

**Comments Template on
Consultation Paper on Further Work on Solvency of IORPs**

**Deadline
13 January 2015
23:59 CET**

Name of Company:	IVS German Institute of Pension Actuaries (IVS - Institut der Versicherungsmathematischen Sachverständigen für Altersversorgung e.V.)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment/response in the relevant row. If you have <u>no response</u> to a question, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments/responses which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-14-040@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to Consultation Paper on Further Work on Solvency of IORPs.</p>		
Reference	Comment	
General Comment	<p>Opinions expressed are based on our understanding of the issues as presented. Since some of the issues are described at a high level, we have assumed a reasonable "fleshing out of details" and have thus attempted to answer at a high level too. We expect, however, that in many instances the devil will be in the detail.</p> <p>We appreciate that the consultation has apparently been conducted in a much more circumspect and diligent way than the first QIS. But it would be irresponsible to test it in the market in the</p>	

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form of a QIS when a number of important issues concerning the HBS have not even been addressed conceptually and from the point of view of practical application: for example (not an exhaustive list)

- (i) the very concept is still fundamentally under consideration (witness the 6 very different models being presented for comment)
- (ii) it should be clearly stated what the HBS is **not**: it is not a *balance sheet* in the sense of a statement of financial position (since it contains contingent liabilities and doesn't necessarily always balance); neither may it be holistic (since 4 out of 5 of the quantitative models exclude PPS and/or non-legally enforceable sponsor support). Rather than a balance sheet for the IORP, we understand that the HBS is intended as a holistic view of the IORP from a member's / beneficiary's point of view. If so, we believe that this principle should be expressly stated in EIOPA's documentation in order to avoid misunderstandings. Following on from this logic, the label « HBS » is then a misnomer and should be amended to « holistic prudential framework (HPF) » on condition that the adjective "holistic" is justifiable.
- (iii) most importantly, the question about the suitability of the HBS/HPF can seriously only be answered once all significant elements of the HBS/HPF have been thought through – from what we can see this is effectively lacking at present
- (iv) a number of elements of the HBS/HPF are yet to be explored to an extent that a robust model exists (e.g. risk margin, for which we see little basis if one considers the specific characteristics of most IORPs)
- (v) the debate as to whether to include TPs on the basis of level A or level B assumptions has not really been robustly held

Since we believe that the concept of the HBS/HPF for IORPs has not been fully consulted on, any choice for one alternative would thus very probably be incomplete and misleading.

Apart from using names for concepts that are unnecessarily misleading (see our comment on the use of "holistic balance sheet" above), there is another area where we believe a misnomer should be corrected: "Contract Boundaries" (see below).

Even though we appreciate the clear signs of improved diligence and circumspection in the

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	<p>preparation of the consultation, we are concerned that the process that the Commission and EIOPA are following with regard to IORPs could turn out to be irresponsible. In particular, the significant economic repercussions seem not to be considered at all by the Commission or EIOPA. As a result we are worried that the negative repercussions may have to be borne by the currently younger generation, because overly conservative provisions and unreasonably costly regulation will simply turn well-intentioned employers away from engaging in this important component of retirement provision. EIOPA must surely be aware of the repercussions of its policies in this area.</p>	
Q1	<p>No. Some of the shortcomings are explained in section 4.16. In addition, there is typically no direct “contract” between the IORP and the member, as is typically the case for an insurance contract. The legal relationship may be indirect though, for example, it may be an agreement between the sponsor and the IORP or the employer and the member. See also EIOPA’s own “Mapping Exercise” under section 5.3. We understand that the issue of defining contract boundaries under Solvency II has been fraught with difficulties and has still not been finalized after many years of deliberations. We believe that these difficulties and potential for misunderstandings should not be transferred to IORPs but avoided.</p> <p>Starting with the premise that IORPs are not insurers, i.e. at most only secondarily financial institutions, we suggest deriving the definition as to what benefits and contributions are to be included in the valuation of the TPs from first principles that are appropriate for IORPs. We would therefore suggest use a term such as “Boundaries of obligations and contributions” rather than “contract boundaries”. We think it is important to use a different name not only because of the reasons given in the consultation itself but also because of the fundamentally different nature of, for example, single-employer IORPs and insurers.</p>	
Q2	Yes.	
Q3	<p>Some of the shortcomings of the term “contract boundaries” are explained in section 4.16. In addition, there is typically no direct “contract” between the IORP and the member, as is typically the case for an insurance contract. Even though there typically exists a legal relationship it may be indirect: For example, it may be an agreement between the sponsor and the IORP or the employer and the member. See also EIOPA’s own “Mapping Exercise” under section 5.3. We</p>	

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	<p>understand that the issue of defining contract boundaries under Solvency II has been fraught with difficulties and has still not been finalized after many years of deliberations. We believe that these difficulties and potential for misunderstandings should not be transferred to IORPs.</p> <p>Starting with the premise that IORPs are not insurers, i.e. at most only secondarily financial institutions, we suggest deriving the definition as to what benefits and contributions are to be included in the valuation of the TPs from first principles that are appropriate for IORPs. We would therefore suggest use a term such as “Boundaries of obligations and contributions” rather than “contract boundaries”. We think it is important to use a different name not only because of the reasons given in the consultation itself but also because of the fundamentally different nature of, for example, single-employer IORPs and insurers.</p>	
Q4	<p>Yes. We consider that the expressions “unilateral right or obligation to terminate/amend ...” and “fully reflect the risk” are not clearly defined and, in particular, would like to know what they mean, or are supposed to mean, in the local context. We understand that the basis for EIOPA is the Call for Advice from the Commission and that the two expressions may mean the unrestricted ability to amend at a predetermined time in a way that may fully reflect the risks as determined at the time of amendment. If this is so, we suggest that should be stated and thus clearly defined.</p>	
Q5	<p>Yes to both questions. We understand and welcome that EIOPA is still working on exploring what may be relevant here (as per section 4.48). This would include taking account of social and labour law to the extent relevant.</p> <p>If another party, related in some form with the IORP, can exercise unilateral rights together with the IORP this should be treated equivalently.</p>	
Q6	<p>Broadly yes. We think the point made in the definition 4.46 (b), namely that liabilities arising for reasons other than payment of contributions is important and typically a characteristic of many IORPs.</p>	
Q7	<p>Yes. However, sometimes this may be difficult in practice, since there is not always a clear and simple relationship between contributions and benefits (see 4.31). There may also be other sorts of benefits or contributions paid , such as transfers-out payments to other funds or transfers-in.</p>	

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Q8	Yes.	
Q9	Yes, payments should not be recognised in the TPs of the IORP. Rather, we suggest they could be recognised in a separate, to be defined position in the HBS/HPF (e.g. « surplus due to employer »). See our General Comments for an explanation of “HBS/HPF”.	
Q10	We understand that what is meant here are situations that are « planned » rather than « unanticipated ». We can't think of any cases that are planned. Unanticipated cases may indeed occur, since the «contract» is not stand-alone but is influenced by social legislation. For example, regarding the retirement age, the introduction of gender equality (an example is the ECJ's « Barber » ruling), the equalisation of benefits upon divorce or the extension beyond a certain age can have direct or indirect repercussions on the benefits originally envisioned when the pension was granted. This example is yet another area where IORPs are not identical to insurers.	
Q11	No, we can't think of a situation in Germany where such a situation would arise.	
Q12	The approach appears to be sensible. We appreciate that it is justified by transparency. However, where there are relevant measures that provide relief (benefit reduction mechanisms), these should be applied too.	
Q13	The approach appears to be sensible. We appreciate that it is justified by transparency. However, where there are relevant measures that provide relief (benefit reduction mechanisms), these should be applied too.	
Q14	Although we understand the principle being reached for, we are uncertain because of the definition's complexity and undefined language. We would recommend that the phrases «unilateral right or obligation to terminate the agreement or to amend contributions/obligations to fully reflect the risk» be included in the definition. Does the mere possibility to do so in future allow the IORP to exclude all future contributions/obligations? If the « full reflection of risk » is valued under a different regime from the one governing TPs, does this fulfil the condition?	
Q15	We suggest waiting for the final definition.	
Q16	We suggest waiting for the final definition.	
Q17	Although we understand the principle being reached for, we are uncertain because of the definition's complexity and undefined language. We would recommend that the phrases «unilateral right or obligation to terminate the agreement or to amend contributions/obligations	

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	to fully reflect the risk» be included in the definition. Does the mere possibility to do so in future allow the IORP to exclude all future contributions/obligations? If the « full reflection of risk » is valued under a different regime to the one governing TPs, does this fulfil the condition?	
Q18	Ideally, 2a and 2b should be combined, if this makes the definition easier to follow.	
Q19	We are not aware of any.	
Q20	Yes. But we do recommend that the definition be further clarified.	
Q21	Based on our experience, a) and b) are sufficiently distinct for each IORP to be able to be classified in the one or the other category.	
Q22	No ; the concept itself should be clarified/explained.	
Q23	Not really. We believe that the definition can be clarified. The examples are very helpful indeed. We had difficulties in understanding example 6. In particular, we don't understand the logic underlying points a. – c.	
Q24	We believe that the proposed definitions for conditional, mixed and discretionary benefits do not allow a unique and therefore practical classification of benefits.	
Q25	No.	
Q26	We not believe that it is possible to describe the relationship between funding position of an IORP and discretionary decision-making process. It lies in the nature of discretionary decisions, that a number of factors are taken into account, apart from the IORP's fund position, such as strategic considerations, prevailing market practice, etc.	
Q27	At a theoretical level we believe that a best estimate, determined under different scenarios, would be appropriate for the inclusion of discretionary benefits in the HBS/HPF. In practice, however, we do NOT consider that the HBS/HPF is the appropriate instrument for deducing capital requirements for discretionary benefits. Our suggestion is that discretionary benefits have no place in the HBS/HPF until such time as they are granted. See our General Comments for an explanation of "HBS/HPF".	
Q28	At a theoretical level we believe that a best estimate, determined under different scenarios, would be appropriate for the inclusion of mixed benefits in the HBS/HPF. In practice, however, we do NOT consider that the HBS/HPF is the appropriate instrument for deducing capital	

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	<p>requirements for mixed benefits, because they can contain significant discretionary elements. Our suggestion is that discretionary benefits have no place in the HBS/HPF until such time as they are granted.</p> <p>See our General Comments for an explanation of “HBS/HPF”.</p>	
Q29	<p>We believe that non-legally enforceable sponsor support should be taken into account in the HBS/HPF, because it is an element of the specificities of IORPs. At a theoretical level we believe that a best estimate, determined under different scenarios, would be appropriate for the inclusion of non-legally enforceable sponsor support. In practice, however, we do NOT consider that this best estimate can be reliably determined, since the IORP will typically not have the necessary information available to do so. This is particularly true for IORPs with many sponsors. See our General Comments for an explanation of “HBS/HPF”.</p>	
Q30	<p>Yes.</p>	
Q31	<p>If off-balance capital instruments are callable at any time, and the default risk of the grantor is appropriately taken into account, option 1 appears to be the most reasonable alternative. Option 2 only takes account of the current situation and is therefore not “holistic” in its approach.</p>	
Q32	<p>Yes.</p>	
Q33	<p>Yes.</p>	
Q34	<p>Option 1 appears to be unrealistic to us.</p> <p>Option 2 is appropriate to determine a best estimate of prospective payments from subordinated loans, since the stochastic methodology permits taking account of different scenarios.</p> <p>Option 3 is most appropriate, since it permits both the judgment of the IORP as well as that of the lender to be appropriately taken into account whilst the national competent authorities can ensure appropriate application.</p>	
Q35	<p>Yes. We believe that the “balancing item” approach is preferable, because existing benefit reduction mechanisms can be used to balance the HBS/HPF. See our General Comments for an explanation of “HBS/HPF”.</p>	
Q36	<p>Yes – we agree that a one-size-fits-all methodology to the valuation of sponsor support is probably not possible. So a principles based approach makes sense. Member States should be given the responsibility to judge what makes most sense in their environment, because they</p>	

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	understand the local situation best.	
Q37	<p>Although we consider that market consistency is an ideal, this need not be implemented in a puristic way but should rather be implemented in a principles based approach i.e. following the principle of « practicality before accuracy ». A high degree of granularity in this area is spurious anyway. If, for example, a complicated market consistent approach leads to effectively the same result as a simplified approach, the latter should be able to be applied.</p> <p>We consider that the proposed balancing item approach is, in general, market consistent (see also EIOPA 4.3) and should be accompanied with a model which is similarly simple as the PwC model (“M” approach).</p>	
Q38	No, a separate and explicit valuation of the sponsor support using expected cash flows is not in general necessary (and often not possible with precision). Such explicit approaches raise significant practical problems. Especially in cases when the balancing item approach is applicable no explicit valuation on the basis of expected cash flows should be required. In order to achieve a market consistent valuation the balancing item approach is sufficiently accurate as also mentioned by EIOPA in 4.3 and should therefore be allowed for.	
Q39	We think that the approach of simply applying sponsor support as a balancing item is eminently reasonable if the conditions for being able to do so exist.	
Q40	The conditions outlined in both principle 1 and 2.	
Q41	n.a.	
Q42	Research seems to indicate that 2 is a reasonable number. This is an example of a parameter that can only be set incorrectly, because of the inherent uncertainty surrounding the parameters that must be used to determine it. A rough and ready approach that will typically be acceptable, makes the system usable.	
Q43	Yes. Pension protection schemes should definitely be considered either via backing up sponsor support as a balancing item or directly as balancing item on the HBS/HPF. Otherwise, this important IORP-specific mechanism for safeguarding the pension promise from the beneficiaries’ perspective would be neglected, thus counteracting the goal of being holistic. See our General Comments for an explanation of “HBS/HPF”.	
Q44	If a PPS exists, it should be allowed to be used as a balancing item and not be restricted to cases	

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	where a PPS protects 100% of benefits. If there is a PPS it should always be appropriately considered.	
Q45	No – there is no need for a separate minimum level of funding at a European level. A minimum level of funding should be individually defined by member states. Especially in case of a strong sponsor or a sponsor backed by a PPS, the pension promise is sufficiently safeguarded. That is the rationale for treating these security mechanisms as balancing items.	
Q46	We agree with a principles-based and IORP specific approach to valuing sponsor support instead of an inadequate „one-size-fits-all“-approach for all types of IORPs. This enables the coverage of a broad range of different types of IORPs and sponsors as well as country specific differences and to find sufficiently appropriate solutions. Thus, the regulatory specifics should be set by Member States.	
Q47	n.a.	
Q48	n.a.	
Q49	Possibly. However, we would share the sentiments expressed in the stakeholder feedback.	
Q50	n.a.	
Q51	Possibly. However, we would share the sentiments expressed in the stakeholder feedback.	
Q52	EIOPA should work on solutions for cases where data on credit ratings or default probabilities is not easily available.	
Q53	No, because extreme care would need to be taken to ensure that the results are comparable. It appears questionable to us whether the complexity of the approach really provides a result that is so much more useful than an approximation.	
Q54	Yes.	
Q55	Yes ; the simplicity is appealing. If the HBS/HPF is introduced, we would suggest that the method’s suitability can be tested during a transition period. See our General Comments for an explanation of “HBS/HPF”.	
Q56	The approach is worth a try.	
Q57	Yes. A principles-based-approach enables the coverage a broad range of different types of IORPs and sponsors as well as country specific differences and to find suitable solutions. Thus the	

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	regulatory specifics should be set by Member States including a variety of equivalent approaches and leaving it up to the IORP to decide which approach to choose (including particularly the balancing item approach). In addition further, deterministic simplifications to take account of national circumstances should be allowed for.	
Q58	Depending on how the principles based model looks like, this appears to be reasonable.	
Q59	Sponsor support should definitely be considered in a regulatory framework. Thus, within the HBS/HPF the balancing item approach for the valuation of sponsor support in combination with an approximative model such as the PwC model (“M” approach) should be part of the suggested approach. See our General Comments for an explanation of “HBS/HPF”.	
Q60	We consider that there are other approaches too, but those outlined appear to provide a reasonable starting point.	
Q61	It is not the time period that primarily matters but rather the economic strength of the sponsor. If a time period should be defined it should be a function of the duration of the liabilities.	
Q62	The approach described appears reasonable but may be difficult to implement in practice.	
Q63	n.a.	
Q64	The approach described appears reasonable, but there will be situations in practice that require a more practical and balanced response. This approach is not possible for IORPs with a lot of small sponsors.	
Q65	The issue is a difficult one. We suggest that an appropriate simplification is considered that does not go so far as to ignore sponsor support in total.	
Q66	The approach described appears reasonable to us.	
Q67	The approach described appears reasonable to us.	
Q68	n.a.	
Q69	Pension protection schemes should definitely be considered as a balancing item on the HBS/HPF either directly or via backing up sponsor support. See our General Comments for an explanation of “HBS/HPF”.	
Q70	We think it is important that the effect of a PPS as a balancing item is considered in the HBS/HPF. Without it, the HBS/HPF cannot be termed holistic. Whether this is achieved indirectly (as backing	

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	up sponsor support to function as balancing item by reducing sponsor default probability to zero) or directly (as balancing item). In principle, we prefer PPS to be a separate component of the HBS/HPF. See our General Comments for an explanation of “HBS/HPF”.	
Q71	Yes.	
Q72	<p>At a theoretical level, yes: Assuming all pension-specific elements of the HBS are taken properly into account in principle, the HBS can provide a workable framework for EU-wide and therefore consistent capital/funding requirements. It may then be referred to as holistic since it would recognize all the specifics that differentiate IORPs from other institutions such as insurers.</p> <p>At a practical level, no: For a start, the descriptions of the models are incomplete (e.g. no indication of confidence level to be applied, exactly what is meant by each component of the HBS, simplifications, reasonable proportionality and transition arrangements). Thus, we cannot provide definitive answers for lack of detail.</p> <p>The essential reason being that it is clear that the state of development of the HBS is still incomplete, intransparent and not completely thought through (see below).</p> <p>We appreciate that, with respect to the HBS, the consultation has apparently been conducted in a much more circumspect and diligent way than the first QIS. But it would be irresponsible to test it in the market in the form of a QIS when a number of important issues concerning the HBS have not even been addressed conceptually and from the point of view of practical application: for example (not a complete list)</p> <p>(i) the very concept is still fundamentally under consideration (witness the 6 very different models being presented for comment)</p> <p>(ii) it should be clearly stated what the HBS is not: it is not a balance sheet in the sense of a statement of financial position (since it contains contingent liabilities and doesn't necessarily always balance); neither may it be holistic (since 4 out of 5 of the quantitative models exclude PPS and/or non-legally enforceable sponsor support). Rather than a balance sheet for the IORP, we understand that the HBS is intended as a holistic view of the IORP from a member's / beneficiary's point of view. If so, we believe that this principle should be expressly stated in EIOPA's documentation in order to avoid misunderstandings. Following on from this logic, the label « HBS » is then a misnomer and should be amended to « holistic prudential framework (HPF) » on condition that the adjective “holistic” is justifiable.</p>	

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	<p>(iii) most importantly, the question about the suitability of the HBS/HPF can seriously only be answered once all significant elements of the HPF have been thought through – from what we can see this is effectively lacking at present</p> <p>(iv) a number of elements of the HBS/HPF are yet to be explored to an extent that a robust model exists (e.g. risk margin, for which we see little basis if one considers the specific characteristics of most IORPs)</p> <p>(v) the debate as to whether to include TPs on the basis of level A or level B assumptions has not really been robustly held</p> <p>Since we believe that the concept of the HBS/HPF for IORPS has not been fully consulted on, any choice for one alternative would thus very probably be incomplete and misleading.</p>	
Q73	No, not until the complete model has been drawn up. In theory, if the HBS/HPF is appropriately developed, it may be a reasonable tool for a pillar 2 assessment, if all the IORP-specific aspects have been taken appropriately into account. See our General Comments for an explanation of “HBS/HPF”.	
Q74	No ! Most IORPs are not public institutions and these IORPs should therefore not be forced to publish sensitive information on risk management to the public, unless it is fairly certain that the rights of members and beneficiaries are under threat. Also, full disclosure is most probably too complex for beneficiaries to understand.	
Q75	Not until the complete model has been drawn up. In theory, if the HBS/HPF is appropriately developed, it may be a reasonable tool for a pillar 2 assessment, if all the IORP-specific aspects have been taken appropriately into account. See our General Comments for an explanation of “HBS/HPF”.	
Q76	Option 1 clearly appears to be more sensible to us because leaving non-legally enforceable sponsor support out of the HBS/HPF would negate the “holistic” character that the HBS/HPF is supposed to fulfil. Sponsor Support of any kind is one of the elements fundamental differentiating IORPs from other financial institutions. See our General Comments for an explanation of “HBS/HPF”.	
Q77	We support option 1 because leaving PPS out of the HBS/HPF would negate the “holistic” character that the HBS/HPF is supposed to fulfil. Taking PPS into account is important because:	

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	<ul style="list-style-type: none"> • PPS protects members and beneficiaries against insolvency of their employers (as per section 5.48). We also support the conditions under which PPS should be included (section 4.139) • PPS is collective sponsor support so like (individual) sponsor support it should be included in the HBS/HPF • Excluding pension protection schemes from the approach would mean that an essential element of occupational pensions in many countries in Europe would go unrecognized. This would not accord with the principle of a holistic view and introduce inconsistencies when comparisons are made between countries with and without a PPS. • Since PPS fulfil their mission on an ongoing basis and since they are not insurance guarantee schemes, they should be included in the HBS/HPF (as per section 5.49). • There is no justification given in the Consultation for applying option 2 – that fact must also be a reason for deleting this option. The only reason given for option 2 is not technical and leads to differing levels of security in different member states. <p>See our General Comments for an explanation of “HBS/HPF”.</p>	
Q78	<p>Yes. Pure discretionary benefits are not part of the pension promise and should therefore not be included in any kind of requirement. Including pure discretionary benefits in quantitative requirements would be misleading and give an inconsistent view on the financial situation of the IORP. In addition, the value of pure discretionary benefits is subjective and undefined. An inclusion would be contrary to achieving comparability.</p>	
Q79	<p>A mixture of options 2 and 3 might be the best approach to take here; the national specificities should be taken into account in order to decide on whether the discretionary element is predominant or not.</p> <p>Also, if mixed benefits are not part of the pension promise they should therefore not be included in any kind of requirement as a matter of course. Including mixed benefits in quantitative requirements would then be misleading and give an inconsistent view on the financial situation of the IORP. In addition, the value of mixed benefits may be subjective and mostly not clearly defined. An inclusion would destroy the already limited comparability.</p> <p>Member states should be given a role to make reasonable decisions with their full understanding of their respective social and labour law.</p>	

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Q80	Option 3; from a holistic point of view, all reduction mechanisms should be recognized, independently from the above classification. Excluding one of the three types would mean that the HBS/HPF would be incomplete and misleading ; it would then not deserve being called holistic. In practice, the national competent authorities would be more able to judge on borderline cases, so that a requirement to include all reduction mechanisms in principle appears more sensible. See our General Comments for an explanation of “HBS/HPF”.	
Q81	None that appear to us as obvious at the moment.	
Q82	Yes, as the off-balance capital instruments can be used to cover the liabilities in case of losses it appears to us very unreasonable to ignore them. Excluding them would mean that the HBS/HPF would be incomplete and misleading ; it would then not deserve being called holistic. See our General Comments for an explanation of “HBS/HPF”.	
Q83	Yes, as the surplus funds can always be used to cover liabilities of an IORP, it appears to us very reasonable to include them. Excluding them would mean that the HBS/HPF would be incomplete and misleading ; it would then be even less holistic. See our General Comments for an explanation of “HBS/HPF”.	
Q84	Yes. Excluding them would mean that the HBS/HPF would be incomplete and misleading ; it would then not deserve being called holistic. See our General Comments for an explanation of “HBS/HPF”.	
Q85	We believe that the debate as to whether level A or level B is the appropriate measure for Technical Provisions has not been robustly held in the case of IORPs. In countries with a PPS, we agree with EIOPA’s reasoning in section 5.85 that, of the two options, level B technical provisions are a very reasonable choice since the unique characteristics of an IORP typically allow for risk to be absorbed by other instruments than available financial assets. Even if PPS does not apply, it appears reasonable to focus on level B coverage with financial assets due to the other IORP-particular aspects available for risk mitigation, namely sponsor support and benefit reduction mechanisms. Other reasons include that, in general, liabilities of IORPs are long-term and IORPs are not profit-oriented. Situations, where large parts of the membership want to quit the scheme, are not realistic in most IORP constellations. It should also be borne in mind that focusing on level A TPs would unnecessarily require significant additional financial assets Europe-	

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	wide that would run strongly contrary to the policy of increasing coverage and adequacy.	
Q86	We believe that the level B approach would be proper for most IORPs. From a regulatory point of view, we can see arguments for restricting the level B approach to IORPs with security or adjustment mechanisms. Depending on the information publically available on such mechanisms, no prior approval by the national competent authorities is necessary.	
Q87	We understand that this question refers to the discounting of the TPs and SCR, that are to be met by any type of asset / available mechanism. In this regard, we believe that discounting on the basis of level B makes eminent sense for IORPs. One very important reason being the fundamental difference in nature of a typical IORP compared with a typical insurer. This is another point of fundamental importance which would be important to clarify at a strategic level.	
Q88	We believe that the level B approach would be appropriate for most IORPs. From a regulatory point of view, we can see arguments for restricting the level B approach to IORPs with security or adjustment mechanisms. Depending on the information publically available on such mechanisms, no prior approval by the national competent authorities is necessary.	
Q89	Yes, this could enhance fair competition between member states in cross border business because the relevant SLL would have to be satisfied by all IORPs doing business in a particular country. That could possibly enhance cross border business.	
Q90	Yes, subject to the following comments: One of the impediments against fair competition under IORP I was that particular national competent authorities could “market” recovery periods that were longer than in other countries. So a common approach (!) not a common recovery period in absolute terms i.e. expressed in years (!) makes good sense from a regulatory point of view. Having said that, reality needs to be taken into account too. To be clear: identical EU-wide specifications for for an identical recovery period (e.g. expressed in years) for meeting TP requirements are not suitable, because of national differences in the pension systems and, in particular, their history. These characteristics and their history cannot simply be ignored.	

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	<p>The period itself should be extensive and take account of the national characteristics of a nation's IORPs and, in particular, their history. These characteristics and their history cannot simply be ignored. The volatility of the market value of assets shouldn't lead to short-term additional contributions by the plan sponsors. Especially in times of financial hardship, a short period would lock up money that could be better used to strengthen the business/economy. The period should take the duration of the liabilities into account.</p> <p>If there are special issues of a general nature in one or more member states, then an (ex-ante) regulation needs to be flexible enough for policy-setter to act appropriately in the interests of the stakeholders of an IORP.</p>	
Q91	<p>The period should be extensive. The volatility of the market value of assets shouldn't lead to short-term fluctuations in contributions by the plan sponsors. Especially in times of financial hardship, a short period would lock up money that could be better used to strengthen the business/economy. A short recovery period would also transpose financial shocks into the real economy as employers would have to make additional contributions to their IORPs. The period should take the duration of the liability into account. For pension plans this would typically imply an extensive period of time. The recovery period should also depend on the existence of a security or adjustment mechanism, which would reflect the different needs of coverage. We agree with EIOPA's statement in par. 5.111 that in case of the existence of a PPS the rationale given for shorter recovery periods doesn't apply.</p>	
Q92	<p>The period should take the duration of the liabilities into account. For pension plans this would imply an extensive period of time (e.g. if the duration was 15 years a range from 10 to 15 years may seem reasonable). The recovery period should be anyhow subject to possible extension by the national supervisor in extreme economic circumstances. The recovery period should also depend on the existence of a security or adjustment mechanism, which would reflect the different needs of coverage. Under an appropriately reasonable regime the national competent authorities need not be requested to provide their prior approval.</p>	
Q93	<p>No. Although identical principles for a recovery period seem sensible at an EU-level, these would not necessarily translate into identical EU-wide recovery periods for meeting SCR requirements. Existing national differences in the characteristics of pension systems and, in particular, the historically used methods cannot simply be ignored in transitioning accrued past service liabilities.</p>	

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Q94	<p>The period should be extensive and take account of the national characteristics of a member state’s IORPs and, in particular, the historically used methods cannot simply be ignored in transitioning accrued past service liabilities. The volatility of the market value of assets shouldn’t lead to short-term contributions by the plan sponsors. Especially in times of an financial hardship, a short period would lock up money that could be better used to strengthen the business/economy. The period should take the duration of the liabilities into account. The period for covering the SCR should be longer than for the technical provisions. We agree with EIOPA’s statement in par. 5.125 that the rationale given for shorter recovery periods does not apply in case of the existence of a PPS.</p>	
Q95	<p>One of the impediments against fair competition under IORP I was that particular national competent authorities could “market” recovery periods that were longer than in other countries. So a common approach (!) not a common recovery period in absolute terms i.e. expressed in years (!) makes good sense from a regulatory point of view. Having said that, reality needs to be taken into account too.</p> <p>To be clear: identical EU-wide specifications for an identical recovery period (e.g. expressed in years) for meeting SCR requirements are not suitable, because of national differences in the pension systems and, in particular, their history. These characteristics and their history cannot simply be ignored.</p> <p>The period itself should be extensive and take account of the national characteristics of a nation’s IORPs and, in particular, their history. These characteristics and their history cannot simply be ignored. The volatility of the market value of assets shouldn’t lead to short-term additional contributions by the plan sponsors. Especially in times of financial hardship, a short period would lock up money that could be better used to strengthen the business/economy. The period should take the duration of the liabilities into account. The period for covering the SCR should be longer than for the technical provisions.</p> <p>If there are special issues of a general nature in one or more member states, then an (ex-ante) regulation needs to be flexible enough for policy-setter to act appropriately in the interests of the stakeholders of an IORP.</p>	
Q96	<p>Yes, if the capital/funding requirements are reasonable i.e. flexible and not prescribed at EU level. This is important as the options for closing the gap could depend on national social, labour or tax</p>	

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Q97	<p>From what we can ascertain, this is the first time that EIOPA is systematically considering the (significant) repercussions in the future actions taken by plan sponsors as a result of the ideas flaunted to date by the Commission and EIOPA. Due to the insensitive approach taken thus far, the repercussions amongst sponsors have already been serious, even though their translation into actions have not been widespread as yet. Imposing a new framework without very reasonable transition arrangements seems reckless to us. We prefer a flexible EU framework that appropriately takes national SLL into account.</p> <p>We welcome EIOPA's acceptance, that this is a crucial issue, which we strongly recommend should be part of the overall framework before it is consulted on.</p> <p>It is clear that a consistent EU-wide prudential framework could have a massive impact on existing contractual agreements (witness results of the first QIS). If the prudential framework increases the costs disproportionately, employers will quite obviously react on commercial grounds by trying to close or cut the benefits and/or even attempt to find other ways of granting social benefits that are less strongly regulated. Regarding the ongoing demographic change in Europe, this would be counterproductive and contrary to the Commission's aims of increasing coverage and adequacy of benefits.</p> <p>Not only will disproportionate measures affect entitlements accrued in respect of past service. Measures applied to future accruals may also have significant effects on citizens providing for their retirement.</p>	
Q98	<p>As our response to Q 97 indicates, this is an overdue consideration by EIOPA and a very sensible and necessary thing to do. Thinking about details of this process should go hand-in-hand with the full definition of the HBS/HPF model. The importance of occupational pensions in the European retirement systems makes it necessary, that transitional measures are established. Already the discussions about implementing new European capital requirements over the past years have damaged the existing pension system in many ways.</p> <p>However, even though we welcome EIOPA's thoughts about transition measures and grandfathering, we want to make clear that these measures can't be a substitute for the consideration of all specificities of IORPs (such as security and adjustment mechanisms) in a future framework. See our General Comments for an explanation of "HBS/HPF".</p>	

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Q99	<p>We are surprised that example 1 (as is the case for examples 2 and 5) even considers excluding taking account of PPS. In our opinion, there seems to be no justification whatsoever, to even consider such an option. Suggesting such radical concepts in 3 of the 5 quantitative regimes of the proposed regulatory frameworks begs the question whether the leadership at the Commission/EIOPA has understood the very basic concepts of IORPs. This is one of many examples that is not conducive to a constructive « working together » approach. Finally, it should not be forgotten that the cost/benefit analysis will in the final instance be made by the sponsoring employers with a direct effect on future generations.</p>	
Q100	<p>No. Requiring financial assets to cover level A technical provisions (also for mixed benefits) and the risk margin isn't appropriate for IORPs if an IORP's typical characteristics are appropriately taken into account. Furthermore, we believe that ignoring benefit reduction mechanisms other than ex ante and pension protection systems doesn't match with the so called holistic approach. The recovery period is unacceptable.</p> <p>Regarding the underlying reasoning for the risk margin, an intended transfer to another undertaking doesn't reflect the triangular relationship between employee, employer and the company. Such transfers weaken the system by negating the relationship between the sponsoring undertaking and the IORP.</p>	
Q101	<p>We are surprised that example 2 (as is the case for examples 1 and 5) even considers excluding taking account of PPS. In our opinion, there seems to be no justification whatsoever to even consider such an option. Suggesting such radical concepts in 3 of the 5 quantitative regimes of the proposed regulatory frameworks begs the question whether the leadership at the Commission/EIOPA has understood the very basic concepts of IORPs. This is one of many examples that is not conducive to a constructive « working together » approach. Finally, it should not be forgotten that the cost/benefit analysis will in the final instance be made by the sponsoring employers with a direct effect on future generations.</p>	
Q102	<p>No. Excluding pension protection schemes as well as benefit reduction mechanisms (ex-post and in case of sponsor default) from the HBS/HPF would be incomplete and misleading and doesn't correspond to the holistic approach.</p> <p>We like the suggestion to use level B discount rate for TPs.</p> <p>See our General Comments for an explanation of "HBS/HPF".</p>	

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Q103	<p>In this example too, we do not understand why some important characteristics of IORPs are not taken into account. For example, we consider ignoring non-legally enforceable sponsor support unjustified. Although many aspects of the example are eminently reasonable, the process envisioned is very complex. The inclusion as a risk management tool is contrary to the current provisions of IORP II. Particularly under cost-benefit aspects, this approach is unreasonable but parts of it may serve as a basis for a HBS/HPF of the future. See our General Comments for an explanation of “HBS/HPF”. Finally, it should not be forgotten that the cost/benefit analysis will in the final instance be made by the sponsoring employers with a direct effect on future generations.</p>	
Q104	<p>No. Excluding non-legally enforceable sponsor support schemes as well as benefit reduction mechanisms (ex-post and in case of sponsor support) from the HBS/HPF would be incomplete and misleading and does not correspond to the holistic approach. The usage of the HBS/HPF as part of pillar 2 requirements leads, especially for small IORPs, to significant additional costs without noticeable added value compared to other risk monitoring. See our General Comments for an explanation of “HBS/HPF”.</p>	
Q105	<p>This appears to be the most reasonable of all the five examples requiring the HBS/HPF for capital requirements since it is closest to incorporating the specificities of IORPS. However, there is still significant room for further improvement in this alternative : for example, the requirement to reserve for a risk margin should be deleted (for the well-known reason that IORPs and not insurers) and the TPs should generally be subject to a level B discount rate. We appreciate that, with respect to the HBS, the consultation has apparently been conducted in a much more circumspect and diligent way than the first QIS. But it would be irresponsible to test it in the market in the form of a QIS when a number of important issues concerning the HBS have not even been addressed conceptually and from the point of view of practical application: for example (not a complete list) (i) the very concept is still fundamentally under consideration (witness the 6 very different models being presented for comment) (ii) it should be clearly stated what the HBS is not: it is not a balance sheet in the sense of a statement of financial position (since it contains contingent liabilities and doesn't necessarily always balance); neither may it be holistic (since 4 out of 5 of the quantitative models exclude PPS</p>	

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	<p>and/or non-legally enforceable sponsor support). Rather than a balance sheet for the IORP, we understand that the HBS is intended as a holistic view of the IORP from a member's / beneficiary's point of view. If so, we believe that this principle should be expressly stated in EIOPA's documentation in order to avoid misunderstandings. Following on from this logic, the label « HBS » is then a misnomer and should be amended to « holistic prudential framework (HPF) » on condition that the adjective "holistic" is justifiable.</p> <p>(iii) most importantly, the question about the suitability of the HBS/HPF can seriously only be answered once all significant elements of the HBS/HPF have been thought through – from what we can see this is effectively lacking at present</p> <p>(iv) a number of elements of the HBS/HPF are yet to be explored to an extent that a robust model exists (e.g. risk margin, for which we see little basis if one considers the specific characteristics of most IORPs)</p> <p>(v) the debate as to whether to include TPs on the basis of level A or level B assumptions has not really been robustly held.</p> <p>Since we believe that the concept of the HBS/HPF for IORPs has not been fully consulted on, any choice for one alternative would thus very probably be incomplete and misleading.</p> <p>Finally, it should not be forgotten that the cost/benefit analysis will in the final instance be made by the sponsoring employers with a direct effect on future generations.</p>	
Q106	<p>Subject to considering the many other questions still open, we consider this to be the most reasonable quantitative regime of those presented (but still able to be improved somewhat). In particular, we believe that using a risk margin is not appropriate for IORPs.</p>	
Q107	<p>We are surprised that example 5 is even more draconian than examples 1 and 2 in considering to exclude taking account of PPS. In our opinion, there seems to be no justification whatsoever to even consider such an option. Suggesting such radical concepts in 3 of the 5 quantitative regimes of the proposed regulatory frameworks begs the question whether the leadership at the Commission/EIOPA has understood the very basic concepts of IORPs. This is one of many examples that is not conducive to a constructive « working together » approach.</p> <p>Finally, it should not be forgotten that the cost/benefit analysis will in the final instance be made by the sponsoring employers with a direct effect on future generations.</p>	

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Q108	<p>No. Including mixed benefits isn't appropriate, as they are not part of the pension promise and often can't be determined objectively. Using level A technical provision to be covered with financial assets doesn't correspond with the social character of IORPs. Furthermore, the usage of the HBS/HPF as part of pillar 2 requirements leads, especially for small IORPs, to significant additional costs without noticeable added value compared to other risk monitoring. See our General Comments for an explanation of "HBS/HPF".</p>	
Q109	No	
Q110	<p>Subject to considering the many other questions still open (cost/benefit analysis, publication measures, etc.), we consider this to be the most reasonable alternative of all 6 of those presented (but not necessarily the best alternative). The only difference to the current regime appears to be the inclusion of the HBS/HPF concept as a risk management tool. If the HBS/HPF mechanisms are introduced in a reasonable way (i.e. taking appropriate account of materiality, proportionality, etc.) and all IORPs in the EU can trust that this will be the final regulatory state for many years to come, then this would be a most reasonable and sensible way ahead. See our General Comments for an explanation of "HBS/HPF".</p>	
Q111	<p>Yes. Simplifications, that reduce complexity and costs, are absolutely necessary to make the regime practicable. A large number of small and medium sized IORPs will have an enormous increase in costs if the fundamental requirements in the consultation paper have to be realised without simplifications applying.</p> <p>For example, an IORP should not be compelled to draw up a HBS/HPF if certain mechanisms exist in the country. Examples include a solid PPS, benefit reduction mechanisms, an overwhelming sponsor support, etc. See our General Comments for an explanation of "HBS/HPF".</p>	