the CEA agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.	Noted.

918.	Charles CRONIN	45.	I see no point in introducing restrictions on the sale of assets, as described in Articles 137 and 140 of Solvency II, this could interfere with the functioning of the IORP with respect to current obligations. However I do see scope for the supervisor, in the circumstances where a recovery plan is not feasible, to apply restrictions on pension payments and discretionary indexation, equitably across all M & B. This amounts to an extension of the existing IORP Article 14.	Noted.
919.	Chris Barnard	45.	Yes, the IORP Directive should be extended with stipulations introduced by Articles 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions. This is clearly prudentially appropriate in order to protect members and beneficiaries of IORPs in these situations.	Noted.
920.	CMHF (Centrale van Middelbare en Hogere Functionar	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
921.	De Unie (Vakorganisatie voor werk, inkomen en loop	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
922.	Direction Générale du Trésor, Ministère des financ	45.	Yes we agree on the introduction of these stipulations.	Noted.
923.	Ecie vie	45.	We agree : Articles 137 and 140 of Solvency II Directive should be applied to IORPs.	Noted.
924.	European Association of Public Sector Pension Inst	45.	Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets	Noted.

			when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?  EAPSPiS suggests allowing supervisors to prohibit the free disposal of assets only as the means of last resort. At first the articles of the IORP's statutes covering financial rehabilitation shall be enforced.	
925.	European Federation for Retirement Provision (EFRP)	45.	Yes, EFRP agrees that, in extreme cases, the supervisor should be allowed to impose the prohibition to dispose of the assets of the IORP.	Noted.
926.	European Metalworkers Federation	45.	See response question 22	Noted.
927.	European Mine, Chemical and Energy workers' Fede	45.	See previous	Noted.
928.	Federation of the Dutch Pension Funds	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
929.	Financial Reporting Council	45.	Articles 137 and 140 are written for insurance companies and in their current form are unsuitable for IORPs. We are not convinced of the need for the inclusion of these stipulations in the IORP Directive.	Noted.
930.	FNV Bondgenoten	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
931.	Generali vie	45.	We agree : Articles 137 and 140 of Solvency II Directive should be applied to IORPs.	Noted.

932.	German Institute of Pension Actuaries (IVS\32\45\3	45.	We disagree. The free disposal of assets should not be automatically withdrawn if an IORP does not comply with solvency requirements. In the first instance it should be checked whether the rule relating to benefit reductions can alleviate the IORP's situation and whether the fund has set up a reasonable recovery plan. Only if these measures are not effective, should supervisors in the second instance prohibit free disposal of assets.	Noted.
933.	Groupe Consultatif Actuariel Européen.	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.	Noted.
934.	Groupement Français des Bancassureurs	45.	FBIA agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
935.	PMT-PME-MnServices	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.

936.	Institute and Faculty of Actuaries (UK)	45.	As discussed in Q34 UK IORPs cannot distribute assets until all benefits are secured. However sponsors may and if restrictions were applied to them (via the holistic balance sheet or otherwise) this would have an impact on capital markets.	Noted.
937.	Le cercle des épargnants	45.	We agree : Articles 137 and 140 of Solvency II Directive should be applied to IORPs.	Noted.
938.	Macfarlanes LLP	45.	<p>76. (CfA 6 Security mechanisms) Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?</p> <p>77. We are not clear as to what is intended by a prohibition on the free disposal of assets.</p> <p>78. If the prohibition applies only to the assets of the IORP, this should cause no difficulty in theory, although practical difficulties in investment management contracts can be envisaged and the terms of such contracts would need to be reviewed. The result might be a loss of opportunity to the IORP which could actually be detrimental. If it is redefined as suggested in 10.3.195 as a restriction on discretionary increases, it should cause no difficulty.</p> <p>79. If the prohibition applies to assets within the holistic balance sheet (i.e. assets of the sponsors, including employers and guarantors), it is a significant interference with corporate activity and with the property rights of those sponsors and would need strong justification. Such a change would go well beyond the prudential regulation of IORPs and involves wider issues of corporate and insolvency law and international law (guarantors of UK IORPs are often located elsewhere in the EU</p>	Noted.

			<p>but may be located outside the EU). Legal challenges can be expected and the reputation of the EU as a place to invest and to do business would inevitably be damaged.</p> <p>80. Any concept of 'free disposal of assets' would need to be tightly defined as to what constitutes free disposal of assets (gifts only, exercise of a discretion on pay rises, disposal of business assets for value).</p>	
939.	Mercer	45.	Yes.	Noted.
940.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
941.	National Association of Pension Funds (NAPF)	45.	<p>Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?</p> <p>NAPF agrees that, in extreme cases, the regulator should be allowed to impose a prohibition on disposal of the IORP's assets.</p>	Noted.
942.	Pan-European Insurance Forum (PEIF)	45.	PEIF agrees with EIOPA to include Articles 137 and 140 in IORP II.	Noted.
943.	Pensioenfonds Zorg en Welzijn (PFZW)	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the	Noted.

			assets within the IORP.	
944.	Predica	45.	Predica agrees with EIOPA to include the articles 137 and 140 in the revised IORP Directive.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
945.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	45.	Agree. See also response to 37.	Noted.
946.	PTK (Sweden)	45.	Yes, PTK agrees that in extreme cases, the supervisor should be allowed to impose the prohibition to dispose of the assets of the IORP.	Noted.
947.	Railways Pension Trustee Company Limited ("RPTCL	45.	We have not considered this question.	Noted.
948.	TCO	45.	Yes, TCO agrees that in extreme cases, the supervisor should be allowed to impose the prohibition to dispose of the assets of the IORP.	Noted.
949.	The Association of Pension Foundations (Finland)	45.	Management expenses and estimates of income and expenditure in respect of direct business have no relevance in IORP.	Noted.
950.	The Association of the Luxembourg Fund Industry (A	45.	Already provided by article 14(2) of the IOFP Directive	Noted.
951.	The Society of Actuaries in Ireland	45.	We would like further clarification on this issue and whether it is applicable to IORPs. On the basis of the information supplied	Noted.

			we believe this is not applicable for an IORP.	
952.	THE SOCIETY OF PENSION CONSULTANTS	45.	We are strongly of the view that the UK supervisor's powers are more than sufficient under the existing regime.	Noted.
953.	Towers Watson Deutschland GmbH	45.	We disagree. The free disposal of assets should not be automatically withdrawn if an IORP does not comply with solvency requirements. In the first instance it should be checked whether the rule relating to benefit reductions can alleviate the IORP's situation and whether the fund has set up a reasonable recovery plan. Only if these measures are not effective, should supervisors in the second instance prohibit free disposal of assets.	Noted.
954.	UK Association of Pension Lawyers	45.	<p>CfA 6 (Security mechanisms): Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?</p> <p>We are not clear as to what is intended by a prohibition on the free disposal of assets. If it applies only to the assets of the IORP, this should cause no difficulty. If it is redefined as suggested in 10.3.195 as a restriction on discretionary increases, again it should cause no difficulty. If it applies to assets within the holistic balance sheet (i.e. assets of the sponsors, including employers and guarantors), it is a significant interference with the property rights of those sponsors and would need strong justification. This goes beyond prudential regulation of IORPs and involves wider issues of corporate and insolvency law and international law (guarantors of UK IORPs are often located elsewhere in the EU but may be</p>	Noted.

			located outside the EU). Any concept of 'free disposal of assets' would need to be tightly defined as to what constitutes free disposal of assets (gifts only, exercise of a discretion on pay rises, disposal of business assets for value).	
955.	UNI Europa	45.	See question 22	Noted.
956.	Universities Superannuation Scheme (USS),	45.	Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?	
957.	Verband der Firmenpensionskassen (VFPK) e.V.	45.	IORPs should be able to dispose of its assets also in case of non-conformity to the solvency requirements. The statutory stated remediation clause should first come into force before the supervisory authority would have access to the assets.	Noted.
958.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	45.	Yes we agree that in extreme cases, the supervisor should be allowed to impose the prohibition to freely dispose of the assets within the IORP.	Noted.
959.	Whitbread Group PLC	45.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
960.	Zusatzversorgungskasse des Baugewerbes AG	45.	57. Prohibiting the free disposal of the assets within an IORP should be limited to extreme cases of mismanagement which in principle should be at first addressed by the fit and proper regulation.  58. There is no conflict of interest between sponsors and members / beneficiaries. Especially if sponsors guarantee the ultimate benefits, there is no risk arising for beneficiaries. If the deterioration of assets or the financial situation as a whole	Noted.

			was caused by market conditions or biometrical risk, supervisory actions can only be the same as management actions: raise contributions, lower accrued rights or benefits.	
961.	Towers Watson	45.	<p>46. Do stakeholders agree that the IORP Directive should be extended with stipulations introduced by Article 137 and 140 allowing supervisors to prohibit the free disposal of assets when IORPs do not comply with the capital requirements or the rules for establishing technical provisions?</p> <p>In an ongoing situation, UK IORPs are currently unable to dispose of their assets other than to pay benefits or discharge expenses properly incurred in the running of the IORP. Even in the event of termination, free disposal of assets is not permitted unless and until all benefits have been fully secured.</p> <p>It would need to be decided whether and in what circumstances supervisors would be permitted to restrict the payment of conditional or discretionary benefits. In our view, conditional benefits should not be restricted unless it is clear that a recovery plan cannot be put in place that has a strong chance of being successful.</p>	Noted.
962.	OPSG (EIOPA Occupational Pensions Stakeholder Group)	46.	See question 34	Noted.
963.	AbA Arbeitsgemeinschaft für betriebliche Altersver	46.	We believe that the current Article 16 (2) of the IORP Directive is completely adequate in defining the contents and the process of establishing a recovery plan. Thus, we agree with Option 1 of EIOPA's recommendation.	Noted.
964.	ABVAKABO FNV	46.	Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.	Noted.

			<p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	
965.	AEIP	46.	<p>100. The effects of risk mitigating mechanisms of each pension scheme constitute the need of a holistic assessment of the need for recovery plans. Therefore IORP II must provide new definitions for the triggers of recovery plans. The content must be amended: instead of an assessment of reinsurance the assessibility and effects of the pension schemes risk mitigating mechanisms have to be assessed.</p> <p>101. Article 142 of Solvency II is therefore not appropriate. Estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>We would rather have recovery plans based on long term asset-liability projections, taking into account the benefits to be paid, the expected contributions and returns, and the policies adopted by the IORP for these items, wherbye policies</p>	Noted.

			based on taking more risk should be disallowed. All of this should be part of a flexible supervisory approach.	
967.	AMONIS OFP	46.	<p>Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>We do not agree that this should be specified in the IORP directive. Taking in consideration the important difference in IORPs around Europe and their importance for/impact on the European economy, this should remain flexible.</p> <p>Therefore Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>A projection for the upcoming years should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p>	Noted.
968.	ANIA – Association of Italian Insurers	46.	The ANIA strongly supports EIOPA’s view that the content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive.	Noted.
969.	Association of British Insurers	46.	The ABI does not believe that what constitutes a recovery plan should be included in the IORP Directive. What constitutes a recovery plan and the duration of such a plan should be left to	Noted.

			the national supervisor to decide. They are best place to understand the risks faced by IORPs in their markets and will also have knowledge of any recovery plans already in place and will not want to create uncertainty which may unduly jeopardise these plans.	
970.	Association of Consulting Actuaries (UK)	46.	Proportionality should apply. Specifying that all IORPs must produce recovery plans including revenue accounts and a forecast balance sheet as well as the resources which are intended to meet the technical provisions is unnecessarily inflexible. Such plans are subject to actuarial oversight as well as supervisory oversight at Member State level. Such calculations may well form a part of the underlying actuarial calculations, but prescribing that they appear on the face of the recovery plan itself adds no value.	Noted.
971.	Association of French Insurers (FFSA)	46.	68. The FFSA strongly supports EIOPA's view that the content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive.  In all cases the same principle should apply for retirement schemes provided by the insurers.	Noted.
972.	Association of Pensioner Trustees in Ireland	46.	See response to question 12.	Noted.
973.	Assoprevidenza – Italian Association for supplement	46.	We agree.  A recovery plans would be based on long term asset-liability projectiions, taking into account the benefits to be paid, the expected contributions and returns, and the policies adopted by the IORP for these items, wherbye policies based on taking more risk should be disallowed. All of this should be part of a flexible supervisory approach.	Noted.
974.	Assuralia	46.		Noted.

			The extremely short delay for responding to the technical consultation document has forced the members of Assuralia to prioritize and to focus on a number of questions. Our lack of response to this question must not be regarded as a lack of interest or opinion.	
975.	Belgian Association of Pension Institutions (BVPI-	46.	<p>Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>We do not agree that this should be specified in the IORP directive. Taking in consideration the important difference in IORPs around Europe and their importance for/impact on the European economy, this should remain flexible.</p> <p>Therefore Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>A projection for the upcoming years should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p>	Noted.
976.	BNP Paribas Cardif	46.	BNP Paribas Cardif strongly supports EIOPA's view that the	Noted.

			<p>content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	
977.	Bosch Pensionsfonds AG	46.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
978.	Bosch-Group	46.	See under "General comment": "Sui generis" supervisory system for IORPs.	Noted.
979.	BT Pension Scheme Management Ltd	46.	We believe that this definition is necessary, and we believe that EIOPA has identified the key issues which need to differ between insurance companies and IORPs. In particular, we would note the need for flexibility to respond to the variations between IORPs in different member states. Again, we agree with the EIOPA view that the timeframe for any recovery plan needs to be markedly longer for IORPs.	Noted.
980.	CEA	46.	The CEA strongly supports EIOPA's view that the content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive.	Noted.
981.	Charles CRONIN	46.	I agree that what constitutes a recovery plan should be specified in the revised IORP Directive. Article 142 from Solvency II forms a convenient template, with the following modifications: Part A to refer to operational expenses including fees of outsourced services, Part B to refer to estimates of flows into and out of the IORP including in increases in service and interest cost etc., Part C refer to the HBS, possibly using two balance sheets, one mark to model, the other mark to market. Comparison between the two should give an indication	Noted.

			whether the financial markets are overly cheap (if financial markets were the cause of the distress), which in turn could increase the flexibility of the recovery plan. Delete Part D as not applicable with respect to IORPs. Part E modified to reflect access to sponsor covenants and pension protection insurance. Lastly delete section 2, as not applicable, IORPs should continue to receive contributions, though perhaps those contributions should be ring fenced as being ex-post the problem and not necessarily part of the solution, unless changes in past service cost are required (benefit adjustment mechanisms).	
982.	Chris Barnard	46.	I agree that the IORP Directive should specify what constitutes a recovery plan as introduced by Article 142 of Solvency II. The contents of the recovery plan should consider the nature and characteristics of IORPs, and should include all economic items and income and outgoings, including sponsor support, risk mitigation measures and security mechanisms. However, in general I would caution against including pension protection schemes in such a recovery plan, as these are normally triggered only after exhausting all other forms of support. See also my response to question 41.	Noted.
983.	CMHF (Centrale van Middelbare en Hogere Functionar	46.	Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.  An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the	Noted.

			<p>IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	
984.	De Unie (Vakorganisatie voor werk, inkomen en loop	46.	<p>Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	Noted.

985.	Direction Générale du Trésor, Ministère des financ	46.	Yes it should be specified what constitutes a recovery plan.	Noted.
986.	Ecie vie	46.	We agree : Article 142 of Solvency II Directive should be applied to IORPs.	Noted.
987.	European Association of Public Sector Pension Inst	46.	<p>Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>EAPSPI in general agrees with Article 142. However appropriate amendments to the points listed in Article 142 would have to be made with respect to the simplified business model of IORPs. And EAPSPI wants to stress that there is a large variety of articles in the statutes of IORPs covering financial recovery as well as existing supervisory practices in the Member States which are often coordinated. It must be safeguarded that in case of emergency these harmonized courses of action are not impaired. This renders a “one-fits-all” regulatory approach very complicated, not to say impossible.</p>	Noted.
988.	European Federation for Retirement Provision (EFRP)	46.	Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP. A projection for the upcoming years should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution	Noted.

			policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.	
989.	European Metalworkers Federation	46.	See response question 22	Noted.
990.	European Mine, Chemical and Energy workers' Fede	46.	See previous	Noted.
991.	Federation of the Dutch Pension Funds	46.	<p>Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	Noted.
992.	Financial Reporting Council	46.	We agree that the IORP Directive should specify what constitutes a recovery plan but consider that the provisions of the current IORP Directive are a better starting point for	Noted.

			drafting than Articles 142 of Solvency II.	
993.	FNV Bondgenoten	46.	<p>Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	Noted.
994.	Generali vie	46.	We agree : Article 142 of Solvency II Directive should be applied to IORPs.	Noted.
995.	German Institute of Pension Actuaries (IVS\32\45\3	46.	We agree. If an IORP cannot meet the solvency requirements, it should be required to submit to the supervisor a financial restructuring plan and agree future steps with the supervisor (this is similar to the approach already in place for certain types of vehicles in Germany).	Noted.

996.	Groupe Consultatif Actuariel Européen.	46.	<p>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).</p> <p>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.</p>	Noted.
997.	Groupement Français des Bancassureurs	46.	<p>FBIA strongly supports EIOPA’s view that the content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
998.	PMT-PME-MnServices	46.	Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant	Noted.

			<p>for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	
999.	Institute and Faculty of Actuaries (UK)	46.	<p>Recovery Plans are part of benefit security and as such are a political decision and should be considered in same way as confidence level. We believe this is probably most appropriately done at a national level. Any requirements should be proportionate to the objective being sought.</p> <p>For example, forecasts of income and expenditure do not seem particularly appropriate for an IORP regime focused on reaching long-term solvency. More relevant would be the level of future contributions agreed with the sponsor and the main assumptions being made about future asset returns.</p>	Noted.
1,000.	Le cercle des épargnants	46.	We agree : Article 142 of Solvency II Directive should be applied to IORPs.	Noted.
1,001.	Macfarlanes LLP	46.	81. (CfA 6 Security mechanisms) Do stakeholders agree	Noted.

			<p>that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>82. We agree that a requirement for a recovery plan may specify what constitutes a recovery plan and that the provisions of Article 142 (1) could be adapted to the specificities of IORPs.</p> <p>83. We also agree that Article 142(2) could be adapted to the specificities of IORPs assuming Article 39 were also adapted.</p> <p>84. However, the wrong provisions could clearly do more damage to pension provision overall. We would emphasise that the usefulness or relevance of such certificates and such provisions depends on: who receives them, the ability of current and future members and beneficiaries to withdraw from the IORP and apply to an alternative IORP (why would another company wish to allow another's employees to join its own scheme?), their content, the relevance of the funding level used (SCR, MCR or current IORP Directive measure) and of the recovery plan to the security of the benefits provided under the IORP.</p> <p>85. The contents of the recovery plan should differ from those used for insurance companies by:</p> <p>86. • Referring at (b) to income and expenditure of the IORP, namely contributions, annuities and other income sources receivable and pensions and other benefits, levies and taxes payable;</p> <p>87. • Referring at (d) to the assets of the IORP and other (conditional) commitments, escrows and guarantees and</p>	
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			<p>the availability of any pension protection scheme;</p> <p>88. • Referring at (e) to the statement of funding policy.</p>	
1,002.	Mercer	46.	<p>We do not agree that the requirements in Article 142 should be transposed directly into a revised IORP Directive, in the context of the holistic balance sheet. The nature and value of the assets available to IORPs could change materially over the period of a recovery plan, so, in particular, predicting future balance sheet entries would be spurious as could be the estimate of SCR if more complex calculation models are imposed.</p> <p>However, it would be reasonable for IORPs to consider future cash flow requirements over the period of the plan, provided it is understood that, given their conditional and contingent natures and the member options that might be available, these are no more than indicative best estimates.</p>	Noted.
1,003.	MHP (Vakcentrale voor Middengroepen en Hoger Perso	46.	<p>Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p>	Noted.

			<p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	
1,004.	National Association of Pension Funds (NAPF)	46.	<p>Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>Article 142 is not appropriate for IORPs. Key parts of Article 142's requirements, such as estimates of management expenses and estimates of income and expenditure in respect of direct business, are not relevant for IORPs.</p> <p>Recovery plans should be based on projections for future years, showing the IORP's financial position, including benefits to be paid and expected contributions and returns.</p> <p>The recovery plan should also include the contribution policy and the indexation policy.</p>	Noted.
1,005.	Pensioenfondszorg en	46.	Article 142 of Solvency II is not appropriate. Especially	Noted.

	Welzijn (PFZW)		<p>estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	
1,006.	Predica	46.	<p>Predica strongly supports EIOPA's view that the content of Article 142 of the Solvency II Directive should be included in the revised IORP Directive.</p> <p>In all cases the same principle should apply for retirement schemes provided by the insurers.</p>	Noted.
1,007.	prof.dr. A.A.J. Pelsser HonFIA, Netspar & Maastric	46.	Agree. See also response to 37.	Noted.
1,008.	PTK (Sweden)	46.		

1,009.	Railways Pension Trustee Company Limited ("RPTCL)	46.	We have not considered this question.	Noted.
1,010.	Sacker & Partners LLP	46.	<p>Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>Given the long-term nature of IORPs and the predictability of the benefits payable from them, it is reasonable for such schemes to use relatively long recovery plans, while ensuring that the IORP's liabilities can be met as they fall due. As noted above, IORPS are very different entities to insurance companies, whose liabilities can be much more short-term and/or unpredictable. In our view, national regulators should retain the power and flexibility to oversee recovery plans based on their assessment of the risk to scheme members and the scheme sponsor.</p>	Noted.
1,011.	Tesco PLC	46.	<p>21. Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>The recovery period should not be specified in the IORP Directive but instead be left to local Regulation. This will allow country specific economic factors to be factored into the recovery periods agreed with the local Regulator – which may not apply across the EU.</p>	Noted.
1,012.	The Association of the Luxembourg Fund Industry (A	46.	Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns.	Noted.
1,013.	The Society of Actuaries in	46.	Yes, we agree with the recovery plan as outlined. However the	Noted.

	Ireland		particular details of what is required to be submitted in the plan will be different to an insurer	
1,014.	THE SOCIETY OF PENSION CONSULTANTS	46.	We are strongly of the view that the current UK regime works well and counsel against the imposition of one size fits all rules. We do not agree that the form and content of recovery plans should be specified at the pan-European level.	Noted.
1,015.	Towers Watson Deutschland GmbH	46.	We agree. If an IORP cannot meet the solvency requirements, it should be required to submit to the supervisor a financial restructuring plan and agree future steps with the supervisor (this is similar to the approach already in place for certain types of vehicles in Germany).	Noted.
1,016.	UK Association of Pension Lawyers	46.	<p>CfA 6 (Security mechanisms): Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>As previously noted, we do not agree that a recovery plan as introduced by Article 142 of Solvency II should apply. That said, in any event, the contents of the recovery plan should differ from those used for insurance companies by:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Referring at (b) to income and expenditure of the IORP, namely contributions, annuities and other income sources receivable and pensions and other benefits, levies and taxes payable;</li> <li><input type="checkbox"/> Referring at (d) the assets of the IORP and other (conditional) commitments, escrows and guarantees and the availability of any pension protection scheme;</li> </ul>	Noted.

			<input type="checkbox"/> Referring at (e) to the statement of funding policy.	
1,017.	UNI Europa	46.	See question 22	Noted.
1,018.	Universities Superannuation Scheme (USS),	46.	<p>Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>Article 142 is not appropriate for IORPs. Key parts of Article 142's requirements, such as estimates of management expenses and estimates of income and expenditure in respect of direct business, are not relevant for IORPs.</p> <p>Recovery plans should be based on projections for future years, showing the IORP's financial position, including benefits to be paid and expected contributions and returns. The recovery plan should also include the contribution policy and the indexation policy.</p>	Noted.
1,019.	Verband der Firmenpensionskassen (VFPK) e.V.	46.	In case of emergency for not being able to fulfil the solvency requirements of the supervisory authority the plan for remediation and financing can be coordinated with the national supervisory authority as remediation plan in addition to the statutory stated remediation and possibly being approved in advance (analogue to public law pension providers to build up insured –based guarantees to cover a lack of capital injection from the employer).	Noted.

1,020.	VHP2 (Vakorganisatie voor middelbaar en hoger pers	46.	<p>Article 142 of Solvency II is not appropriate. Especially estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.</p> <p>An ALM based projection should be the basis for a recovery plan of an IORP. Such analysis shows the prediction of the financial position of the IORP, including all the paid benefits, received contributions and expected returns. Furthermore, the recovery plan should contain the contribution policy, the investment policy, the indexation policy and the policy of the IORP with respect to cutting benefits.</p> <p>We finally note that in the Netherlands, experience exists with applying longer term recovery plans. One of the main elements in Dutch legislation related to recovery plans is that pension funds are not allowed to take on more risk than their prevailing strategic risk level. We advocate the application of such a rule in order to prevent extreme cases of pension funds 'doubling up on their risk' as an ultimate attempt to recover. We do however urge in this case to define in detail what exactly constitutes the prevailing strategic risk level.</p>	Noted.
1,021.	Whitbread Group PLC	46.	We see no reason for change to the current regulatory regime for UK pension schemes, which provides strong protection for member's pension benefits	Noted.
1,022.	Zusatzversorgungskasse des Baugewerbes AG	46.	59. The effects of risk mitigating mechanisms of each pension scheme demand a holistic assessment of the need for recovery plans. IORP II must provide new definitions for the triggers of recovery plans. The content must be amended: instead of an assessment of reinsurance the assessability and effects of the pension scheme's risk mitigating mechanisms have to be assessed.	Noted.

			60. Article 142 of Solvency II is therefore not appropriate. Estimates of management expenses and estimates of income and expenditure in respect of direct business are not relevant for an IORP.	
1,023.	Towers Watson	46.	<p>47. Do stakeholders agree that it should be specified in the IORP Directive what constitutes a recovery plan as introduced by Article 142 of Solvency II? How should the contents differ from those of insurance companies?</p> <p>We do not hold strong views as to where the requirements for a recovery plan should be set out. However, we would be concerned to avoid specifying items to be included that are not relevant for all IORPs. For example, including forecasts of income and expenditure does not in its own right seem particularly appropriate for an IORP regime focused on reaching long-term solvency. More critical matters would be the level of funding to be paid, and the main assumptions being made about future asset returns.</p>	Noted.