

**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:	ADEPO (AGRUPACIÓN ESPAÑOLA DE DEPOSITARIOS DE INSTITUCIONES DE INVERSIÓN COLECTIVA Y FONDOS DE PENSIONES).	
Disclosure of comments:	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p><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></p>	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		
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83.	<p>ADEPO welcomes and takes a positive view of the opportunity and specific content of the document and appreciates the usefulness of this CALL FOR ADVICE . ADEPO is a Spanish association of mutual and pension funds depositaries, currently formed by BBVA, BANCO POPULAR, BANCO SABADELL, BANCO SANTANDER, BNP-PARIBAS, CECA , BANKIA, RBS- DEXIA and LA CAIXA.</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>ADEPO also wants to emphasize that if the oversight function is to be generalized, the depositaries should be necessarily established in the same country where the IORP is located. The oversight function cannot be performed cross-border.</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 and sensible 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.</p>	
84.	See response to question 83.	
85.	Although we do prefer establishing a general and compulsory requirement for the appointment of a depositary –irrespectively of the type of the scheme-, as a second best we also support the logic that, in any instances where a depositary should not be required(according to EIOPA stance), the same level of	

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	<p>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>In Spain all IORP are obliged to utilize a depositary and costs are perfectly affordable.</p>	
86.	ADEPO thinks that final legislation should be similar to the one already adopted for mutual funds depositaries and this option has not represented big costs in Spain..	
87.	It seems appropriate given that it is based upon existing similar regimes(mutual funds legislation).	
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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