	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:	Pensioen Stichting Transport (Netherlands)	
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
	The question numbers below correspond to Consultation Paper No. 06 (EIOPA-CP-11/006). **Please follow the instructions for filling in the template:** ⇨ <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. o 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. o If your comment refers to parts of a question, please indicate this in the comment itself. **Please send the completed template to *CP-006@eiopa.europa.eu*, <u>in MSWord Format</u>, (our IT tool does not allow processing of any other formats).**	
Question	**Comment**	
General comment		
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12.	We prefer policy option 1, because we think that there is and should be a distinction between Article 17(1) IORPs, 17(3) IORPs and sponsor-backed IORPs. The idea of a holistic balance sheet seems to us a theoretical one. As a consequence we reject the usage of the holistic balance sheet as a catch-all approach because it doesn't fit the diversity of European IORPs. The holistic balance sheet approach doesn't meet the characteristics of sponsor-backed IORPs and to some extent Article 17 (3) IORPs. A reasonable holistic balance sheet model implies that the value of the employer covenant (backed by a pension protection scheme) will have to be determined by the gap it is supposed to fill. This will be the gap between the financial assets on the one hand and technical provisions. IORPs should only be bound to hold additional assets above the technical provisions to the extent they are not sponsor-backed.	
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14.	We are the view that a valuation of liabilities on the concept of transfer value is inappropriate for IORP's. Liabilities could possibly be valued in a market consistent way.The concept of transfer is not applicable to IORPs in the same way as this is for insurance companies. Where insurance companies always need to take into account the possibility of a forced transfer in case of insolvency, IORPs do not have this threat. We especially agree with the point made that the transfer value for a pension	

	contract would differ in case the liabilities would be transferred to an insurer on the one hand or to another IORP on the other hand. This makes the concept of transfer value ineffective.	
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17.	As mentioned before we do not support "Transfer pricing" as a valuation method for liabilities.	
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21.	The use of a market-consistent risk-free interest rates or "modified" risk-free rates results in heavy volatile figures that are inappropriate for the management of an institution that deals with and covers long-term obligations spanning generations. For benefits that are not unconditional, it makes no sense to use risk-free interest rate. Therefore we reject both options being presented by EIOPA. It would also not make allowance for the specific investment policy of the IORP. The possibility to use an interest rate based on expected returns on assets to calculate technical provisions must be maintained.	
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33.	For sponsor-backed IORPs with an additional pension protection scheme (PPS), Component 7 (i.e. contingent assets such as employer covenant or PPS) should not be interpreted as a calculated (by evaluation) asset position, instead it has to be interpreted as a flexible compensation position. Regardless of the definition of capital requirements, Component 7 has to be regarded as an asset to fulfil any solvency capital requirement the IORP might face. In any event component 7 has to be qualified as an equivalent to financial assets. We are also concerned with the complexity involved and the subjectivity regarding the determination of parameters necessary to calculate this asset.	
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38.	We strongly oppose the proposal of applying the Solvency II-rules for calculating a SCR to IORPs. We do not believe that risk-based capital requirements are appropriate for IORPs and do not see any need tot harmonize solvency requirements at the EU level. Pension security is about much more than scheme funding levels alone. A broader approach is required, taking into account the full range of mechanisms that IORPs across different member states now use to ensure that pension incomes are safe and secure. The focus of IORP II is - beside the sound development of occupational pension schemes provided by IORPs in Europe - on security for members / beneficiaries. Therefore, essential security mechanisms like employer support and pension protection schemes have to be taken into account, making the whole concept of SCR dispensable for IORPs and a mere complex and costly exercise. Additional SCR-requirements mean dead capital for employers and to a certain extend for the IORPs. This will lead to a decline of their willingness to offer occupational pensions and therefore harm the second pillar.	

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