

Comments Template on EIOPA-CP-11/006 Response to Call for Advice on the review of Directive 2003/41/EC: second consultation		Deadline 02.01.2012 18:00 CET
Company name:	The Depository and Trustee Association, 65 Kingsway, London, WC2B 6TD. Tel: +44 (0) 20 7831 5873 Web Site: www.datasoc.co.uk	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the left and by inserting the word Confidential.</i>	Public
<p>The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006).</p> <p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Question". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>. ⇒ There are 96 questions for respondents. Please restrict responses in the row "General comment" only to material which is not covered by these 96 questions. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. <p>Please send the completed template to CP-006@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p>		
Question	Comment	

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General comment		
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83.	<p>The Depositary and Trustee Association (DATA) represents all depositaries and trustees of UK based authorised funds. At the end of October 2011, the members of DATA were responsible for safeguarding £578 billion of fund assets.</p> <p>We are pleased to have the opportunity to respond to this consultation. Given that our members currently act as depositaries for UCITS and other UK authorised funds which will fall within the ambit of the AIFM Directive, we have significant long term expertise in both the oversight function and the safekeeping of assets for open-ended collective investment schemes.</p> <p>We strongly support the proposal that entities eligible to act as depositaries under the UCITS Directive be eligible to act as depositaries of IORPs.</p> <p>We also support the logic that, in any instances where a depositary is not required, the same level of safety should be provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.</p> <p>We also firmly believe in and support the conclusion EIOPA has reached, in paragraph 26.3.53, regarding a suitable liability regime. The reasons EIOPA gives for wishing to base a regime on the current UCITS Directive are sound ones. EIOPA is to be commended for giving due weight to the fact that increased costs could undermine the supply of affordable occupational pensions. We would also add that an unduly</p>	

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	burdensome liability regime is likely to adversely impact beneficiaries through increased costs and the resultant reduction in pension returns in cases of defined contribution pension schemes where beneficiaries bear those costs.	
84.	<p>Depositories for UCITS and other UK authorised funds which will fall within the ambit of the AIFM Directive have significant long term expertise in both the oversight function and the safekeeping of assets for open-ended collective investment schemes and so are well placed to act as depositaries under other Directives.</p> <p>We strongly support the proposal that entities eligible to act as depositaries under the UCITS Directive be eligible to act as depositaries of IORPs.</p> <p>We also support the logic that, in any instances where a depositary is not required, the same level of safety should be provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.</p> <p>We also firmly believe in and support the conclusion EIOPA has reached, in paragraph 26.3.53, regarding a suitable liability regime. The reasons EIOPA gives for wishing to base a regime on the current UCITS Directive are sound ones. EIOPA is to be commended for giving due weight to the fact that increased costs could undermine the supply of affordable occupational pensions. We would also add that an unduly burdensome liability regime is likely to adversely impact beneficiaries through increased costs and the resultant reduction in pension returns in cases of defined contribution pension schemes where beneficiaries bear those costs.</p>	
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87.	It seems appropriate given that it is based upon existing similar regimes.	

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88.	In theory costs ought to be similar. EIOPA has proposed that in any instances where a depositary is not required, the same level of safety should be provided by the IORP in order to ensure that a harmonised level of protection is achieved irrespective of its legal form.	
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