

Comments Template on EIOPA-CP-11/001 Draft response to Call for Advice on the review of Directive 2003/41/EC Scope, cross-border activity, prudential regulation and governance		Deadline 15.08.2011 18:00 CET
Company name:	ASSOCIATION DE LA GESTION FINANCIERE (AFG)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the left and by inserting the word Confidential.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in column "Reference". ⇒ 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>. ⇒ 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 firstconsultationiorpcf@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p> <p>The question numbers below correspond to Consultation Paper No. 01 (EIOPA-CP-11/01).</p>		
Reference	Comment	
General Comment	<p>In order to encourage worker mobility, the retirement savings scheme provisions of different Member States must be made compatible. The IORP directive should be revised in order to do a better job of taking into account defined contribution plans, without imposing a one-size-fits-all model.</p> <p>In particular, the term "Institution" is not suitable for all forms of defined contribution retirement plans. In France, a Perco is a contract (or settlement) signed by the company and its employees. The contract</p>	

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	<p>determines the rules governing the way the plan is to function and the providers who will manage employee accounts and assets. We believe that the term “scheme” would be more appropriate.</p> <p>Moreover, the directive should, above all, provide rules for safeguarding savings, including:</p> <ul style="list-style-type: none"> - Asset custody delegation to custodians - Appropriate asset management with a long-term perspective that does not impose quantitative rules but that does exclude sponsor company securities, - Information for plan beneficiaries, which could be modelled on the UCITS KIID - ... <p>Lastly, in order to encourage the development of cross-border retirement savings schemes, the EU could provide more information on the transposition texts of other Member States and dialogue with the IORP supervisory authorities.</p>	
1.	<p>Scope of the IORP Directive</p> <p>We agree with EIOPA regarding the different options, given the following two provisions:</p> <ol style="list-style-type: none"> 1. Pension scheme providers covered under other directives (for example, 85/611, 93/22 and 2000/12) should be allowed to come under the scope of the directive. 2. We don't understand the notion of “at their own risk.” What risk is being referenced here? Is it financial or life-related? This risk could be borne by the company, the employees or the providers, rather than being the responsibility of the provider alone, as option 4 on page 15 suggests. <p>We feel that it is important to clearly distinguish between occupational schemes and schemes which are strictly individual. In the case of the latter, employers do not make any decisions concerning the functioning of the plan.</p>	
2.	<p>An option should be added allowing providers covered under other directives to also come under the scope of the IORP directive.</p>	
3.	<p>We support the idea proposed in option 4 allowing providers covered under other directives to come under the scope of the IORP Directive for their IORP activity.</p>	

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4.	N/A	
5.	Yes	
6.	An IORP should be allowed to offer services to several companies without providing each new company with a list of the companies that already receive its services. This notification should be made for once and for all.	
7.	Yes	
8.	We do not believe this is necessary. However, it would be helpful to have increased transparency on prudential regulation as well as social and labour law regulation.	
9.	Yes	
10.	Increased transparency in different Member States on social and labour laws would be very useful. The Commission could help to foster this transparency.	
11.	Yes, but the Host Member state should be able to add additional regulation under its social and labour laws, especially with regard to required information about employees.	
12.	The Commission should, above all, encourage the different States to increase transparency on their prudential, social and tax regulation.	
13.	Governance rules already exist for IORP providers covered under other directives (in asset management in particular). New IORP governance rules should neither contradict nor duplicate the rules already covering the providers.	
14.	Fit and proper requirements already exist for IORP providers covered under other directives (in asset management in particular). New IORP governance rules should neither contradict nor duplicate the rules already covering the providers.	
15.	IORP providers already have advanced compliance controls in place which should be taken into account. New rules, in their IORP function, should not duplicate existing compliance controls.	
16.	IORP providers already have advanced internal audit systems in place which should be taken into account. New rules, in their IORP function, should not duplicate existing internal audit systems.	
17.	Please be mindful that in a given country, the IORP supervisory authorities are generally different from the provider supervisory authorities. Provider and IORP supervisory authorities should communicate with one another while maintaining their own prerogatives.	

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18.	IORPs do not always have legal personality. Therefore, they cannot be held responsible if certain functions are outsourced. In certain cases, the company which set up the pension scheme can carry this responsibility.	