

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:	ING Insurance	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the left and by inserting the word Confidential.</i>	Public
<p>The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006).</p> <p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in column "Question". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>. ⇒ There are 96 questions for respondents. Please restrict responses in the row "General comment" only to material which is not covered by these 96 questions. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies. ○ If your comment refers to parts of a question, please indicate this in the comment itself. <p>Please send the completed template to CP-006@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p>		
Question	Comment	
General comment	ING supports a consistent application of the fundamental principle "same risk - same rules - same capital". Therefore we welcome the review of the IORP directive, that will lead to more transparent and secure pensions for participants across Europe.	

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	<p>ING Insurance has a strong position as a global provider of life insurance and retirement services and is very well-positioned to capitalise on socio-economic trends.</p> <p>ING Insurance Benelux, Central & Rest of Europe consists of ING's life insurance and pensions operations in the Netherlands, Belgium, Luxembourg, Poland, the Czech Republic, Slovakia, Hungary, Romania, Greece and Spain as well as greenfield operations in Bulgaria and Turkey.</p>	
1.		
2.	We suggest that within this assessment of art 4 other possibilities than the national option to apply the related provisions of the directive to the occupational retirement business of insurers should be taken into account. This could be for example a possibility for insurers across Member States to 'opt in' for IORP regulation for their separated occupational pensions business.	
3.	ING supports a consistent application of the fundamental principle "same risk - same rules - same capital". Firstly, the coming risk-based framework should be well-adapted to the nature of occupational pension commitments. Secondly, a level playing field between different market players must be ensured. This means that all occupational-retirement-provision business of insurance should not be covered under Solvency II, but under the prudent person rules of the IORP directive. We believe the scope of the Directive should be strictly limited to Occupational Pensions, as are commonly referred to as second pillar, and offered by employers to employees. So we agree with option 1.	
4.		
5.	ING agrees that the current legal environment may not be perfect, but the main reason cross-border pension provision is not widespread is the fact that pension provision has to apply to the labour law, pension law, tax law and language of the resident's home country.	
6.	<p>We agree with option 1. Article 4 of the IORP directive states that if the insurer is covered by the directive all assets and liabilities corresponding to the occupational pension business shall be ring-fenced, managed and organised separately from the other activities of the insurance undertakings, without any possibility of transfer.</p> <p>It is still unclear what ringfencing in this context means. Different countries have different opinions</p>	

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	on ringfencing. The revised directive should set rules on ringfencing, but thereby use a light option as starting point. Ringfencing can not mean placing financial and legal barriers (Chinese walls) between the occupational pension business and other insurance business, but only separation of assets and accounting.	
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10.	<p>Each Member States should retain the right to develop its own financial assessment frame work with prudential rules. Additionally, Member States should report regularly to EIOPA about rules applying to these schemes and EIOPA should assess the types and levels of protection ensured throughout Europe. But there should only be a minimum level of harmonization, leaving room for local preferences and habits.</p> <p>On the other hand the revised Directive should avoid the problems created by contradicting regulation.</p> <p>EIOPA's draft advice proposes to include a new article in the revised IORP Directive describing the scope of prudential regulation. ING believes that social and labour law should focus on the relation between the employer and the employee whereas prudential regulation should regulate the pension providers.</p> <p>We agree with option 2</p>	
11.		
12.	The idea of a holistic approach appears attractive. However, developing this into a useful approach must ensure that the unique features of each country's pension systems really are fully taken into account. A well-designed holistic framework has the potential to become a central and valuable element of a common methodology. However, as the current Solvency II regime is still work in progress, particularly as regards long-term products, and one should be cautious about the application <i>en bloc</i> of current elements of Solvency II to pensions.	
13.	<p>We agree that the revised directive should have rules on:</p> <ul style="list-style-type: none"> • Methods to calculate assets, liabilities and technical provisions • Capital requirements to protect the consumers' interests 	

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	<ul style="list-style-type: none"> • Investment policy • Supervision of pension funds <p>Yet, there should only be a minimum level of harmonization.</p>	
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