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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 28 March 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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ASSESSMENT Accompanying the document Proposal for a Directive of  
the European Parliament and of the Council on the activities and supervision  
of institutions for occupational retirement provision (recast)

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Delegations will find attached document SWD(2014) 103 final PART 2/2.

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EUROPEAN  
COMMISSION

Brussels, 27.3.2014  
SWD(2014) 103 final

PART 2/2

**COMMISSION STAFF WORKING DOCUMENT**

**IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a Directive of the European Parliament and of the Council  
on the activities and supervision of institutions for occupational retirement provision**

**(recast)**

{ COM(2014) 167 final }

{ SWD(2014) 102 final }

{ SWD(2014) 104 final }

## 5. POLICY OPTIONS AND COMPARISONS

### 5.1. Remove additional requirements for cross-border activity

To attain this operational objective, the following options were considered:

Option 1 – **No policy change**: different quantitative investment limits; more stringent rules for the funding obligation for cross-border IORPs.

Option 2 – **Remove additional requirements from the Directive**: no national quantitative investment limits; same conditions to restore full funding for cross-border and domestic IORPs.

The baseline scenario (**option 1**) will not help attain the objective and would hamper IORPs' willingness to engage in cross-border activities. Option 1 has therefore been discarded.

**Option 2** is the preferred option. The proposed action removes two additional requirements for cross-border activity in the current Directive:

- IORPs should be allowed to invest in an efficient manner, regardless of the MS where they operate. To this end IORPs should be subject to a set of consistent investment rules which would probably lead to a reduction of operating costs of IORPs wishing to operate across borders. A solid governance system of IORPs with a strong focus on risk management and other governance requirements would help the management of IORPs to better assess investment risks. This will enhance the security of the pension scheme. IORPs which invest in a safe and efficient manner are even more important for members and beneficiaries of DC schemes, whose pension benefits wholly or partly depend on investment returns (European Commission, 2011). The same regulatory oversight should apply to IORPs which operate domestically or across borders. This would avoid regulatory arbitrage between the IORPs, regardless of how and where they operate. Also respondents to the Green Paper on pensions mentioned that it may be necessary to remove the possibility for MSs to impose additional investment rules for cross-border activity of IORPs (European Commission, 2011). By strengthening governance and risk management processes of IORPs across the EU, the possibility to impose additional national quantitative investment rules is no longer necessary.
- The removal of the full funding requirements contained in Article 16(3) make cross-border IORPs less expensive and less burdensome by aligning the rules to those for domestic IORPs. Respondents to the Green Paper on pensions mentioned that the full funding requirement is a major obstacle to cross-border activity (European Commission, 2011).

Option 2 is coherent with overall EU policy in the pensions area, as set out in the White Paper, the Europe 2020 strategy and the Green Paper on long-term investment. It also meets the EU's fundamental goals of promoting harmonised development of economic activities (Article 169 TFEU).

This option is not expected to generate costs. On the contrary, it is expected to generate significant gains (see Section 6 below). In particular it will provide significant economic benefits to employees, employers and IORPs. Cross-border IORPs are likely to bring additional benefits for workers in SMEs and employees who move within corporate groups.

Economic benefits will also be reaped by innovative employers. Small or local companies, notably SMEs, can benefit from a better functioning Single Market through scale effects and lower transaction costs. This option has a positive impact on supervisors and overall neutral impact on MSs.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	<b>Effectiveness</b> <b>Facilitate cross-border activity</b>	<b>Efficiency</b>	<b>Coherence</b>
Option 1	0	0	0
Option 2	++	++	++

*Comparison of the impact of policy options on stakeholders*

	<b>Employees</b>	<b>Employers</b>	<b>IORPs</b>	<b>SMEs</b>	<b>MSs/supervisors</b>
Option 1	0	0	0	0	0
Option 2	++	++	++	++	0/+

## 5.2. Clarifications of definitions and procedures for cross-border activity

To attain this operational objective, the following options were considered:

Option 1 – **No policy change**: maintains unclear definitions and procedures for cross-border activity (different interpretations of the definitions of cross-border activity, no provisions on cross-border transfers of pension schemes, lack of clarity about the scope of prudential and social and labour law rules).

Option 2 – **Guidelines or recommendations** for better enforcement and implementation of the Directive.

Option 3 – **Clarification** of definitions and procedures for cross-border activity **in the Directive**.

The baseline scenario (**option 1**) will not help attain the objective, as it would hamper IORPs' willingness to engage in cross-border activities. Option 1 has therefore been discarded.

Guidelines or recommendations (**option 2**) could be adopted by the Commission under Article 288 TFEU or guidelines or recommendations to supervisors issued by EIOPA under Article 16 of the EIOPA Regulation 1094/2010. Guidelines or recommendations may only promote common approaches by supervisors involved in the cross-border processes. They are not legally binding. However, EIOPA on the advice of MSs' supervisors, has discarded this option and has called for the introduction of clear definitions of the sponsoring undertaking and of the home MS (EIOPA, 2012a). Moreover, there is no guarantee that the lack of clarity about the scope of prudential rules could be resolved by non-binding guidelines or recommendations. Since there are no rules on pension scheme transfers in the Directive, better enforcement and implementation through guidelines or recommendations would not be grounded. Like option 1, option 2 would not prove effective and efficient. Nor would it be coherent with overall EU policy of promoting harmonised development of economic activities (Article 169 TFEU). Therefore, option 2 has also been discarded.

**Option 3** is the preferred option. It proposes three improvements: (i) disagreements between supervisory authorities of different MSs can be easily resolved by introducing clear definitions of the sponsoring undertaking and of the home MS (EIOPA, 2012a); (ii) clear and

simple conditions for transfers of pension schemes, including past service and regardless of their size, laid down in the Directive will increase legal certainty and ensure sound supervisory procedures; and (iii) the clarified scope of prudential rules will ensure legal certainty for cross-border activities. Respondents to the Green Paper on pensions called for a clear definition of the scope of social and labour legislation and its interaction with prudential regulation (European Commission, 2011).

Option 3 is coherent with overall EU policy in the pensions area, i.e., the White Paper, and Europe 2020 strategy. It also meets the EU's fundamental goals of promoting harmonised development of economic activities (Article 169 TFEU).

This option is not expected to generate costs. On the contrary, it is expected to generate significant to gains (see Section 6 below). In particular, it will provide significant economic benefits to employees, employers and IORPs. Cross-border IORPs are likely to bring additional benefits for workers in SMEs and employees who move within corporate groups. Economic benefits will also be reaped by innovative employers. Small or local companies, notably SMEs, can benefit from a better functioning Single Market through scale effects and lower transaction costs. As regards supervisors and MSs, this option has a positive and overall neutral impact respectively.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	<b>Effectiveness</b> <b>Facilitate cross-border activity</b>	<b>Efficiency</b>	<b>Coherence</b>
Option 1	0	0	0
Option 2	-	-	-
Option 3	++	++	++

*Comparison of the impact of policy options on stakeholders*

	<b>Employees</b>	<b>Employers</b>	<b>IORPs</b>	<b>SMEs</b>	<b>MS/supervisors</b>
Option 1	0	0	0	0	0
Option 2	0	0	0	0	0
Option 3	++	++	++	+	0/+

**5.3. Ensure that IORPs are managed professionally**

To attain this operational objective, the following options were considered:

Option 1 - **No policy change:** one governance function (actuarial function) for DB and hybrid schemes and no functions for DC schemes.

Option 2 – **Add a risk management and an internal audit function:** three governance functions for DB and hybrid schemes and two functions for DC schemes:

- The risk management function would assess the main risks that an IORP is exposed to, such as investment, biometric and operational risks. Such a control mechanism forms the basis of good business conduct, enhanced transparency, consistency as to management decisions, and the protection of members and beneficiaries of the IORP. The risk management function would have a well-integrated position in the IORP’s organisational structure and its decision-making process. These functions would not be shared with the sponsor of the IORP in order to avoid a possible conflict of interest.

- The internal audit function would cover the effectiveness of the IORP’s operations, the reliability of financial reporting, deterring and investigating fraud, safeguarding assets and compliance with applicable laws and regulations. The internal audit function would also include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance of the IORP, including the outsourced functions or activities. The internal audit function would, moreover, be required to perform its activities in relation to the administrative, management or supervisory body of the IORP.

The baseline scenario (**option 1**) does not ensure that IORPs improve their governance and risk management and has therefore been discarded.

**Option 2** proposes to enhance the quality of IORP management by adding explicit governance functions that would be responsible for risk management and for internal audit. As shown in Figure 13, this would improve the situation particularly in IE, UK, LU and BE. Option 2 addresses the operational objective in a proportionate manner by requiring IORPs to have only a limited number of functions which are essential for IORPs (OPSG, 2013). The option takes into account the fact that IORPs are generally small financial institutions with a relatively simple risk profile. Respondents to EIOPA’s consultation on its draft advice (EIOPA, 2012a) agreed that the general governance requirements in the Solvency II Directive could be applied to IORPs, as long as the principle of proportionality applies to all elements of the governance system of IORPs (UK, DE, National Association of Pension Funds in the UK, Pensioenfederatie in NL).

**Figure 13: Existence of functions**

	Functions																			
	AT	BE	BG	DE	ES	HU	IE	IT	LU	LT	LV	MT	NL	PL	PT	RO	SI	SK	SE	UK
Internal audit function	Y	Y	Y	Y	Y	Y		Y			Y		Y		Y	Y	Y	Y	Y	
Actuarial function	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Risk management function	Y		Y	Y	Y	Y		Y		No data	Y	Y	Y		Y			Y	Y	Y

Source: CEIOPS (2009), CEIOPS (2010).

The main beneficiaries of option 2 are employees. Well-managed IORPs ensure a high degree of protection for the scheme members and beneficiaries (EIOPA, 2012a) and a reduction in operational risk. Well-governed schemes are more likely to provide value for money by reviewing the quality of administration and investment management services and the costs and charges on an ongoing basis. If governance is not performed well, it can lead to member detriment due to the use of outdated investment strategies that do not deliver returns or expose members to excessive risks, or result in them paying higher charges than necessary or leave them with sub-standard administration (OFT, 2013).

Research suggests that good governance is associated with increased returns. Better governed pension funds outperformed poorly governed funds by 2.4 percent per annum (Capelle et al, 2008). Other studies have confirmed this link (Ambachtsheer et al, 2006; Ambachtsheer et al, 2007; Clark et al, 2007; and Clark and Urwin, 2007). A better investment outcome would be beneficial to scheme members and beneficiaries through higher pension benefits.<sup>1</sup> This is

<sup>1</sup> IORPs are generally not-for-profit institutions so that greater investment returns are not likely to lead to lower contributions for sponsors.

even more important for members and beneficiaries of DC schemes, whose pension benefits wholly or partly depend on the returns on their investments. In Annex G the estimated gains from better governance, combined with the improvement in risk management (see section 5.4), is estimated at €55 to €140 per member per year. Finally, better governance will also increase trust in the safety of IORPs in other MSs and may lead to an increase in cross-order activities of IORPs.

Option 2 is coherent with the White Paper’s objective of making pensions safer. Well-governed IORPs strengthen private occupational retirement provision which may be beneficial for MSs due to reduced pressure on statutory pension systems. Well-governed IORPs are also beneficial for employers, including SMEs, in terms of capital efficiency.

The main expected cost associated with option 2 is a slight increase of the recurrent administrative burden for IORPs and employers. SMEs are not unduly affected because the additional functions can be outsourced. Given the monopolistic market environment in which IORPs operate<sup>2</sup>, it is likely that the burden stemming from option 2 will be passed on to members. The estimation of the potential burden amounts to around €0.14 to €0.80 per member per year.<sup>3</sup>

Option 2 is the preferred option because it improves the protection of members and beneficiaries by taking into account the different sizes and nature of IORPs, while not unduly increasing the administrative burden for IORPs and sponsors.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	Effectiveness		Efficiency	Coherence
	More safety	Facilitate cross-border activity		
Option 1	0	0	0	0
Option 2	++	+	+	++

*Comparison of the impact of policy options on stakeholders*

	Employees	Employers	IORPs	SMEs	MSs/supervisor
Option 1	0	0	0	0	0
Option 2	+	+	0	+	+

**5.4. Require documentation concerning risk management**

To attain this operational objective, the following options were considered:

Option 1 – **No policy change:** IORPs do not carry out a systematic self-assessment of their risk profile and do not communicate that assessment to their supervisor.

Option 2 – **Introduce a Risk Evaluation for Pensions Report (REP)** to document the IORP’s own risk assessment and as part of that require qualitative descriptions of four key elements

<sup>2</sup> Although there are many IORPs each of them operate as a quasi-monopolist because there is no competition amongst IORPs. This gives market power to the employers and enables them to pass-on costs to employees. The market power is somewhat limited by opt-out clauses and agreements amongst the social partners.

<sup>3</sup> This corresponds to half of the total recurrent burden calculated in Annex I. The other half of the total burden is expected to reflect the introduction of the REP (see section 5.4).

determining the funding position: (i) explicit valuation of margin for adverse deviation from best estimate as a risk buffer in calculation of technical provisions; (ii) qualitative evaluation of sponsor support accessible to IORP in case of funding shortfall; (iii) description of safety mechanisms available to IORPs in case of funding deficit, such as mixed benefits, discretionary benefits or ex-post benefit reductions; and (iv) qualitative evaluation of operational risks for all schemes. The REP would be reported to the supervisor.

**Option 3 – Same as option 2 plus common reporting on national solvency rules:** require DB and hybrid schemes to report to the supervisor in a common format the value of their assets and liabilities following national requirements and require them to quantify, where applicable, security mechanisms and benefit adjustment mechanisms.

The baseline scenario (**option 1**) is that IORPs do not carry out a systematic self-assessment of their risk profile. A solid understanding of the risks by those who effectively manage an IORP lies at the heart of modern prudential regulation. Risk-based supervision is more important as a pattern of thinking than as a capital requirement framework, as in the case of other financial institutions, such as banks and insurers. Risk management processes should thus be documented in a clear and consistent manner. Option 1 is therefore discarded.

**Option 2** proposes to introduce a REP report reflecting the own risk assessment of IORPs. It is essential that IORPs improve their risk management so that potential vulnerabilities in relation to the sustainability of the pension scheme can be properly understood by the holders of key functions and discussed with supervisors. As part of the REP IORPs would provide a qualitative description of four key elements determining their funding position:

- (a) The explicit valuation of the margin would support a more effective discussion about the economic and actuarial assumptions chosen for the valuation of liabilities between the IORP and the supervisor;
- (b) In many cases an evaluation of the sponsor support is implicit, for example, in the choice of the discount rate. But by requiring IORPs to produce an explicit qualitative evaluation of the sponsor support, IORPs can demonstrate vis-à-vis their supervisors that they have properly thought about the ability and the willingness of their sponsor to make up for future shortfalls in their funding position;
- (c) Legal frameworks, regulatory powers and market practices differ considerably regarding safety mechanisms available to IORPs in case of a funding deficit, such as mixed benefits, discretionary benefits or ex-post benefit reductions. IORPs should be able to explain to their supervisors whether they expect to reduce benefits within the next few years and under which conditions such reductions could be expected to materialise;
- (d) Operational risks are the risks inherent in the failure or insufficiency of internal processes, human and technical shortcomings, and unexpected external events (DNB, 2008). This is particularly important for DC schemes since these do not have to abide by further capital requirements. The current prudential regulation for DB schemes, EU or national, does not ensure that the overall regulatory capital includes an operational risk charge and there is no operational risk charge for DC schemes at the EU level. Requiring IORPs to produce an explicit qualitative evaluation of the operational risk they are facing would encourage an effective dialogue with the supervisor about when and how to mitigate that risk.

Option 2 is proportionate in the sense that it leaves sufficient flexibility for individual IORPs to describe their particular situation in a way that reflects the nature, scale and complexity of their activities. It needs to be stressed that the option does not oblige IORPs to follow a specifically prescribed formal approach.

This option is coherent with the objective of the White Paper to make pension provision safer. Better risk management is an advantage for employees reflecting more safety and for employers reflecting greater efficiency.

The main expected cost associated with option 2 is a slight increase of the recurrent administrative burden for IORPs and employers. SMEs are not unduly affected because the additional requirement can be outsourced. Given the monopolistic market environment, it is likely that the burden stemming from option 2 will be passed on to members. The estimation of the potential burden amounts to around €0.14 to €0.40 per member per year.<sup>4</sup> MS will bear a cost to the extent that supervisors need extra capacity to deal with an increased workload due to the examination of the REP.

The advantage of **option 3** is that supervisors would receive an all-encompassing overview of the way IORPs in their jurisdiction deal with their risks, enabling them to better assess the risk management systems of individual IORPs. DC schemes would not be affected by this measure because such schemes generally do not have to hold regulatory capital. The main disadvantage of this option is that it could lead to additional costs. Most national supervisors already require IORPs to submit their funding position in accordance with national rules. Requiring reporting on the same issue in the context of the REP would in these cases lead to double reporting, which is clearly disproportionate.

Option 2 is the preferred option because it addresses the operational objective in the most efficient manner.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	Effectiveness		Efficiency	Coherence
	More safety	Facilitate cross-border activity		
Option 1	0	0	0	0
Option 2	+	+	+	+
Option 3	++	+	-	+

*Comparison of the impact of policy options on stakeholders*

	Employees	Employers	IORPs	SME	MSs/supervisor
Option 1	0	0	0	0	0
Option 2	+	-	-	+	-
Option 3	+	-	-	-	-

**5.5. Protect assets from operational risk**

To attain this operational objective, the following options were considered:

<sup>4</sup> See footnote 35.

Option 1 – **No policy change:** IORPs are not required to appoint a depository; no provisions on the safe-keeping and oversight of assets functions.

Option 2 – **Strengthen the safe-keeping and oversight of assets functions;** this means (i) financial instruments have to be subject to due care and protection; (ii) records have to be kept, to be able to identify all assets at any time and without delay; (iii) all necessary measures need to be taken to avoid any conflicts of interest or incompatibility; (iv) depositories or trustees need to carry out instructions of the IORP, unless they conflict with the applicable national and/or EU regulations; (v) ensure that in transactions involving the assets of IORPs any consideration is remitted to it within the usual time limits; and (vi) ensure that income produced by assets is applied in accordance with all national and/or EU regulations.

Option 3 – **Strengthen the safe-keeping and oversight of assets functions and make the appointment of a depository compulsory for all IORPs:** same as option 2 but appointment of a depository is compulsory.

Option 4 – **Strengthen the safe-keeping and oversight of assets functions and make the appointment of a depository compulsory for pure DC schemes only:** same as option 3 but appointment of a depository is compulsory for pure DC schemes only.

The baseline scenario (**option 1**) is that IORPs' assets are not handled with due care and that risks relating to fraud are not properly mitigated. Option 1 has therefore been discarded.

**Option 2** would lead to a marked improvement vis-à-vis the current situation. It would, however, create a conflict of interest problem for those systems in which trustees already today are tasked with oversight of IORPs' assets. Therefore this option cannot be selected.

**Option 3** has as its main advantage that it would create a common approach for protecting IORPs' assets. This option would be particularly beneficial for members and beneficiaries of pure DC schemes in those MSs that do not require the appointment of a depository already (notably UK, IE and NL, see Figure 14). However, for members and beneficiaries of DB and hybrid schemes in those MSs the benefits would be less evident. In fact, since in these cases the IORP itself or the sponsor is expected to bear the cost of potential operational failures, mandatory appointment of a depository would lead to duplication of functions and increased costs. Because of this, and because of the fact that a majority of respondents to EIOPA's consultation on this topic (EIOPA, 2012a) indicated a preference to retain the existing flexibility in their national systems as regards DB and hybrid schemes, option 3 has been discarded.

**Figure 14: Compulsory appointment of a depository**

	Depository																					
	AT	BE	BG	DA	DE	ES	FI	FR	GR	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SI	SK	UK
	Y	Y	Y		Y	Y		Y			Y	Y	Y	Y			Y	Y	Y	Y	Y	

Source: Commission Services and national sources, 2006.

Addressing the drawbacks of option 3 while retaining its main benefits, **option 4** proposes to strengthen the asset-keeping and oversight functions related to the assets of all IORPs, while at the same time requiring only pure DC schemes to appoint a depository. This option is in line with EIOPA's recommendation on this issue (EIOPA, 2012a). By limiting the proposed action to the compulsory appointment of depositories for pure DC schemes the increase in cost for members is expected to be limited. The compulsory appointment of depositories for

pure DC schemes is expected to lead to an increase of costs for pure DC schemes in those few MSs (Figure 14) where this is not yet required. The analysis in Annex H suggests that the cost of this option could amount to at most €2 to €3 per member per year. Reflecting a monopolistic market environment it is likely that this cost is passed on to scheme members and beneficiaries.

A modern cross-sectoral framework resulting from a clarification of the roles and functions of depositories will improve the protection of members and beneficiaries. Moreover, the compulsory appointment of depositories for pure DC schemes will improve the effective protection of members and beneficiaries which will be coherent with the objective of the White Paper of making occupational pensions safer. This option also aligns the framework with the UCITS and AIFM Directives. Option 4 is the preferred option because it is expected to contribute to the gain for employees in terms of better governance in a proportionate manner by avoiding unnecessary duplication of protection against operational risk. Employers, including SMEs, might benefit from the increased security by not having to provide sponsor support since a funding shortfall would be less likely after the introduction of this measure. Finally, no impacts on MSs are foreseen.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	Effectiveness		Efficiency	Coherence
	More safety	Facilitate cross-border activity		
Option 1	0	0	0	0
Option 2	+	0	-	+
Option 3	++	0	--	++
Option 4	++	0	+	++

*Comparison of the impact of policy options on stakeholders*

	Employees	Employers	IORPs	SME	MSs/supervisor
Option 1	0	0	0	0	0
Option 2	+	-	-	-	0
Option 3	++	-	-	-	0
Option 4	++	+	0	+	0

**5.6. Make available an annual pension benefit statement**

To attain this operational objective, the following options were considered:

Option 1 – **No policy change**: generic scheme information is provided in most cases on request; personal information is limited; no obligatory pre-enrolment information and no common template.

Option 2 – **Personalised information for all stages**: generic and personal information is provided once a year; pre-enrolment information, but no common template.

Option 3 – **Standardised and short annual Pension Benefit Statement (PBS) for all stages**: same as option 2 but with a common template. A short and standardised annual PBS would contain both personalised and generic information about the pension scheme. The PBS would be produced according to a standard template of two pages (see illustrative example in Annex J) to be fine-tuned by EIOPA in a delegated act. The first page would contain general information for all types of pension schemes and information about an individual’s personal

situation (e.g. accrued pension rights or assets accumulated and projections) with a view to helping individuals to take decisions about pension adequacy. A second page would contain information for DC schemes about risks, returns and costs with a view to helping individuals to take decisions on investment. The PBS would be the first layer in a modern multi-layered approach to communication, which enables national specificities to be described in depth in subsequent layers. The PBS would indicate where more detailed national information is available.

The baseline scenario (**option 1**) has been discarded. It neither helps individuals to take informed decisions about their retirement savings, nor does it facilitate cross-border activity.

**Option 2** proposes three improvements. First, provide more comprehensive personalised information, which is more effective for facilitating individual decisions regarding lifetime financial planning than general information (EIOPA, 2013a and OECD, 2009). Second, provide information once a year rather than on request in order to stimulate greater engagement from scheme members. Third, extend the information requirements to the pre-enrolment phase. Prospective members should have key information on the pension schemes in order to help them make a decision as to whether or not to join. Most occupational pension schemes operated by IORPs provide the possibility to opt out.

Option 2 has, however, two important shortcomings. As it leaves the possibility for MSs to define their own information requirements it is likely to increase national differences and thereby heighten the barriers and costs for cross-border activity. Moreover, individuals that work in several MSs would be confronted with different sets of information disclosures, which is not conducive to producing clear and concise information for Europeans.

**Option 3** augments option 2 by proposing the introduction of a short and standardised annual PBS at the EU level. This offers three advantages. First, ensuring a consistency across the EU is important not only for individuals who are members of a cross-border IORP, but particularly for those individuals who have built-up pension rights in different national IORPs. Individuals who have worked in several MSs will be able to better understand and calculate their total pension rights in the different national IORPs. Particularly, as DC schemes with investment choices for the member (multi-fund IORPs) are becoming more widespread, the PBS is expected to provide more relevant information to individuals for taking investment decisions in relation to their particular circumstances, notably their age and risk appetite. The use of a common template would support the effectiveness of the Acquisition and Preservation Directive (soon to be adopted) because, due to the removal of the portability element from the proposal, individuals will need to have a clear and concise overview about their pensions rights accumulated in different national IORPs. The common template will also support the development of an EU-wide pension tracking system announced in the White Paper.

The 2008 EU labour force survey indicated that around 2.5% out of a total EU labour force of around 238 million people are EU citizens who are resident in a MS different from their home country. Around 6 million individuals are affected by cross-border labour mobility and its importance is set to increase. A 2010 Eurobarometer survey indicates that 1 in 5 European citizens, particularly amongst the younger generations, have either worked or studied abroad at some stage in their life. Individuals who have studied abroad are also more likely to work abroad. Moreover, given the large differences in unemployment rates across the EU, it is likely that there will be more labour movements from labour markets in surplus to those having shortages.

The main beneficiaries of option 3 are employees. The common template is expected to create greater transparency in communication with scheme members and beneficiaries, and this will make a significant contribution towards helping individuals to take more informed decisions about pensions early on during their working lives. This is important because saving for retirement is for the long haul, and by deciding to start saving early enough individuals can significantly improve the adequacy of their pension income. As the typical accumulation period for a worker is around 40 years, a high enough cumulative performance over such a period is necessary to achieve adequate pension benefits. OECD analysis indicates that a person who had saved for retirement for 40 years in a pension plan investing 60% in equities and 40% in long-term government bonds and retired at the end of 2010 would have experienced a performance of 4.2% in Germany and 5.8% in the UK. By comparison, the average real wage growth over the same period amounted to 0.7% in Germany and 2.1% in the UK. This suggests that investment performance over the 40-year period has been sufficient to deliver a higher standard of living after retirement for each euro saved.

A second advantage of option 3 is that MSs will benefit because well-informed individuals can be expected to make better decisions about their pension savings when they are young. They are thereby likely to exert less pressure on a MS' statutory pension system during their retirement and this is beneficial for fiscal sustainability.

Third, the common template is likely to give rise to efficiency gains for employers operating IORPs in several MSs.

The disadvantage of option 3 is the administrative burden associated with the standardisation of the PBS borne by the IORP and/or employer. The burden is expected to consist primarily of a one-off implementation cost in the short-term because once implemented the cost of the regularly producing the PBS is likely to be immaterial. The one-off cost is expected to amount, on average, to around 7€ per member.<sup>5</sup> This cost is considerably lower than the expected benefits for the employees over an entire 40-year accumulation period.

Option 3 is the preferred option because it is more effective and more coherent with other EU policies than option 2. The implementation cost, although higher than for option 2, is expected to be limited. Option 3 addresses the problem in a proportionate manner because the PBS is short and focuses only on the essential information. Moreover, the PBS is only the first layer within a modern multi-layered approach to communication, which enables national specificities to be described in depth in subsequent layers.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	Effectiveness		Efficiency	Coherence
	Provide clear and relevant information	Facilitate cross-border activity		
Option 1	0	0	0	0
Option 2	+	-	+	+
Option 3	++	++	+	++

<sup>5</sup> This corresponds to one-third of the expected one-off implementation cost of the proposed action calculated in Annex I. The other two-thirds are expected to reflect one-off implementation costs relating to the governance functions and the REP.

*Comparison of the impact of policy options on stakeholders*

	<b>Employees</b>	<b>Employers</b>	<b>IORPs</b>	<b>SMEs</b>	<b>MSs/supervisor</b>
Option 1	0	0	0	0	0
Option 2	+	0	0	0	+
Option 3	++	0	0	0	++

**5.7. Ensure supervision of chain outsourcing and the possibility to require stress tests**

To attain this operational objective, the following options were considered:

Option 1 – **No policy change**

Option 2 – **Give supervisors the same powers vis-à-vis subcontractors as vis-à-vis third-party service providers and the possibility to require stress tests**; no harmonisation of supervisory reporting

The baseline scenario (**option 1**) does not take away the possibility to circumvent supervision by engaging in chain outsourcing, nor would it make available the stress testing tool for all supervisors. Option 1 has therefore been discarded.

Option 2 proposes two improvements:

- It proposes to extend the Directive's current provision on the supervision of outsourcing to include chain outsourcing. Furthermore, to avoid overlap of supervision a clarification is proposed in order to make clear that if subcontractors are supervised entities themselves no overlap of supervision should take place. Finally, it is proposed to clarify that allowing or not allowing (chain) outsourcing to take place in a particular jurisdiction remains a matter for MSs.
- It proposes to provide supervisory authorities with the powers to develop necessary tools to test the financial situation of IORPs. In line with EIOPA's advice on this matter (EIOPA 2012a) it is also proposed to make clear that the wide diversity in size, type of pension benefits managed and the level of risk taken should be taken into account by supervisors in using these tools. Again, the question whether or not national stress tests should be conducted is left to the discretion of MSs and/or supervisory authorities

The main beneficiaries of option 2 are employees and supervisors. Employees would benefit from higher safety levels. Supervisors would be provided with the necessary tools to fulfill their tasks. Employers, IORPs and MSs would not be greatly impacted by the proposed extra supervisory powers. In terms of policy coherence, option 2 links directly to the EU's objective of ensuring safe occupational pensions as mentioned in the White Paper.

Option 2 might entail some costs for those supervisory authorities. As shown in Figure 15, there might be some cost to DE and NL where chain outsourcing is allowed but not yet specifically regulated. The introduction of a power to conduct stress tests might somewhat increase the cost of the competent authorities in NL and IE (Figure 16), but only marginally

because stress tests are based on resources used for the analysis of funding positions, which are already in place in those two MSs. The extent of these costs will depend entirely on their use of these new powers. Since their use is not obligatory any extra costs will not be systematically incurred. Option 2 is the preferred option.

**Figure 15: Chain outsourcing**

Chain outsourcing																			
	AT	BE	BG	DE	ES	FI	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SI	SK	UK
Allowed and/or regulated	Y	Y	Y	NR		Y	Y	Y	Y	Y	NR		NR	NR	NR			NR	Y

Source: Commission Services, national sources.  
 Note: Y = allowed and regulated, NR = allowed but not specifically regulated

**Figure 16: Current supervisory powers relating to stress tests**

Stress tests																	
	AT	BE	BG	DE	ES	IE	IT	LU	LV	NL	PL	PT	RO	SI	SK	SE	UK
Able to require stress tests	Y	Y		Y	Y			Y	Y			Y		Y		Y	Y

Source: CEIOPS (2009).

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	Effectiveness		Efficiency	Coherence
	More safety	Facilitate cross-border activity		
Option 1	0	0	0	0
Option 2	++	+	++	++

*Comparison of the impact of policy options on stakeholders*

	Employees	Employers	IORPs	SMEs	MSs/supervisors
Option 1	0	0	0	0	0
Option 2	++	0	0	0	(-)

**5.8. Ensure supervision of requirements on governance and transparency**

To attain this operational objective, the following options were considered:

Option 1 – No policy change

Option 2 – Give supervisors the power to supervise the proposed requirements on governance and transparency; no harmonisation of supervisory reporting

In the baseline scenario (option 1) supervisory authorities would not have the power to impose preventive or corrective measures if an IORP is in breach of the proposed new governance and transparency requirements. Option 1 has therefore been discarded.

Option 2 is the preferred option as it proposes to extend supervisory powers to the proposed new requirements regarding governance and transparency. This option primarily benefits supervisors and employees as it will enable supervisors to effectively supervise IORPs' compliance with the Directive, thus enhancing safety. IORPs would not be significantly impacted by the proposed 'mirroring' of new requirements and supervisory powers unless they

failed to comply with the Directive's provisions. Employers and MSs would not be significantly impacted by this option either. In terms of policy coherence, option 2 links directly to the EU's objective of ensuring safe occupational pensions as mentioned in the White Paper. Also, option 2 would be in line with other EU initiatives in the field of financial services which also put great emphasis on effective supervision.

As to costs, option 2 could entail some costs for those supervisory authorities that operate in jurisdictions that do not yet have the governance and transparency requirements in place that are proposed. The extent of the cost depends on pre-existing national regimes. Figure 17 illustrates that the MSs with relatively mature markets already grant supervisory powers in relation to the strengthening of governance requirements, implying a relatively contained cost of the proposed action. There might be some costs to the UK to turn non-binding supervisory guidance into legislation and to IE to strengthen the supervision of functions and professional requirements. These costs are considered reasonable since they outweigh the benefits derived to society by enhanced safety of occupational pensions.

**Figure 17: Current supervisory powers**

		Supervisory powers																		
		AT	BE	BG	DE	ES	HU	IE	IT	LU	LT	LV	NL	PL	PT	RO	SI	SK	SE	UK
Checking tasks and responsibilities of management board	P, S	P, N		P, N	S	P			P, S, R	S		No data	P, S, O		R	P	P	P	P	N
Checking fit and proper requirements	P	P, N	P	P, N	P, S	P			P, S, R	S	P	P	P	P	P	P, S, R	P, S	P	P, R	P
Checking risk management philosophy and risk appetite	P, S, R		P, S	P, N	S		P						S		R				R	N

Source: CEIOPS (2010).

Note: P = in primary legislation, S = in secondary legislation, R = in regulation issued by supervisor, N = non-binding supervisory guidance, O = other format.

*Comparison of policy options against effectiveness, efficiency and coherence criteria*

	Effectiveness		Efficiency	Coherence
	More safety	Facilitate cross-border activity		
Option 1	0	0	0	0
Option 2	++	+	++	++

*Comparison of the impact of policy options on stakeholders*

	Employees	Employers	IORPs	SMEs	MSs/supervisors
Option 1	0	0	0	0	0
Option 2	++	0	0	0	(-)

**6. OVERALL IMPACTS OF THE PACKAGE**

This Section summarises the preferred options and presents the predicted costs and benefits of the entire package of preferred options (Figure 18).

**Figure 18: Overview of the operational objectives and preferred options**

Operational objective	Preferred option
1) Clarify definitions and procedures for cross-border activity	Option 3 – Clarification of definitions and procedures for cross-border activity in the Directive

2) Remove additional requirements for cross-border activity	Option 2 – Remove additional requirements from the Directive
3) Ensure that IORPs are managed professionally	Option 2 - Add a risk management and an internal audit function
4) Require documentation of risk management	Option 2 - Introduce a Risk Evaluation for Pensions Report (REP) to document the IORP's own risk assessment and as part of that require qualitative descriptions of four key elements determining the funding position
5) Protect assets from operational risk	Option 4 - Strengthen the safe-keeping and oversight of assets functions and make the appointment of a depository compulsory for pure DC schemes only
6) Make available an annual pension benefit statement	Option 3 – Standardised and short annual Pension Benefit Statement (PBS) for all stages
7) Ensure supervision of chain-outsourcing and the possibility to require stress tests	Option 2 - Give supervisors the same powers vis-à-vis subcontractors as vis-à-vis service providers and the possibility to require stress tests; no harmonisation of supervisory reporting
8) Ensure supervision of new requirements on governance and transparency	Option 2 - Give supervisors the power to supervise the proposed requirements on governance and transparency; no harmonisation of supervisory reporting

## 6.1. Economic benefits

### 6.1.1. Benefits for employees

The proposed action is expected to provide significant economic benefits to employees. Better governance is likely to increase risk-adjusted investment returns, thereby helping to achieve efficient outcomes in terms of retirement income or contributions. Better communication will help individuals make more informed decisions about their retirement financing. Cross-border IORPs are likely to bring additional benefits as suggested by Ernst & Young (2009). First, increased efficiency could lead to either higher benefits or lower contributions. Second, for small workforces located in different countries, a cross-border IORP could improve the investment prospects, as employees can enjoy the benefits associated with being part of a larger operation. Third, employees working in locations of the corporate group across several MSs can avoid a complex series of transfers from one pension arrangement to another and will have a "one-stop-shop" for their pension arrangement, while centralising their benefits within a single European fund also means dealing with one pay-out institution.

### 6.1.2. Benefits for employers

The proposed action is expected to benefit employers, particularly innovative employers, and benefits might be even more pronounced for smaller companies (SMEs) or for companies that are active in different MSs (multinationals).

Companies operating on a small or local scale could save costs by joining an existing IORP. This enables companies to focus on their core business activity and, at the same time, benefit from a more professional service level. Better governed and more efficient IORPs are expected to be less of a burden for their sponsor. Moreover, companies operating on a small or local scale where no deep and efficient IORP market exists could benefit from joining an existing IORP abroad rather than setting it up locally. Indeed, IORPs established in MSs with established pensions expertise might extend their service to sponsors in other MSs, including

SMEs or groups of SMEs establishing common collective agreements. The Commission Services have been made aware of recent cases, where the social partners for SMEs operating within a particular sector in one MS had the intention of setting up an IORP in another MS, largely due to product unavailability in the local market.

Many multinational companies find themselves with an international patchwork of local pension funds. As companies expand their operations into new countries or make new acquisitions, they often end up with additional pension schemes. A multitude of different pension funds increases complexity, leading to less transparency, hidden risks, inconsistencies and inefficiencies. Companies can avoid this by consolidating the patchwork of local pension funds into one IORP. Recent discussions with multinational companies - originating from DE, FR, NL, CH and the US - that have actually set-up a cross-border IORP or have taken steps to do so, as well as a survey by Achmea Pensions International (2011)<sup>6</sup> confirm that the main benefit of cross-border IORPs is that they provide cost efficiencies and enable better governance. This is achieved in the following ways:

First, companies can **save costs** on administration and investment expenses. Cost savings on the investment side come from streamlining investment and custody fees. An estimate<sup>7</sup> suggests that a multinational company combining five pension schemes from different countries with assets totalling €1 billion could expect to save around €1-2 million per year. Another survey of 219 Dutch pension funds found that as much as 17% of some €30 billion contributions paid by employers and employees are absorbed by costs for administration, control and advice, accounting, asset management and transaction fees (Lane, Clark and Peacock, 2012). A study from the Dutch central bank (DNB, 2010) suggests that there is still a large unused potential to realise economies of scale for Dutch pension funds, even for the large ones. By spreading the fixed costs over a larger pool of scheme members the potential cost savings could be as much as 25% of the administrative costs. For the EU's IORP sector as a whole, Annex F suggests that the potential scale economies could be of the order of around €400 million to €1.3 billion, or €6 to 20 per member. Over a period of 40 years, which is the typical accumulation period for a worker, the potential opportunity cost of not using scale benefits could amount to tens of billions of euros. The firms that are innovative in terms of the organisation of retirement savings will benefit most from those benefits.

Second, further cost savings also arise from a **reduction in compliance costs**. An IORP is only subject to the prudential regulation of the home MS, so that a multinational ends up with only one prudential framework for its EU pensions. While the IORP still needs to comply with different sets of national social and labour law, the market is developing innovative solutions consisting of a single administration platform that can manage multiple countries, multiple currencies and multiple languages. Moreover, the use of cross-border IORPs enables multinational companies to work with a single national supervisor, instead of having to meet the different requirements of multiple supervisors.

Third, a cross-border IORP can save costs for multinationals because it requires **fewer governance bodies** compared with local pension management through local pension funds. Local board members and trustees can be replaced by a single IORP board. Some country representatives are likely to join the IORP board or one of the social committees, but, on the whole, the company can manage pensions with fewer participants in the governance bodies.

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<sup>6</sup> The survey covers 13 multinationals, including employers located in IE, FR, NL and the UK.

<sup>7</sup> Hewitt surveyed in February 2010 14 major financial service providers, including the largest insurance undertakings.

Fourth, cross-border IORPs enable **better governance**. Survey-based evidence suggests that some multinational employers have lost the oversight of their pension commitments in different countries. This exposes them to uncertainty and unexpected liabilities. A cross-border IORP has a more direct insight into total assets, liabilities and cash flows, resulting in better governance, improved risk management and achieving a broader diversification of its investment portfolio and a better choice of investment options. Moreover, multinationals can focus their attention on one single IORP, reducing the risks which may result from poor governance.

Fifth, cross-border IORPs **enhance transparency**. Multi-national employers can streamline communication by implementing one corporate intranet site to gather information for supervisory reporting and information disclosures to members and beneficiaries. Not only does this save costs for the employer and the IORP, but it is also helpful to maintain transparency for mobile employees that move from one country to another within the corporate group.

### *6.1.3. Benefits for SMEs*

As indicated above, IORPs themselves - particularly those with more than 100 members (therefore subject to the Directive) - are not formally SMEs because they generally hold assets above the threshold. This notwithstanding, there are many IORPs with just several hundreds of members and they are generally small in comparison with other financial institutions. The simplification of cross-border definitions and procedures is likely to benefit small IORPs more in comparison with large IORPs because small IORPs have a lesser financial capacity to absorb transaction costs.

The additional requirements are not likely to impose a disproportionate burden on small IORPs considering that outsourcing is widespread. There will be some additional burden, but it will be limited given that several proportionality measures described in section 3.4.2 above (notably fewer functions than for insurers, limited risk assessment, short PBS) were developed having in mind specifically the situation for the small IORPs. Given the monopolistic market environment, small IORPs are likely to pass on at least some of the additional burden to members. Moreover, it is conceivable that a relatively higher fixed cost of running small IORPs or implementing the PBS could provide an incentive for industry consolidation to spread the costs. Attempts at the national level in MSs with a particularly high number of small IORPs (IE and UK) have not been able to provide the right incentives so far.

Sponsoring undertakings that are SMEs, including groups of SMEs, will benefit from having easier access to IORPs already established in markets abroad, thereby avoiding much of the initial market entry cost and benefit from the law of large numbers.

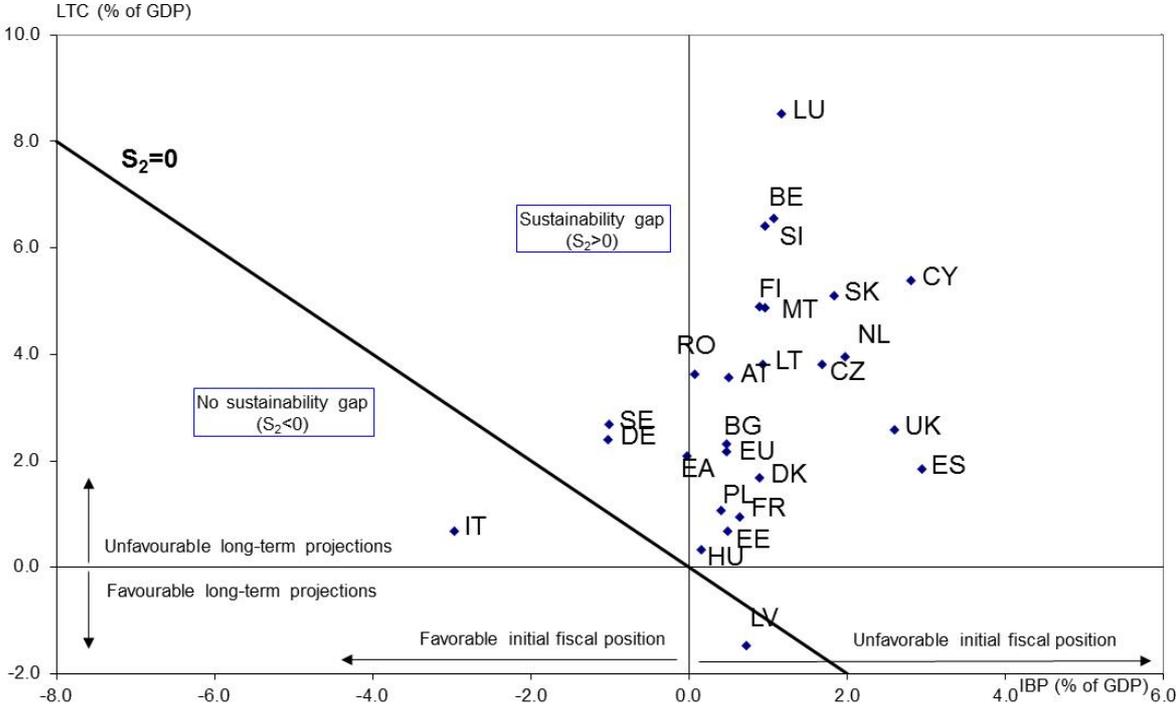
### *6.1.4. Impact on MSs*

The proposed action is expected to have two positive impacts on MSs and some costs linked to supervision.

The first positive impact is that well-governed IORPs and a deeper market for IORPs strengthen private occupational retirement provision. This in turn contributes to alleviating the pressure on statutory scheme. The MSs that have the potential to benefit most are those where the IORP market is small in relation to the size of their economy. As shown in Figure 11 above, the vast majority of MSs, including some large euro area economies, would benefit from a deeper IORP market.

The second positive impact is that well-informed individuals can be expected to make better decisions about their pension savings when they are young. Better information about expected retirement benefits from occupational pensions will help individuals decide whether or not they need to save more in accordance with their consumption preference before and after retirement. Well-informed individuals are therefore likely to exert less pressure on a country's statutory pension system during their retirement and this is beneficial for fiscal sustainability. Accordingly, the potential for benefits are greatest for those MSs that face a sustainability gap. Figure 19 clearly shows that this concerns 22 out of 24 MSs. More importantly, for most of those MSs the initial budgetary position is not enough given the expected long-term increase in expenditure due to an ageing population. This includes MSs with mature IORP markets, notably UK, NL and BE.

**Figure 19 – Long-term fiscal sustainability indicators, 2012**  
(breakdown of the S2 indicator\*)



Source: European Commission, Fiscal Sustainability Report 2012.

Note: \* The further along the horizontal axis countries are, the larger the required adjustment to stabilise the debt ratios given the initial budgetary position (IBP), before considering the long-term costs of ageing. If, however, the debt ratio is above the 60% of GDP threshold, the EU fiscal rules stipulate that it should be reduced below it, while this is not a constraint in the S2 indicator. The higher up the vertical axis, the greater the required adjustment due to the long-term change in age-related costs (CoA). The sustainability gap (S2) is the sum of the vertical and horizontal distances from each dot to the solid diagonal line. Countries that are northeast of the solid diagonal line have a sustainability gap; the further away from that line, the greater their gap. Countries that lie southwest of the solid line (in the chart Italy and Latvia) do not have a S2 sustainability gap.

The proposed action is likely to require greater supervisory resources in some MSs. This implies a cost for those MSs because they finance, together with the IORP industry, part of the budget of competent supervisory authorities. However, as demonstrated by CEIOPS (2010) and EIOPA (2011) the extent of the cost depends on pre-existing national regimes. The analysis in section 5 above suggested that there might be some costs in relation to governance,

chain-outsourcing and stress testing in MSs like DE, IE, NL and UK. Finally, the proposed action does not foresee a formal supervisory role for the PBS.

#### *6.1.5. Impact on EU budget*

Additional tasks for EIOPA arising from the Directive will require a small number of extra staff, at a cost of between €500,000 and €1 million, of which 40% accrues to the EU budget and 60% to national supervisors.

### **6.2. Social benefits**

The proposal is expected to have a significant positive social impact. First of all, the demand for any financial product is largely driven by trust and performance. The proposed action will make occupational retirement products more efficient and safer than today. This is therefore likely to contribute to increasing the coverage rate of complementary private retirement savings, thereby strengthening social protection and income equality in a rapidly aging society. The proposed action contributes towards allowing people to maintain, to a reasonable degree, the living standard they achieved during their working lives. This, in turn, supports the right of the elderly to lead a life of dignity and independence. A positive social impact can be expected particularly in the MSs where the risk of poverty for older people is relatively high. According to the 2012 Pension Adequacy Report (EMPL and SPC, 2012) this is the case for BE, BG, DK, CY, MT, AT, FI, SI and UK. In those MSs the risk of poverty for older people compared with the poverty risk for the population aged 0-64 is higher and the difference in many instances is significant. Poverty reduction, more generally, is one of the main objectives of the Europe2020 strategy.

Second, greater safety and awareness through more effective information disclosures will make the public better informed about the pensions gap. This can contribute to giving individuals the right incentives to take informed decisions about the amount of savings needed for an adequate pension and the choice of investments, in order to save efficiently. This is particularly helpful for the younger generations, which are not only more likely to be members of DC schemes, but also have greater potential to accumulate good returns over time. Due to the long accumulation periods a euro saved during the early part of the career is likely to yield more pension than a euro saved just a few years before retirement.

Third, the common format of the PBS is likely to support the functioning of the labour market for people who work in different MSs.

Finally, more transparency will help the social partners to subject the management of IORPs to greater discipline and thereby potentially enhance risk-adjusted investment returns.

### **6.3. Environmental benefits**

The proposed action is not expected to have any significant direct environmental impact.

### **6.4. Administrative burden**

The most important cost of the proposed action is the administrative burden resulting from new requirements for governance and the PBS. The Commission Services, with the support of the IORP industry, have estimated the administrative burden as explained in detail in Annex I. The main result is that the proposed action is expected to increase the administrative burden as a one-off adjustment cost of around €22 per member, and a somewhat higher recurrent burden of around €0.27 to 0.80 per member per year. Moreover, as explained in section 5

above, DC schemes in some MSs are expected to incur an additional burden from the appointment of a depository.

It is likely that the administrative burden - although initially borne by the IORP industry or the sponsoring employer - will be passed on to the scheme members and beneficiaries. This is because IORPs are non-commercial financial institutions that operate in a monopolistic situation. At the same time, passing-on costs from employers to employees might be held back, at least partially, through dialogue between the social partners.

### **6.5. Macro-economic impact**

The proposed action is not expected to have any significant direct macroeconomic impact, although three indirect benefits might be expected.

First, good governance and risk management of IORPs is expected to reinforce their role as long-term investors in the European economy by avoiding an excessive focus on risk-return profiles in the short-term.

Second, better performing and safer retirement products are also expected to increase staff motivation and impact labour productivity positively.

Third, more efficient occupational pensions, in terms of attaining a higher level of risk-adjusted returns on assets, will contribute to support the purchasing power of the retired population, without necessarily any offsetting reduction of consumption during the working-age stage of the life cycle.

### **6.6. Impact on third countries**

The proposed action does not concern a policy field in which international regulatory approaches exist. It is not expected to have any significant direct impact on third countries. Although, in the light of the protracted period of low interest rates in the euro area, particularly larger IORPs might have an incentive to invest in more dynamic economies outside the EU, the volumes of those portfolio investment in those economies is not sufficiently large to influence prices.

### **6.7. Overview of benefits and costs**

Figure 20 summarises the expected effect of the preferred options on various stakeholders. The benefits are mainly economic, as well as social given the importance of an adequate and sustainable retirement system in an aging society.

Although the proposed action will involve some one-off adjustment cost in the short-term, the benefits of the entire package of preferred options are expected to outweigh the costs.

The potential benefits for employees could be of the order of some €5 to €40 per member/beneficiary a year stemming from better governance and risk management. Greater transparency introduced by the PBS would add to that a gain stemming from the excess of growth in net portfolio investment returns over wage growth. The potential scale economies for employers are estimated at €6 to €20 per member/beneficiary a year.

Employers are expected to face a one-off cost to adjust to the new regulation estimated in the order of €22 per member/beneficiary and a higher recurrent administrative burden of around €0.27 to 0.80 per member/beneficiary per year. For DC schemes the cost of the proposed action would be around €2 to €3 per member per year, reflecting the cost of the depository. Employers are likely to pass on the burden to employees, unless the social dialogue results in some degree of risk sharing.

The net financial gains for employees (benefits minus passed-on burden) are expected to be significant. IORPs and sponsoring employers are expected to realise efficiency gains through economies of scale, risk diversification and innovation, and they can pass on at least part of the adjustment burden to scheme members and beneficiaries. Overall, this suggests that the proposed action is likely to be value-creating in an ageing economy. It can help attain a higher social outcome without undermining economic growth.

**Figure 20: Summary of the impact of the preferred proposals on various stakeholders**

	Employees	Employers	IORPs	SMEs	MS/ supervisors	Third countries
<b>BENEFITS</b>						
<b>Economic benefits</b>						
- <i>save costs</i>	++	++	++	++	O	O
- <i>increase management efficiency</i>	+	++	++	++	O	O
- <i>improve governance</i>	+	++	++	++	O	O
- <i>greater transparency</i>	++	++	++	++	++	O
- <i>greater labour productivity</i>	+	++	O	++	+	+
- <i>facilitate labour mobility</i>	++	+	O	+	O	O
<b>Social benefits</b>						
- <i>higher coverage rate (poverty reduction)</i>	++	O	O	O	++	O
- <i>greater awareness of pensions gap</i>	++	O	O	O	++	O
- <i>functioning of the labour market</i>	++	O	O	O	++	O
- <i>greater discipline</i>	++	+	+	+	+	O
<b>Environmental benefits</b>	O	O	O	O	O	O
<b>COST</b>						
Stronger supervision	O	O	-	O	-	O
Administrative burden	--	(O)	(O)	(O)	O	O

Notes: ranging from a very positive impact (++) to neutral (o) and very negative impact (--).

## 7. MONITORING AND EVALUATION

The Commission is the guardian of the Treaty and will therefore need to monitor how MSs have implemented the changes to the Directive. Providing for a robust monitoring and evaluation mechanism is crucial to ensure that the rights and obligations envisaged in the Directive are complied with. The following arrangements are proposed in order to set up an appropriate monitoring and evaluation framework.

The Commission's Services will prepare an Implementation Plan where the following actions will be considered: meetings with MSs, exchange of best practices amongst MSs, and training

programmes addressed to national authorities. A preliminary examination by EIOPA followed by an evaluation report by the Commission would also be considered and envisaged.

Wherever necessary, the Commission will follow the procedure set out in Article 258 TFEU in case a MS fails to respect its duties concerning the implementation and application of EU law.

The evaluation of effects of the preferred policy options shall be carried out to see to what extent the anticipated impacts materialise. Therefore, an *ex-post* evaluation of the application of the revised Directive should take place five years after the adoption of the Directive. It should take the form of a Commission report to the European Parliament, the Council, and the European Economic and Social Committee. It may be accompanied, if necessary and in the light of developments, by policy recommendations or proposals for amendments to this Directive. EIOPA will collect the qualitative and quantitative data. The OPSG of EIOPA will also be consulted and the advisory role of the Commission's Financial Services User Group could also be utilised. A Eurobarometer survey and a loose survey with IORPs, employers, members and beneficiaries will also be considered. Employers could be targeted for questions concerning possible difficulties of establishing cross-border pension schemes. Improved disclosure by IORPs, in terms of quantity (i.e. increased number of statements or reports) and quality of the information disclosed, would be indicators of better transparency. On governance, the increase of specific requirements for functions would be assessed. For cross-border activity, the number of cross-border IORPs would be taken into account.

## ANNEX A – GLOSSARY

<b>Accumulation phase</b>	The phase in an investor's life when he/she builds up his/her savings or rights with the intention of having an income for retirement.
<b>Annuity</b>	A sum payable at specified intervals, especially annually, over a period, such as the recipient's life or a certain number of years, in return for a premium paid either in instalments or in a single payment.
<b>Biometric risks</b>	Risks linked to death, disability and longevity.
<b>Conditional benefits</b>	Benefit adjustment mechanisms on the basis of legally or contractually established policies.
<b>Conditional indexation</b>	A system whereby pensions in payment and/or preserved benefits can be increased at regular intervals by reference to a specific index of prices or earnings.
<b>Defined benefit (DB) schemes</b>	Pension schemes where the benefits accrued are linked to earnings and the employment career (the future pension benefit is pre-defined and promised to the member). It is normally the scheme sponsor who bears the investment risk and often also the longevity risk: if assumptions about rates of return or life expectancy are not met, the sponsor must increase its contributions to pay the promised pension. These tend to be occupational schemes (see also: Defined contribution (DC) schemes).
<b>Defined contribution (DC) schemes</b>	Pension schemes where the level of contributions, and not the final benefit, is pre-defined: no final pension promise is made. DC schemes can be public, occupational or personal: contributions can be made by the individual, the employer and/or the state, depending on scheme rules. The pension level will depend on the performance of the chosen investment strategy and the level of contributions. The individual member therefore bears the investment risk and often makes decisions about how to mitigate this risk (see also: Defined benefit (DB) schemes).
<b>Depository</b>	An institution charged with the safe-keeping of assets and oversight of compliance with the fund rules and applicable law.
<b>Efficiency wages</b>	Wages paid above the market clearing rate. Companies often choose to pay an efficiency wage in order to try to get better staff, keep good staff, improve morale and productivity, etc.
<b>Ex post benefit reduction</b>	Reduction of accrued rights.
<b>Funded scheme</b>	A pension scheme whose benefit promises are backed

	by a fund of assets set aside and invested for the purpose of meeting the scheme's liability for benefit payments as they arise. Funded schemes can be either collective or individual (see also: Pay-As-You- Go schemes).
<b>Governance (of IORPs)</b>	The operation and oversight of an IORP. The governing body is responsible for administration, but may employ other specialists, such as actuaries, custodians, consultants, asset managers and advisers to carry out specific operational tasks or to advise the scheme administration or governing body.
<b>Home Member State</b>	The MS in which the IORP has its registered office and its main administration or, if it does not have a registered office, its main administration.
<b>Host Member State</b>	The MS whose social and labour law relevant to the field of occupational pension schemes is applicable to the relationship between the sponsoring undertaking and members.
<b>Hybrid pension scheme</b>	A pension scheme with both DC and DB elements or, more generally, a scheme where the risk is shared by the scheme's operator and beneficiaries.
<b>Information disclosure regulations</b>	The rules prescribing the periodicity, procedure, type and extent of information to be provided to members of pension plans and/or the supervisory authority.
<b>Institutional investor</b>	Generally refers to a group of investors such as pension funds, insurance companies, investment funds and, in some cases, banks.
<b>Multi-fund</b>	A pension scheme with some degree of investment choices for the member.
<b>Occupational scheme</b>	A pension plan where access is linked to an employment or professional relationship between the plan member and the entity that sets up the plan (the plan sponsor). Occupational pension schemes may be established by employers or groups of employers (e.g. industry associations) or labour or professional associations, jointly or separately, or by self-employed persons. The scheme may be administered directly by the sponsor or by an independent entity (a pension fund or a financial institution acting as pension provider). In the latter case, the sponsor may still have responsibility for overseeing the operation of the scheme.
<b>Operational risk</b>	The risk of loss arising from inadequate or failed internal processes, personnel or systems, or from external events.
<b>Own funds (regulatory)</b>	Refers to the additional assets of a pension funds above its technical provisions serving as a buffer. Regulation

	usually requires that these assets are free of all foreseeable liabilities and serve as a safety capital to absorb discrepancies between anticipated and actual expenditure and profits. Also referred to as regulatory capital. (See also: Technical provisions).
<b>Pay-As-You-Go schemes (PAYG)</b>	Pension schemes where current contributions finance current pension expenditure (See also: funded schemes).
<b>Pay-out phase</b>	The period during which a person receives income from pension savings accumulated before retirement.
<b>Pension protection scheme</b>	An arrangement to pay compensation to members or beneficiaries of pension schemes in the event of insolvency of the pension fund and/or sponsoring employer. Examples of a pension protection scheme include the Pensions-Sicherungs-Verein Versicherungsverein auf Gegenseitigkeit (PSVaG) in Germany and the Pension Protection Fund in the UK.
<b>Pension pillar</b>	Different types of pension schemes are usually grouped into two, three, four or more pillars of the pension system. There is however no universally agreed classification. Many pension systems distinguish between statutory, occupational and individual pension schemes, or between mandatory and voluntary pension schemes. Participation in occupational and individual pension schemes, usually private pension arrangements, can be mandatory or voluntary.
<b>Prudential rules</b>	Rules on provisions, assets, the solvency margin. They also comprise rules on internal controls, risk management and risk monitoring by prudential supervisors and transparency designed to encourage market discipline.
<b>Portability of occupational pensions</b>	It refers to the transferability of occupational pension rights. The Commission proposed a Directive on improving the portability of supplementary pension rights (SEC(2005) 1293) asking MSs to implement minimum requirements for the acquisition and preservation of pension rights for people who go to work in another MS. The proposal has not yet been adopted by the European Parliament and the Council.
<b>Replacement rate</b>	Generally refers to an indicator showing the level of pension income after retirement as a percentage of individual earnings at the moment of take-up of pensions or of average earnings. Replacement rates measure the extent to which pension systems enable typical workers to preserve their previous living standard when moving from employment to retirement.
<b>Social and labour law relevant</b>	National legislation defining the rights of members and

<b>to occupational pensions (SLL)</b>	beneficiaries under an occupational pension scheme.
<b>Solvency</b>	The ability of a pension scheme's assets to meet the scheme's liabilities. The scheme's liabilities cover all future pension payments and must therefore be discounted well into the future, thus making substantial assumptions about longevity. The value of a scheme's assets is dependent on the type of accounting standard used. If a scheme is not deemed to have a sufficiently high solvency level, it needs to consider whether to increase contribution levels or reduce entitlements, where scheme rules permit.
<b>Sponsor covenant</b>	Refers to a sponsoring employer's ability to support pension fund volatility by providing additional funding if required. The 'covenant' in this context is a very similar concept to 'creditworthiness' for borrowers. At a simple level, if a pension fund has a deficit then it is in many respects similar to a bond holder in financial market terms. It depends on the ability of the company to pay additional contributions in the future if investment returns are not sufficient to make up the shortfall.
<b>Sponsoring employer</b>	The employer with responsibility for meeting the liabilities of a DB pension scheme. In DC schemes, typically the employer who sets up and/or assumes responsibility for the running of the scheme, and meets the expenses.
<b>Sunk cost</b>	A past cost that has already been incurred and cannot be recovered.
<b>Supplementary pension schemes</b>	Mandatory or voluntary pension schemes which generally provide additional retirement income to the statutory pension scheme.
<b>Technical provisions</b>	The amount of liabilities corresponding to the financial commitments of a pension fund which arise out of its portfolio of existing pension contracts. Technical provisions measure the extent of the liabilities to pay pension benefits in relation to past service as they fall due. See also Article 15 of Directive 2003/41/EC.

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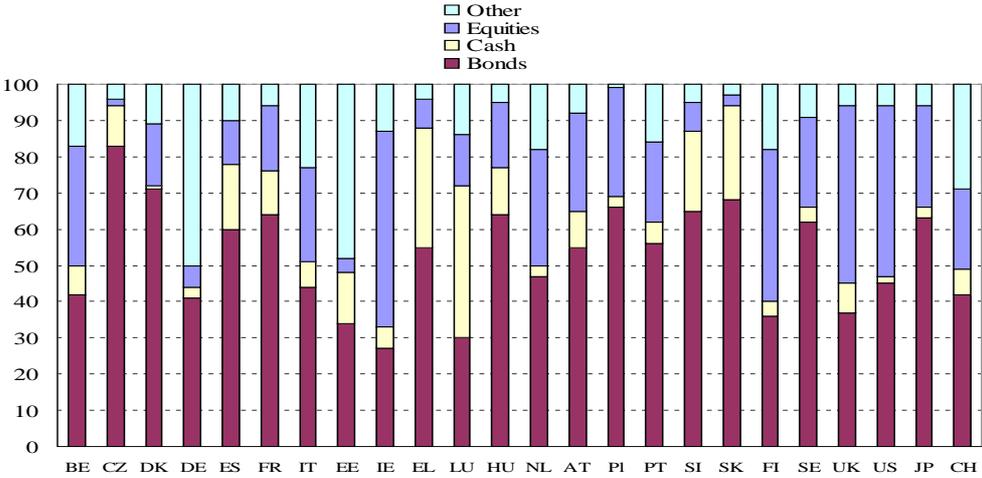
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**ANNEX C – PORTFOLIO INVESTMENT BY IORPs**

Although most IORPs are small in terms of membership, collectively they constitute a group of large institutional investors in some MSs. IORPs accumulate contributions from employers and employees over long periods of time. They are, together with insurance undertakings, investment funds and banks, major institutional investors.

At the end of 2009 (see Figure) the asset portfolio of IORPs in most MSs comprised mainly of bonds and cash, although there were two MSs (UK, IE) where equities accounted for about half of total assets. Over the past years, direct investments in equities have decreased driven partly by adverse movements in stock prices and by a greater share of maturing DB schemes.

**Figure: Investment portfolio of IORPs by type of assets, 2009**



Source: Commission Services, national sources.

## **ANNEX D – CURRENT REGULATORY FRAMEWORK**

### **8. LEGAL BASIS**

The legal bases of the Directive are ex-Articles 47(2), 55 and 95 EC (now Articles 53, 62 and 114 TFEU), which seek to establish the internal market by means of freedom to provide services and freedom of establishment.

According to the Court of Justice of the European Union in Case C-343/08, *Commission v Czech Republic*, the obligation to transpose the IORP Directive neither affects MSs' competence as regards the organisation of the national retirement pension system nor disregards the MSs' prerogatives under ex-Article 137 EC (now Article 153 TFEU). The prerogatives are also guaranteed by the proposed action.

The Directive was not adopted on the basis of ex-Article 137 EC (Article 153 TFEU), which constitutes the legal basis for the approximation of national legislation in the field of social policy. The Court of Justice in Case C-343/08 upholds that it follows from the Directive's Recitals 1, 6 and 8 that the Directive seeks to introduce an internal market for IORPs in which IORPs must have freedom to provide services and freedom of investment.

### **9. QUANTITATIVE REQUIREMENTS**

The Directive lays down rules to calculate technical provisions and that they should be funded. Commitments as to future benefits should be calculated prudently and represented by sufficient assets on the balance sheet. Where IORPs underwrite risks, the IORP is required to provide for a regulatory solvency margin, which consists of the assets of the institution free of any foreseeable liabilities, less any intangible items.

The starting point for an adequate protection of occupational pension rights in DB and hybrid schemes is to require IORPs to calculate pension liabilities in the form of technical provisions. In addition to those provisions, IORPs use further security mechanisms (notably regulatory own funds, sponsor support and insurance from a pension protection schemes) and benefit adjustment mechanisms (conditional indexation and the reduction of accrued rights in a going concern). The figure below provides an overview of those mechanisms used in the different MSs.

**Figure: Overview of security and benefit adjustment mechanisms for IORPs**

Security mechanisms		AT	BE	DE	DK	ES	FI	FR	GR	IE	IT	LI	LU	MT	NL	NO	PT	SE	UK	Total
Regulatory Own Funds		Y	Y	Y	Y	Y		Y						Y	Y	Y		Y		10
Subordinated loans				Y	Y			Y							Y	Y		Y		6
S u p p o r t	Unlimited	Y				Y	Y						Y CAA	Y					Y	6
	Limited		Y		Y							Y	Y CSBF				Y	Y		6
	Not automatic			Y				Y	Y	Y	Y				Y	Y				7
Guarantee fund				Y				Y											Y	3
Reduction of accrued rights		Y	Y	Y						Y	Y				Y		Y			7
Reduction in future conditional indexation					Y										Y			Y		3
Other security mechanism										Y									Y	2

Source: CEIOPS (2008).

Given that IORPs invest on a very long-term basis, they need to be free to apply whatever investment policy is best suited to the commitments they have made. The Directive lays down a set of principles aimed at helping IORPs define their asset-allocation strategy in accordance with the "prudent person" rule.

In accordance with this rule, assets should be invested in the best interests of members and beneficiaries and always in a broadly diversified manner in order to ensure the portfolio's security, quality, liquidity and profitability. The Directive also lays down that investments in shares and capital investment should not be unduly restricted. However, Member States are able to subject IORPs established under their jurisdiction to more detailed investment rules but must allow IORPs to invest at least 70 % of their technical provisions or their portfolio in shares and corporate bonds and at least 30 % in currencies other than that in which their future pension payments are expressed.

## 10. QUALITATIVE REQUIREMENTS

The Directive ensures that IORPs are subject to a minimum set of conditions of operations, such as fit and proper requirements and basic risk management functions.

Member States are required to confer on their supervisory authorities the necessary powers to supervise their IORPs effectively.

## 11. INFORMATION DISCLOSURE

The Directive contains some elements to ensure that scheme members and beneficiaries are informed about the rules of the scheme, the financial situation of the institution in question and their rights.

## **ANNEX E – STAKEHOLDERS - IORP CASE STUDIES**

The Commission Services organised a seminar with multinationals on 6 June 2013 where several case studies were presented:

### **1. Ireland to Belgium: Positive**

Mature DB scheme, wound up, assets and liabilities bulk transferred in 2010.

Process:

- Due Diligence undertaken with consultants to ensure no barriers
- Corporate approval AtN obtained to establish Irish section of Belgian XB IORP
- Invited Trustees to consider company offer – several meetings, with independent consultant giving overview – obtained their agreement to proceed “in principle”
- Communication to members – short cover letter covering rationale, with attaching FAQ’s covering details – offered Freephone dial in and town hall meetings – positive reaction
- Submitted proposal FSMA (CBFA then) approval granted within 3 month window
- Irish Regulator confirmed no objections in less than 2 weeks
- Entered the statutory 60 day consultation period – no objections received
- Implemented transition process – liabilities transferred December 2010, assets re-registered over Q1 2011
- Trustee wound up in 2011, replaced by Irish Social Committee, responsibilities determined by charter from IORP Board of Directors (Trustee)

### **2. Germany to Belgium, 2 cases: Negative**

Closed DB scheme pensioner only Pensions Kasse. This was a relatively small scheme with assets and liabilities of ~€2m. It would be helpful to be able to “sweep up” such small schemes to our Cross-Border plan to benefit from economies of scale and quality governance, like we were able to do with the Swiss case above.

- Due Diligence undertaken with consultants to ensure no barriers – advised early consultation with Bafin
- Corporate approval obtained to establish a German section of Belgian XB IORP
- An informal approach was made to BAFIN, on a no-names basis and a senior named individual stated that a portfolio transfer was impossible because the OFP is not an insurance undertaking, e.g. ruled out categorically. Another Bafin source also said that chances of BaFin approval to a portfolio transfer are very low. However, the second individual seemed to believe that a portfolio transfer is not categorically ruled out. Prerequisite for a portfolio transfer in his view however was to create some kind of ring fenced insurance-like section within the OFP for the PK portfolio that is identical or at least very similar to that of a German Pensionskasse.
- Based on this Regulatory reaction project was cancelled

Working Time Arrangement - early retirement scheme, whereby employees forgo overtime, holidays, salary increases etc. to finance an annuity payment of up to 5 years, between age 60 and 65

- Due Diligence undertaken with consultants to ensure no barriers
- Corporate approval obtained to establish a German section of Belgian XB IORP
- Regulated by AOK Niedersachsen, the Social Security Regulator, liaised with them to ensure no barriers, received confirmation “in principle” there would be no objections
- Liaised with FSMA, confirmed no issues and confirmed this scheme could be admitted
- Consultant referenced case to BAFIN who declared that the WTA was not in their opinion classified as a pension scheme and therefore the Belgian OFP would not qualify as a licensable business for a Pension Fund in Germany and Bafin would raise objections accordingly if submitted. As the IORP was not capable of providing Trustee services the alternative was to establish a Contractual Trust Arrangement (CTA) in Germany
- Although not legally a “pension” benefit, this is effectively a pre-funded early retirement benefit which requires investment policy considerations, actuarial valuations, governance and all the items one would normally associate with a pension fund. It is also accounted for as a pension benefit under IAS19 and viewed/managed internally like a pension benefit.
- Based on this Regulatory reaction project was cancelled. The sponsoring employer is therefore required to duplicate in Germany a governance structure, associated investment arrangements etc. that it already has in place in Belgium, as it is already a participating employer in the Belgian OFP.

### **3. Case Study – Partial transfer of member population in a company-own Pensionsfonds to a 3<sup>rd</sup> party Pensionfonds in accordance with sec. 14 German Insurance Supervision Act (VAG)**

Population characteristics

- Approx. 400 actives and active terminees
- Approx. 10 beneficiaries
- Volume: approx. EUR 4m

Planned transfer method, reasons

Transfer of existing accrued benefit expectations and past service in the company-own pensionsfonds (hereafter Group-PF) from former entities in the corporation to a third party pensionsfonds (hereafter 3<sup>rd</sup> part- PF). After a successful transfer, benefit provision continues via the 3<sup>rd</sup> party PF. The Group-PF is thereafter a company-own pension vehicle for the provision of benefits solely to its own employees and their survivors.

Project schedule

Work on the project has been going on intensively for two years. A transfer agreement between the Group-PF and the 3<sup>rd</sup> party-PF has been drafted and for the beneficiaries, an information plan has been drawn up. The transfer agreement was submitted to the federal supervisory authority for approval in August 2008. The time required by the authority to check and approve the agreement proved to be long; in November 2008 the first written

questions were submitted by the authority. After having received explanations, the authority sent a further set of questions in October 2009. To speed up the process, a telephone conference took place in 2010. The project was terminated after this call as it was not possible for the pensionsfonds to reach an agreement with the supervisory authority.

#### Reasons for project termination

- The federal supervisory authority adhered strictly to the criteria in sec. 14 of the German Insurance Supervision Act when interpreting the population transfer:
  - Pension plans are to be transferred unchanged when they contain contractually agreed provisions. Consequence: 3<sup>rd</sup> party-PF must apply the same pension plan as previously under the Group-PF or the Group-PF must apply the 3<sup>rd</sup> party-PF pension plan(s) to the portion of the population to be transferred.
  - Also, there has to be proof that after a transfer, there is no change to the profit share in accordance with sec 14 para 4. German Insurance Supervision Act; the principle of proportionality does not apply.
- These requirements resulted in costs for the Pensionsfonds that stood in no proportion to the size of the population being transferred.

#### **4. Another case study**

- We sponsor 23 separate funding vehicles in 11 European countries; legacy is mainly due to historic acquisition and change from DB to DC. 2 very large funds; rest are very small. Many DB funds face funding shortfalls.
- Long term strategy is to move to DC for all future accrual. However, also wish to continue to self-manage legacy DB plans as long as it is cost-effective to do so, and to ensure a robust DC offer to active employees, which helps to achieve best benefit outcome.
- Strong business case that the foundation to achieve these objectives is to pool our plans into a central vehicle.
- Barriers: stakeholder misconceptions about concept and process; stakeholder reticence to lead the market in this area; number of stakeholders (Trustees; management etc) involved in decision making
- What would help: improved communication that clearly shows the benefits for all stakeholders and eliminates concerns about e.g. tax complications, treatment of past service etc; ability to easily facilitate inclusion of plan for internationally mobile employees; lots of publicity for success stories.

#### **5. Comments on Cross Border IORPs**

We strongly support EC's decision to cancel the transfer of the first pillar of Solvency II to IORP. We definitely assume, that this decision is irrevocable.

- The renouncement of applying unjustified capital requirements to IORP is a first step in removing the existing uncertainties that keep employers and social partners from creating and developing IORP structures. It is not longer acceptable, that any planning of

employers and social partners regarding IORP are forced to complete standstill due to the unpredictable legal development.

- The positive signal we received from the EC's decision must now be directed into as lean as possible rules in second and third pillar to remove the remaining uncertainties as soon as possible. The target must be an environment that strengthens existing "non profit" IORP's and supports new "non profit" IORP's of sponsoring employers or social partners.
- Priorities in second and third pillar are now to be set on helping IORPs to work as efficiently as possible in a legally reliable environment. In this regard it will be mandatory to formulate simple, comprehensible and efficient rules. Employers and social partners can only be won, when it is credibly indicated that no significant negative impact will arise for companies sponsoring IORPs in the Member States.
- The regulation should also refrain from encouraging "gold plating" by Member States regulation.

The future success of organizing occupational pensions in IORP structures as the most efficient way will also depend on creating an encouraging environment for cross border activities:

- The main point of employers and social partners to engage in cross border activities is to reduce and not to increase complexity. That's why a suitable environment must follow simple, comprehensible and efficient rules in organizing cross border activities.
- These rules have to be fit national IORP and cross border IORP alike. Separate regulation and legal environment for cross border IORP would be contraproductive. We assume that IORP II will deliver a harmonized regulation.
- It is mandatory that regulatory law does not prohibit what's perfectly legal in national labor law. We strongly recommend to address this issue in the text of IORP II, to avoid future divergences. This applies not only to the issue of collective transfers, but also to plan design changes, which are of grave importance in practice.
- Portability via cross border IORP is not limited to the perspective of single person transfers. Enabling collective transfers cross border is a crucial element to a future orientated and sustainable strategy to develop our occupational pension concepts for our EU employees.

We assume, that it is not the intention of EC to promote the business interests of the insurance industry when talking about organizing occupational pensions for our employees.

- Therefore we strongly recommend to keep a close eye on using consistent terminology in legislative texts and public statements: Within IORP we discuss "occupational pensions". Neither "supplementary pensions" and most definitely not "personal pensions" – these are termini that (intentionally or unintentionally) blur the line between "not for profit" and "with profit" concepts.
- The superior efficiency that lies in the "not for profit" organization of occupational pensions should be emphasized in any way possible. In times of scarce resources –of companies and Member States - we should focus our efforts only on the most efficient concepts.

## **6. Cross-border projects - lengthy processes**

When I propose a cross-border project to my management, they want to see a project plan with a definitive time line. In one case, a home country regulator decided to change their interpretation of the Budapest protocol. They started the 3 month response period after they had completed their due-diligence, rather than from when we submitted the approval file. This meant that we had to re-communicate the timetable, and we lost credibility because we could not explain why the regulator had deviated from the standard process. The eventual cross-border transfer was successful, just took much longer than expected, and now senior management is more cautious about future transfers.

Somehow, the Commission needs to try and convince regulators that they need to create an environment which has some stability: where neither laws, regulations or the interpretation thereof, changes on a regular basis

## **7. Other experience**

- The Belgium regulator apparently only accepts communication in French and Flemish, being the official languages in Belgium. For most of our future "targets", these languages are not primary languages, so in practical terms we use official and in-official translations, which increases complexity and cost. This becomes cumbersome, when e.g. a Greek director would like to comment on the French text of the by-laws. -- It would be simpler, if the regulators accepted also English as a language for submitting the relevant documents. One could e.g. admit the submission of relevant documents in English, like e.g. Financing plan, By-laws etc.
- The definition of "pensions" needs to be formalised. For Corporates it is not practical, if, like in Spain, part of the "pension" piece fall under insurance law and part under pension law. There would certainly be a greater take-up, if this piece could be harmonised.
- Double filing: XYZ had already a cross-border license for the pension plan of XYZ subsidiary 1 NL in the Netherlands (size = EUR 3 million), from 2009 until 2011. By coincidence, the same pension plan was already in use for XYZ NL (size = EUR 500 million). – When we wanted to move also the XYZ NL plan to Belgium for cross-border use, we were slightly surprised to learn, that for this endeavour we needed to file a second time. At first glance we cannot see a difference for running a pension fund for a couple of dozens (XYZ subsidiary 1) compared to a couple of hundreds (XYZ NL), even more so as the administration was (and will remain) outsourced to a service provider.
- Transfer of past service: It is cumbersome if we have to file for two things in the same time: For the cross-border operation and also for the transfer of past service. I see that technically future service and past service are different things. But I would like to point out that in many legislations the transfer of past service can occur simply by moving job resp, the pension fund. So the regulator can maybe hinder the bulk transfer, but not the single transfer.

In our experience, this was used by the NL regulator as a lever against us (... I would not say blackmail), in the sense, the regulator know that they cannot avoid the cross-border operation, but they can freeze the transfer of the past service ... And if by moving to cross-border all of a sudden we would have to operate past service and future service in two different settings would be a no-go, because HR considerations and also because there would be no economies of scale.

- Ruling out of the grave: When we are preparing the cross-border move for the Netherlands, the regulator came up with the opinion that before going cross-border, we would have to "clean up the mess" in the asset management (too high percentage of alternative investments). But it was just this mess that we wanted to clean up by moving to Belgium ... So a chicken and egg situation. And after the transfer the regulator voiced his opinion that we would no longer be allowed to invest in those asset classes anymore. This came over quite strange to us, because so far the NL regulator has never indicated that they would impose ring-fencing on the assets (... which would be a no-go, as well).

## ANNEX F – POTENTIAL SCALE ECONOMIES

For the EU's IORP sector as a whole, considering that there are more than 125,000 IORPs in the EU - and even among the 7,000 IORPs with more than 100 members many are still relatively small financial institutions - the potential to increase scale is high in several Member States. Exact data on potential cost savings cannot be obtained, but some quantitative indication could be extracted from OECD data on the operating expenses of pension funds. The latest data indicate that depending on the country the operating expenses of pension funds ranges between 0.1% to 1.3% of total assets per year. Considering that the IORP sector holds assets worth around €2.5 trillion, but also taking into account that the level of consolidation of the IORP market in Member States differs, the Figure below suggests that the IORP assets with a consolidation potential amount to around €1.4 trillion. Using the OECD data on operating expenses this suggests that the current operating expenses for the assets with a consolidation potential in the EU are of the order of €4 billion per year. Assuming that greater scale could reduce the operating expenses by around 10% to one-third, the potential of cost savings for IORPs by increasing scale could be of the order of around €400 million to €1.3 billion, or €6 to 20 per member (for 64 million members). Over a period of 40 years, which is the typical accumulation period for a worker, the potential opportunity cost of not using scale benefits could amount to tens of billions of euros.

**Figure – Estimate of potential gain from consolidation**

	Assets (in € millions, end-2011)	Consoli- -dation factor (*)	Assets with consoli- -dation potential (in € millions)	Opera- -tional expenses (in percentage of total assets, 2011)**)	Operationa l expenses for assets with consolidati on potential (in € millions)	Estimate of potential gain from consolidation (in € millions)	
						10% reduction of operating expenses	33% reduction of operating expenses
	(1)	(2)	(3)=(1)*( 2)	(4)	(5)=(3)*(4)	(6)=0.9*(4)*(3) -(5)	(6')=0.67*(4)*(3) -(5)
BE	15,910	0.25	3,978	0.5	19.9	2.0	6.6
DK	7,060	0	0	0.1	0	0	0
DE	138,570	0.25	34,643	0.5	69.3	6.9	22.9
IE	70,000	0.75	52,500	0.5***	262.5	26.3	86.6
ES	31,690	0.25	7,940	1.3	103.2	10.3	34.1
IT	69,050	0.50	34,525	0.5***	172.6	17.3	57.0
LU	970	0.25	243	0.1	0.2	0	0.1
NL	774,060	0.25	193,515	0.1	193.5	19.4	63.9
AT	14,760	0.25	3,625	0.5	18.1	1.8	6.0
PL	360	0	0	0.5	0	0	0
PT	12,650	0.5	6,325	0.2	12.7	1.3	4.2
SI	1,835	0	0	0.9	0	0	2.5
SK	1,180	0.25	286	0.4	1.1	0.1	0.4
FI	4,120	0.50	2,210	0.4	8.8	0.9	2.9

SE	30,900	0.75	22,500	0.5***	112.5	11.3	37.1
UK	1,319,930	0.75	989,948	0.3	2,969.8	297.0	980.0
<b>To- tal</b>			<b>1,352,235</b>		<b>3,944.4</b>	<b>394.4</b>	<b>1,301.6</b>

Source: OECD, Commission Services.

Note: \*) Consolidation factor is an assumption based on the current number of IORPs operating in a market. The larger the number of IORPs the market the greater the potential for industry consolidation. The factor ranges between 0 and 1. A factor of 0 signals that the IORP market is already highly concentrated and that the potential for consolidation is negligible. A factor of 0.75 indicates that there are many small IORPs operating in that market and that around 3 in 4 IORPs might benefit from operating on a larger scale; \*\*) or latest data available; \*\*\*) Simple average of the countries where data are available.

## ANNEX G – POTENTIAL BENEFITS FROM BETTER GOVERNANCE AND RISK MANAGEMENT

Research suggests that good governance is associated with increased returns. Better governed pension funds outperformed poorly governed funds by 2.4 percent per annum (Capelle et al, 2008). Other studies have confirmed this link (Ambachtsheer et al, 2006; Ambachtsheer et al, 2007; Clark et al, 2007; and Clark and Urwin, 2007). A better investment outcome would be beneficial to scheme members and beneficiaries through higher pension benefits. This is even more important for members and beneficiaries of DC schemes, whose pension benefits wholly or partly depend on the returns on their investments.

Providing a figure for the potential benefits from better governance and risk management for scheme members and beneficiaries is a complex exercise to undertake and there is not one exact result. This notwithstanding, some quantitative indication can be extracted from the OECD data on pension funds' real net investment rates of return (see Figure 7 in the main text). These data indicate that the average real net investment rates of return between 2002 and 2011 have ranged, depending on the country, between -21.6 and 4.9 percent per annum. Assuming that amongst the assets worth €2.5 trillion held by the IORP sector, around 10% to 25% are run by “badly-managed” IORPs, the potential additional gains had the investment returns been better by 1.5 percentage points per annum could have been of the order of around €3.5 billion to €9 billion for one year, or €5 to €140 per member per year (for 64 million members). Considering that pensions involve very long investment horizons, up to 40 years or more, the potential opportunity cost of not improving the governance could amount to hundreds of billions of euros.

**Figure – Estimate of potential gain from better governance**

	Assets (in € millions, end-2011)	Proportion of “badly-managed” IORPs		Returns 2002-2011*		Estimate of potential gain from better governance (in € millions)	
		10%	25%	(ppa)	(in € millions)	10%	25%
		(1)	(2)=(1)* 0.1	(2')=(1)* 0.25	(3)	(4)=(1)*(3) /100	(5)=(2)*[(3)+1. 5]/100-(4)
BE	15,910	1,591	3,978	2.0	31.2	23.9	59.7
DK	7,060	706	1,765	4.9	34.9	10.6	26.5
DE	138,570	13,857	34,643	2.6	361.8	207.9	519.6
IE	70,000	7,000	17,500	-21.6	-1,508.5	105.0	262.5
ES	31,690	3,169	7,923	-1.9	-58.6	47.5	118.8
IT	69,050	6,905	17,263	-0.4	-27.6	103.6	258.9
LU	970	97	243	3.6	3.5	1.5	3.6
NL	774,060	77,406	193,515	3.6	2,786.6	1,161.1	2,902.7
AT	14,760	1,476	3,690	0.4	5.9	22.1	55.4
PL	360	36	90	4.7	1.7	0.5	1.4
PT	12,650	1,265	3,163	1.5	19.0	19.0	47.4
SI	1,835	184	459	-0.4	-0.8	2.8	6.9
SK	1,180	118	295	-2.4	-2.8	1.8	4.4
FI	4,120	412	1,030	2.3	9.6	6.2	15.5

UK	1,319,930	131,993	329,983	-0.5	-607.2	1,979.9	4,949.7
<b>To- tal</b>						<b>3,739.6</b>	<b>9,348.9</b>

*Source: OECD, Commission Services.*

*Note: \*) average of data available.*

## ANNEX H – POTENTIAL COST OF A DEPOSITORY

The compulsory appointment of depositories for pure DC schemes is expected to lead to an increase of costs for pure DC schemes in those Member States where this is not yet required. As shown in Figure 13 in the main text, this is the case notably for DK, IE, NL, FI and the UK. In those Member States the assets in DC schemes amount to some €380 billion (see figure below). In line with the Impact Assessment Report accompanying the UCITS V proposal (European Commission, 2012c) the cost of custody and record-keeping with depositories for investment funds are estimated to amount to 1.25 to 2.5 basis points per annum (0.0125% and 0.025%). In many cases this cost also includes the cost of oversight and the cost is higher for complex financial instruments. The upper limit for IORPs is likely to be lower because IORPs generally hold a limited amount of complex financial instruments. In the calculations of this impact assessment the upper limit is therefore lowered to 2 bpa. Applying a range of costs of a depository between 1.25 and 2 bpa to the DC assets in the few Member States concerned suggests that the cost would amount to around €50 to €75 million a year, or €2 to €3 per member per year spread over 25 million members. Reflecting a monopolistic market environment it is likely that this cost is passed on to scheme members and beneficiaries. This estimate is likely to give an indication of the maximum cost because even in Member States where the appointment of a depository is not mandatory, some IORPs might already use a depository nevertheless.

**Figure – Calculation of the cost of a depository in Member States where the appointment is not mandatory**

	Total assets (€ millions, end-2011)	Proportion of DC schemes (percent, 2010 or latest available)	DC assets (€ millions)	Cost of custody and record-keeping (€ millions)	
				1.25 basis points per annum	2.00 basis points per annum
				(4)=(3)*1.25bpa	(4')=(3)*2bpa
	(1)	(2)	(3)=(1)*(2)/100		
<b>DK</b>	7,060	94	6,615	0.8	1.3
<b>IE</b>	70,000	37	25,900	3.2	5.2
<b>NL</b>	774,060	8	61,925	7.7	12.4
<b>FI</b>	4,120	0	0	0	0
<b>UK</b>	1,319,930	22	288,067	36.0	57.6
<b>TOTAL</b>			<b>382,507</b>	<b>47.0</b>	<b>75.2</b>

Source: Commission Services.

## **ANNEX I – ADMINISTRATIVE BURDEN ASSESSMENT**

An assessment of the potential additional administrative burden for IORPs stemming from the proposed action was requested from the IORP industry with the support of PensionsEurope. Pensions Europe represents the various national associations of pension funds and similar institutions for workplace pension provision. It affiliates associations in 16 EU Member States and 5 other European countries. The occupational pension plans, IORPs and others, of about 75 million EU citizens are covered by PensionsEurope members.

The administrative burden assessment was carried out by the Commission Services in close coordination with PensionsEurope over a period of around five and a half months between end January 2013 and mid-July 2013.

### **1. PROCESS**

The Commission Services, in collaboration with Pensions Europe, elaborated a questionnaire to assess the potential administrative burden on the basis of the EIOPA advice for governance, reporting and transparency of February 2012, as well as follow-on EIOPA advice for the Pension Benefit Statement of 26 March 2012. The Commission Services indicated that this is likely to result in an upper limit of the potential burden because the EIOPA's Advice did not fully specify how proportionality could be taken into account and assumed that the IORP II proposal would also cover solvency rules.

The questionnaire (see Figure A) together with extensive guidance documentation (see Figure B) was sent by PensionsEurope to the IORP industry in early February 2013. It was subsequently discussed in a meeting on 8 February 2013 between the PensionsEurope' Working Group on Qualitative requirements and disclosure and the Commission Services. The Working Group brought together representatives from national pension fund associations from the nine MSs that participated in the administrative burden assessment: BE, DE, ES, IT, NL, AT, SE, FI and UK. The IORPs in those MSs account together for around 95% of the total assets in the EU's IORP industry.

The discussion revealed that the questionnaire was too detailed and too complex. Therefore, as a follow-up to the meeting, the Commission Services with the support of PensionsEurope developed a simplified version of the questionnaire (see Figure C). The simplified version of the questionnaire was sent to the IORP industry for completion in early April 2013.

**Figure A – Questionnaire to assess the potential administrative burden of the IORP II proposal**

## (a) Part I

### Questionnaire to assess the administrative burden of an IORP II proposal

Date: Brussels, 3 April 2013

The questions in this document aim to assess the potential administrative burden of the technical advice presented by EIOPA, as reflected in the "EIOPA's advice to the European Commission on the review of the IORP Directive 2003/41/EC " (EIOPA-BOS-12/015) dated 15.2.2012, as well as further considerations concerning information disclosures to members and beneficiaries. Where several options are proposed or where some working assumptions are necessary, this questionnaire focuses on the scenario that is likely to be the most costly.

The assessment is based on the EU Standard Cost Model. The results will feed into the European Commission's impact assessment report accompanying the legislative proposal to review directive 2003/41/EC (IORP II proposal).

This document does not represent or pre-judge the formal proposals of the European Commission.

## | Institutional information

### I. Institutional details

#### 1) Contact?

Name of institution \_\_\_\_\_

Country of head office \_\_\_\_\_

Name of contact person \_\_\_\_\_

Telephone of contact person \_\_\_\_\_

Email address of contact person \_\_\_\_\_

2) In how many countries does your institution operate?

- One country
- More than one-country (cross-border)

3) Could we contact you to ask any questions with regard to your response, if necessary?

- Yes (please confirm contact details)
- No

## | Assessing the administrative burden of an IORP II proposal

This section aims to assess the administrative burden of an IORP II proposal. Please note that administrative burdens are defined as the costs incurred by enterprises in meeting legal obligations to provide information on their action or production, either to public authorities or to private parties. Here, we are interested in the net change in costs. For example, an administrative action required by law (as e.g. accounting, auditing, reserve or present value calculations) but corresponding to what you would normally do in absence of any legal obligation should not be regarded in this questionnaire<sup>8</sup>.

In the two following subsequent sections, you will be asked questions with regard to the introduction of new or expansion of existing information obligations. The first section deals with reporting requirements to the relevant supervisory authorities, whereas the subsequent section deals with requirements to members & beneficiaries.

For each of these sections you will firstly be asked to describe the current situation of your institution. In case you are not currently required to provide information on a specific regulatory obligation, you will consequently be asked to estimate the relevant cost parameters of this incremental requirement. More guidance is set out in the **guidance document** that accompanies this questionnaire. In case you have further questions do not hesitate to contact us. We would appreciate it if you would answer these questions to the best of your abilities.

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<sup>8</sup> The former is referred to as "administrative burden" whereas the latter is referred to as "business as usual".

## | Section I: Reporting requirements to supervisory authorities

I. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:

	Reporting Requirement:	Information on the main trends	Information on objectives	Information on the contributions and expenses from occupational retirement provision	Information regarding the performance (net contributions) relating to occupational retirement provision
<b>Current position</b>	<b>Does your institution currently abide by the following reporting requirements</b> (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive and/or in the accompanied Guidance document)	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	<b>Current reporting frequency?</b> (e.g. every three years, annually, on request) <sup>9</sup>				
	<b>Estimated current administrative cost?</b>				
<b>Relevant cost parameters</b> incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?				
	Required level of qualification? (ISCO)				
	Estimated hourly pay?				
	Frequency of reporting requirement? <sup>10</sup>				
	(If applicable) number of entities involved?				
	<b>Total estimated labour cost?</b>				
	(If applicable) estimated cost of acquiring additional equipment & supplies?				
	(If applicable) estimated cost of outsourcing reporting requirement?				
<b>Total incremental cost?</b>					

<sup>9</sup> Where every three years (=0,33); annually (=1), semi-annually (2), etc. In case you feel like your labour costs are not linearly related to the frequency, please comment on this in the appropriate section.

<sup>10</sup> For the purpose of this exercise the frequency will be set as 1.

II. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:

	Reporting Requirement:	Projections of the performance	Information on risk mitigating techniques
<b>Current position</b>	<b>Does your institution currently abide by the following reporting requirements</b> (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive and/or in the accompanied Guidance Document)	Yes/No/Partially	Yes/No/Partially
	<b>Current reporting frequency?</b> (e.g. every three years, annually, on request) <sup>11</sup>		
	<b>Estimated current administrative cost?</b>		
<b>Relevant cost parameters</b> incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?		
	Required level of qualification? (ISCO)		
	Estimated hourly pay?		
	Frequency of reporting requirement? <sup>12</sup>		
	(If applicable) number of entities involved?		
	<b>Total estimated labour cost?</b>		
	(If applicable) estimated cost of acquiring additional equipment & supplies?		
	(If applicable) estimated cost of outsourcing reporting requirement?		
<b>Total incremental cost?</b>			

III. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:

	Reporting Requirement:	Information on income and expenses with respect to investment activities	Information on the overall investment performance	Projections of the expected investment performance

<sup>11</sup> Where every three years (=0,33); annually (=1), semi-annually (2), etc. In case you feel like your labour costs are not linearly related to the frequency, please comment on this in the appropriate section.

<sup>12</sup> For the purpose of this exercise the frequency will be set as 1.

<b>Current position</b>	<b>Does your institution currently abide by the following reporting requirements</b> (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive and/or in the accompanied Guidance Document)	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	<b>Current reporting frequency?</b> (e.g. every three years, annually, on request) <sup>13</sup>			
	<b>Estimated current administrative cost?</b>			
<b>Relevant cost parameters</b> incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?			
	Required level of qualification? (ISCO)			
	Estimated hourly pay?			
	Frequency of reporting requirement? <sup>14</sup>			
	(If applicable) number of entities involved?			
	<b>Total estimated labour cost?</b>			
	(If applicable) estimated cost of acquiring additional equipment & supplies?			
	(If applicable) estimated cost of outsourcing reporting requirement?			
<b>Total incremental cost?</b>				

**IV. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:**

	<b>Reporting Requirement:</b>	<b>Information on the key assumptions with regard to investment decisions</b>	<b>Information about any investments in tradable securities</b>	<b>Information on any material contributions and expenses</b>
<b>Current position</b>	<b>Does your institution currently abide by the following reporting requirements</b> (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive and/or in the accompanied Guidance Document)	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	<b>Current reporting frequency?</b> (e.g. every three years, annually, on request)			

<sup>13</sup> Where every three years (=0,33); annually (=1), semi-annually (2), etc. In case you feel like your labour costs are not linearly related to the frequency, please comment on this in the appropriate section.

<sup>14</sup> For the purpose of this exercise the frequency will be set as 1.

	<i>request</i> <sup>15</sup>			
	<b>Estimated current administrative cost?</b>			
<b>Relevant cost parameters</b> incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?			
	Required level of qualification? ( <i>ISCO</i> )			
	Estimated hourly pay?			
	Frequency of reporting requirement? <sup>16</sup>			
	<i>(If applicable)</i> number of entities involved?			
	<b>Total estimated labour cost?</b>			
	<i>(If applicable)</i> estimated cost of acquiring additional equipment & supplies?			
	<i>(If applicable)</i> estimated cost of outsourcing reporting requirement?			
	<b>Total incremental cost?</b>			

V. In case a reporting requirement consists of multiple administrative requirements, please fill in the following table for the relevant requirement:

Reference to relevant requirement		Total Labour Cost					Total Equipment costs (per year & per entity)	Total Outsourcing costs (per year & per entity)	Total Administrative Costs
		Average cost			Frequency				
Number of action	Description of required action(s) (based on typology)	Time per action (man-hours)	Required level of qualification?	Price per action (€ per hour)	Frequency per action (E=0,33; A=1; S=2)	Total number of entities involved			
1.									

<sup>15</sup> Where every three years (=0,33); annually (=1), semi-annually (2), etc. In case you feel like your labour costs are not linearly related to the frequency, please comment on this in the appropriate section.

<sup>16</sup> For the purpose of this exercise the frequency will be set as 1.

2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									

**Additional Comments** (e.g. general remarks, difficulties, shortcomings):

## | Section II: Reporting requirements to members & beneficiaries

I. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:

	Reporting Requirement:	Information on pension guarantees (all schemes)	Information on current balance (all schemes)	Information on pension projections (all schemes)	Practical information (all schemes)
Current position	Does your institution currently abide by the following reporting requirements (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive and/or in the accompanied Guidance Document)	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	Current reporting frequency? (e.g. every three years, annually, on request) <sup>17</sup>				
	Estimated current administrative cost?				
Relevant cost parameters incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?				
	Required level of qualification? (ISCO)				
	Estimated hourly pay?				
	Frequency of reporting requirement? <sup>18</sup>				
	(If applicable) number of entities involved?				
	<b>Total estimated labour cost?</b>				
	(If applicable) estimated cost of acquiring additional equipment & supplies?				
	(If applicable) estimated cost of outsourcing reporting requirement?				
	<b>Total incremental cost?</b>				

<sup>17</sup> Where every three years (=0,33); annually (=1), semi-annually (2), etc. In case you feel like your labour costs are not linearly related to the frequency, please comment on this in the appropriate section.

<sup>18</sup> For the purpose of this exercise the frequency will be set as 1.

II. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:

	Reporting Requirement:	Detailed breakdown of costs (DC only)	Information on investment options & risk profile (DC only)	Information on past performances (net) (DC only)
Current position	Does your institution currently abide by the following reporting requirements (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive and/or in the accompanied Guidance Document)	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	Current reporting frequency? (e.g. every three years, annually, on request) <sup>19</sup>			
	Estimated current administrative cost?			
Relevant cost parameters incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?			
	Required level of qualification? (ISCO)			
	Estimated hourly pay?			
	Frequency of reporting requirement? <sup>20</sup>			
	(If applicable) number of entities involved?			
	Total estimated labour cost?			
	(If applicable) estimated cost of acquiring additional equipment & supplies?			
	(If applicable) estimated cost of outsourcing reporting requirement?			
Total incremental cost?				

III. In case a reporting requirement consists of multiple administrative requirements, please fill in the following table for the relevant requirements:

<sup>19</sup> Where every three years (=0,33); annually (=1), semi-annually (2), etc. In case you feel like your labour costs are not linearly related to the frequency, please comment on this in the appropriate section.

<sup>20</sup> For the purpose of this exercise the frequency will be set as 1.

Reference to relevant requirement		Total Labour Cost					Total Equipment costs (per year & per entity)	Total Outsourcing costs (per year & per entity)	Total Administrative Costs
		Average cost			Frequency				
Number of action	Description of required action(s) (based on typology)	Time per action (man-hours)	Required level of qualification?	Price per action (€ per hour)	Frequency per action (E=0,33; A=1; S=2)	Total number of entities involved			
1.									
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									

**Additional Comments** (e.g. general remarks, difficulties, shortcomings):

## (b) Part II

### Questionnaire to assess the compliance costs of an IORP II proposal

Date: Brussels, 01 February 2013

The questions in this document aim to assess the potential compliance costs of the technical advice presented by EIOPA, as reflected in the "EIOPA's advice to the European Commission on the review of the IORP Directive 2003/41/EC" (EIOPA-BOS-12/015) dated 15.2.2012. Where several options are proposed or where some working assumptions are necessary, this questionnaire focuses on the scenario that is likely to be the most costly.

The assessment is based on the EU Standard Cost Model. The results will feed into the European Commission's impact assessment report accompanying the legislative proposal to review directive 2003/41/EC (IORP II proposal).

This document does not represent or pre-judge the formal proposals of the European Commission.

## | Institutional information

### I. Institutional details

#### 1) Contact?

Name of institution \_\_\_\_\_

Country of head office \_\_\_\_\_

Name of contact person \_\_\_\_\_

Telephone of contact person \_\_\_\_\_

Email address of contact person \_\_\_\_\_

#### 2) How many entities does your institution consist of?

One (head office)

More than one (group)

3) In how many countries does your institution operate?

- One country
- More than one-country (cross-border)

4) IORP II will include an option for companies to choose between a Standardised Approach and an Internal Model approach to calculate the capital requirement. Also, there will be the option to use internal models for parts of the company and the standard approach for the remainder. This is called 'Partial Internal Models approach'. What approach does your company intend to use?

- Standardised Approach
- Internal Model Approach
- Partial Internal Models Approach

5) Could we contact you to ask any questions with regard to your response, if necessary?

- Yes (please confirm contact details)
- No

## | Cost of compliance with an IORP II proposal

This section aims to address the compliance cost of an IORP II proposal. For the purpose of this exercise, IORPs are required to make an estimation of the total compliance work or project expenses split by costs which they already have or have at least planned to do and additional expenses due to further compliance.

Due to the inherent complexity and the likelihood that a specific governance requirement consists of a multitude of relevant administrative actions, IORPs are required to identify the actions which are associated to specific requirement. As guidance, IORPs are encouraged -albeit not obliged- to use the typology provided in the **Administrative Burden guidance document**. In addition, for each of these administrative actions, IORPs are asked to indicate whether the associated costs are one-off or recurring.

The questionnaire itself consists of two sections. The first section focusses on compliance costs associated with proposed governance requirements as reflected in the "EIOPA's advice to the European Commission on the review of the IORP Directive 2003/41/EC". In addition, the second section focusses on the administrative burdens associated with these governance requirements.

For each of these sections you will firstly be asked to describe the current situation of your institution. In case you are not currently abiding to the governance requirements (as proposed in 'EIOPA's Advice to the European Commission on the review of the IORP Directive') you will consequently be asked to estimate the relevant cost parameters of this incremental requirement. More guidance is set out in the **Compliance Costs guidance document** that accompanies this questionnaire. In case you have further questions do not hesitate to contact us. We would appreciate if you would answer these questions to the best of your abilities.

## | Section I: Governance Requirements

I. Please describe the current situation of your institution by answering the following questions:

1) We currently abide to the general governance requirements (as proposed in *'EIOPA's Advice to the European Commission on the review of the IORP Directive'*):

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

2) We currently abide to the general requirements with regard to the fitness and propriety of persons who effectively run the IORP (as proposed in *'EIOPA's Advice to the European Commission on the review of the IORP Directive'*):

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

3) We currently abide to the general requirements with regard to risk management (as proposed in *'EIOPA's Advice to the European Commission on the review of the IORP Directive'*):

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**4) We currently abide to the general requirements on ORSA (as proposed in *'EIOPA's Advice to the European Commission on the review of the IORP Directive'*):**

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**5) We currently abide to the general requirements on an internal control system (as proposed in *'EIOPA's Advice to the European Commission on the review of the IORP Directive'*):**

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**6) We currently abide to the general requirements on internal auditing (as proposed in *'EIOPA's Advice to the European Commission on the review of the IORP Directive'*):**

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**7) We currently abide to the general requirements on the actuarial function (as proposed in '*EIOPA's Advice to the European Commission on the review of the IORP Directive*'):**

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**8) We currently abide to the general requirements on outsourcing (as proposed in '*EIOPA's Advice to the European Commission on the review of the IORP Directive*'):**

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**9) We currently abide to the general requirements on depositories (as proposed in '*EIOPA's Advice to the European Commission on the review of the IORP Directive*'):**

Yes

Partially (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

No (if no, please provide a description of the current system and fill in the relevant cost parameters in the table below)

**II. In case your institution is not or only partially abiding to at least one of the aforementioned requirements, briefly describe the current position of your company for the respective requirement(s). In particular, please specify where your institution differs from the relevant requirement.**

**Brief description of current position & areas of discrepancy:**

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**III. In case your institution is currently not, or only partially, abiding to at least one of the aforementioned requirements, but is in the process of improving its governance system (e.g. general governance structure & functions, risk management & ORSA, internal control system) briefly describe this process. In particular, please provide an estimation of the planned work or project costs.**

**Description & broad estimation of the planned work or project costs:**

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III. Please make an estimate of the **increment cost** of complying with the relevant governance requirement(s):

Reference to relevant governance requirement		Total Labour Cost					Total Equipment costs (per year & per entity)	Total Outsourcing costs (per year & per entity)	Total Administrative Costs
		Average cost			Frequency				
Number of action	Description of required action(s) (based on typology)	Time per action (man-hours)	Required level of qualification? (ISCO)	Price per action (€ per hour)	One-off costs / on-going costs? (in case of recurrent costs, please indicate the appropriate frequency)	Total number of entities involved			
1.									
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									

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**Additional Comments** (e.g. general remarks, difficulties, shortcomings):

## | Section II: Reporting requirements

I. Please make an estimate of the cost parameters of the relevant reporting requirements in the following table:

	Reporting Requirement:	I. General Governance structure & Functions	II. Fit & Proper	III. Risk management	IV. ORSA supervisory report
Current position	Does your institution currently abide by the following reporting requirements (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive)	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	Estimated current administrative cost?				
Relevant cost parameters incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?				
	Required level of qualification? (ISCO)				
	Estimated hourly pay?				
	Frequency of reporting requirement? <sup>21</sup>				
	(If applicable) number of entities involved?				
	<b>Total estimated labour cost?</b>				
	(If applicable) estimated cost of acquiring additional equipment & supplies?				
	(If applicable) estimated cost of outsourcing reporting requirement?				
<b>Total incremental cost?</b>					

<sup>21</sup> For the purpose of this exercise the frequency will be set as 1.

II. Please make an estimate of the cost parameters of the relevant reporting obligations in the following table:

	Reporting Requirement:	V. Internal Control System	VI. Internal audit	VII. Actuarial function	VIII. Outsourcing	IX. Depositories
<b>Current position</b>	<b>Does your institution currently abide by the following reporting requirements (as set out in 'EIOPA's Advice to the European Commission on the review of the IORP Directive')</b>	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially	Yes/No/Partially
	<b>Estimated current administrative cost?</b>					
<b>Relevant cost parameters</b> incurred to fully fulfil the reporting requirement  (if the reporting requirement is already fulfilled, please leave blank)	Required man-hours?					
	Required level of qualification? (ISCO)					
	Estimated hourly pay?					
	Frequency of reporting requirement? <sup>22</sup>					
	(If applicable) number of entities involved?					
	<b>Total estimated labour cost?</b>					
	(If applicable) estimated cost of acquiring additional equipment & supplies?					
	(If applicable) estimated cost of outsourcing reporting requirement?					
<b>Total incremental cost?</b>						

<sup>22</sup> For the purpose of this exercise the frequency will be set as 1.

III. In case a reporting requirement consists of multiple administrative requirements, please fill in the following table for the relevant requirement:

Reference to relevant governance requirement		Total Labour Cost					Total Equipment costs (per year & per entity)	Total Outsourcing costs (per year & per entity)	Total Administrative Costs
		Average cost			Frequency				
Number of action	Description of required action(s) (based on typology)	Time per action (man-hours)	Required level of qualification? (ISCO)	Price per action (€ per hour)	Frequency per action (E=0,33; A=1; S=2)	Total number of entities involved			
1.									
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									

**Additional Comments** (e.g. general remarks, difficulties, shortcomings):

**Figure B – Guidance documents accompanying the questionnaire**

**(a) Part I**

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**Assessing the Administrative Burden of an IORP II proposal:  
Guidance Document**

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## I. INTRODUCTION

The Commission Services are in the process of preparing the impact assessment report that will accompany the legislative proposal to review directive 2003/41/EC (IORP II proposal). A substantive assessment of the impact of possible quantitative requirements (pillar 1) is being performed with the Quantitative Impact Study carried out by EIOPA and economic research carried out by the Commission's Joint Research Centre and the European Central Bank.

This document focuses on the administrative burden assessment of possible information disclosure requirements (Pillar 3). It provides background information for the questionnaire to assess the potential administrative burden of the technical advice presented by EIOPA, as reflected in "EIOPA's advice to the European Commission on the review of the IORP Directive 2003/41/EC" (EIOPA-BOS-12/015) dated 15.2.2012, as well as further considerations concerning information disclosures to members and beneficiaries.

This document does not represent or pre-judge the formal proposals of the European Commission.

### 1.1 Administrative Cost Assessment

Administrative costs are defined as the cost incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their actions, either to public authorities or to private parties. In general these costs consist of two distinct mechanisms: Firstly, the cost of implementing the requirements (e.g. one-off administrative costs) and secondly once these requirements are met, the on-going reporting obligations (e.g. recurring costs).

Furthermore, administrative costs consist of two components: business-as-usual and administrative burdens. While business-as-usual costs correspond to the costs resulting from administrative activities an entity would continue if legal obligations were removed, administrative burdens stem from activities which are done solely due to legal obligations.

#### 11.1. 1.2. Proportionality

One of the key purposes of the administrative burden assessment is to test the effectiveness and efficiency of alternative policy options.

The principle of **proportionality**, which requires that any intervention is targeted and does not go beyond what is necessary to achieve the objectives, needs to guide the process of identifying different policy options and their comparison.

In this regard it should be noted that **none of the proposed requirements by EIOPA in its "Advice to the European Commission on the review of the IORP Directive 2003/41/EC" are set in stone**. For this administrative burden assessment, it is proposed to assume an *"upper bound scenario"*. Accordingly, for each of the potential disclosure requirements, the

burdens imposed by the most stringent option will be tested. While it is possible that the initial results of this exercise might indicate a burden, it will be possible through application of the EU Standard Cost Model to assess the cost of other options.

### 1.3 Outline of the EU Standard Cost Model

Administrative burden should be assessed on the basis of **the average cost of the required administrative activity multiplied by the total number of activities performed per year**. The average cost per activity will be estimated by multiplying the average labour cost per hour by the time required per action. The total number of activities will be calculated as the frequency of required actions multiplied by the number of entities concerned. **In case of multiple relevant administrative activities per information obligation these need to be summed up to calculate the administrative cost per information obligation. If applicable, equipment costs and outsourcing costs (per entity and per year) should also be included in the calculations.**

For each of these information obligations, individual IORPs need to provide the relevant data. This data could be collected at a country level and then extrapolated to the EU level. In order to collect this data, a so-called capture-tool is required. In the IORP Administrative Burden Assessment, a **questionnaire** has been prepared.

In order to complete this questionnaire a series of steps need to be taken. In the following section these steps will briefly be described.

## II. STEP BY STEP GUIDE ON THE QUESTIONNAIRE

### 2.1 Identification and classification of reporting requirements

The assessment of administrative burdens starts with a full **mapping** of the existing and newly introduced information obligations. This comparative mapping is presented in tabular form and includes a short description of the information obligations and, if applicable, the regulatory origin and the obligation frequency.

Bearing in mind the specificity of the EU Standard Cost Model, the costs of existing reporting requirements will not be assessed since they are considered to be business as usual. Instead the focus should be limited to the requirements that are likely to impose the most significant administrative burden.

As aforementioned, for the purpose of this exercise, the mapping will be limited to the **upper bound scenario** implied by *"EIOPA's advice to the European Commission on the Review of Directive 2003/41"*.

The results of this mapping can be found in **Annex A & B** of this guidance document.

## 2.2 Identification of the frequency of reporting requirements

In order to distinguish the administrative burden from business as usual, it is necessary to identify whether some of the proposed reporting requirements are already being reported by the IORPs in the different Member States and at what frequency.

The frequency of required actions is an indication on how many times per year an action is required. If for instance the information has to be submitted once a year, the frequency is 1; if is every 6 months the frequency is 2; if every three years, it is 0,33.

Some of the relevant data on this issue that was put forward by recent studies can be found in **Annex C** of this guidance document. Nonetheless, it is clear that this data is not sufficient. It is therefore deemed advisable to integrate the following questions into the questionnaire:

<i>Possible question(s):</i>
1. What are the current information obligations to supervisors and members & beneficiaries at the national level?
2. What is the frequency of these requirements?

## 2.3 identification of relevant cost parameters of reporting requirements

### 2.3.1. General cost parameters

A next step is to determine the relevant cost parameters of the information obligations. While "*labour costs*" are primordial in this regard, other costs including "*equipment & supply*" and "*outsourcing*" costs should not be forgotten.

The labour costs are determined by (a.) the number of hours spent on a specific action, multiplied by (b.) the hourly pay of those performing the action. This hourly pay should correspond to the gross salary plus overhead cost (25% by default). It is clear that costs will increase exponentially to the degree of qualification and seniority required to perform the action.

The cost parameters for equipment & supplies, which are acquired to comply with information obligations and which are solely used for that purpose alone, consist of the acquisition price and the depreciation price.

Outsourcing costs is what the service provider charges on average per information obligation, per entity and per year.

With regard to the cost parameters, the following questions are proposed:

<i>Possible question(s):</i>
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Labour costs	1. How many man-hours does your organisation need to fulfil these obligations?
Labour costs	2. What level of qualification and seniority is required to perform these obligations? <i>(based on ISCO ranking)</i> <sup>23</sup>
Labour costs	3. What is the estimated hourly pay?
Labour costs	4. Frequency of reporting obligation?
Labour costs	5. How many entities are involved?
Equipment & Supply costs	4. Does your organisation currently possess the required equipment & supplies to abide by these obligations?
Equipment & Supply costs	5. <i>(If applicable)</i> what is the estimated cost of acquiring additional equipment & supplies?
Outsourcing costs	6. Is your organization required to outsource these requirements?
Outsourcing costs	7. <i>(If applicable)</i> what is the estimated cost of outsourcing these requirements?

### 2.3.2 Identification of the required individual administrative actions

Considering the likelihood that a specific disclosure requirement consists of a multitude of relevant administrative actions, it is deemed necessary that the IORPs indicate the number of individual actions involved. Moreover, they are required to identify the actions which are associated to specific information obligations, since this makes it possible to distinguish the costs of implementing the requirements from their associated reporting costs.

With regard to possible obligations as outlined in EIOPA's advice the following typology could be used:

<b><i>Types of required action(s):</i></b>
1. Familiarising with the information obligation

<sup>23</sup> Where ISCO 1= legislators, senior officials & managers; ISCO 2= professionals; ISCO 3= technicians and associate professionals; ISCO 4= Clerks; ISCO 5= service workers and ISCO 9= elementary occupations.

2. Training employees about the information obligations
3. Retrieving relevant information from existing data
4. Adjusting existing data
5. Producing new data
6. Designing information material (e.g. the Pension Benefit Statement)
7. Copying (e.g. reproducing reports, producing labels or leaflets)
8. Holding meetings (e.g. internal/external with an auditor, lawyer, etc.)
9. Submitting the information to the relevant authority (e.g. sending it to the relevant authority)
10. Filing the information
11. Buying (IT) equipment & supplies specifically used to fulfil information obligations
12. Other(s)

The labour cost for each of these individual actions will then need to be calculated separately as indicated in section 2.3.1 and 3 of the Guidance Document.

Finally, it should be reminded that for the purpose of this exercise the focus should be limited to the net change in costs. For example, an administrative action following a particular requirement required by law, but corresponding to what you would normally do in absence of any legal obligation should not be regarded in the calculations.

## 2.4. Extrapolation to the EU level

In order to keep assessment of costs at a reasonable level it is evident that it is not feasible to collect data on each of the approximately 120.000 IORPs. Instead the data provided by IORPs, who participate in the questionnaire on a voluntary basis will be collected on a by Member State basis.

It is important to note however that due to likely substantial discrepancies in the relevant cost parameters between Member States, the option to extrapolate the provided data on a regional basis (e.g. Western Europe, Central Europe, Eastern Europe) could be considered. In case data is not available from a specific region, extrapolation -if deemed necessary- could be on the basis of country distribution of administrative costs in a similar sector or for a similar event; the *"EU database on administrative burdens"* provides approximately 340 of these. In any case, the assumptions required to make this extrapolation need to be clearly explained.

Moreover, the data that will be collected needs to be critically reviewed and obvious outliers need to be removed. Simply put, for the EU Standard Model the assessment needs to be based on ideal types, the so-called *"normal efficient entity"*. Ranges of estimations are not possible and discrete figures need to be provided. While calculating the median or average of remaining data is likely to be sufficient, the standard deviation and variance might be used

occasionally to decide on the most appropriate method to identify the performance of the "normal efficient entity".

**III. REPORT**

Once the data is collected and extrapolated to the regional and/or EU level. The estimates need to be reported in a standardised manner to allow for possible comparison and additions. It is important to note that the common reporting sheet acts merely as a summary of more detailed analysis. It does not prohibit from presenting more detailed data in separate tables and texts. A draft version of a possible reporting sheet for a specific requirement for the revision of the IORP Directive is presented below.

<b>IORP II Reporting Sheet</b>								
<b>Proposed requirement</b>								
<b>Number of action</b>	<b>Description of required action(s)</b> <small>(based on typology)</small>	<b>Time per action</b> <small>(man-hours)</small>	<b>Price per action</b> <small>(€/per hour)</small>	<b>Frequency per action</b> <small>(E=0,33; A=1; S=2; M=12)<sup>24</sup></small>	<b>Total number of entities involved</b>	<b>Total Equipment costs</b> <small>(per year &amp; per entity)</small>	<b>Total Outsourcing costs</b> <small>(per year &amp; per entity)</small>	<b>Total Administrative Costs</b>
1.								
2.								
3.								
4.								
5.								

**IV. BIBLIOGRAPHY**

EIOPA (2012), 'EIOPA’s Advice to the European Commission on the review of the IORP Directive 2003/41/EC', *EIOPA-BOS-12/015*.

<sup>24</sup> Where E= every three years; A = annually; S=semi-annually; M=monthly

EIOPA (2011a), 'Report on Pre-Enrolment Information to Pension Plan Members', *EIOPA-BOS-11/039*.

EIOPA (2011b), 'Report on Reporting Requirements to Supervisory Authorities', *CEIOPS-OP-68-10 Rev5*.

CEIOPS (2008), 'Initial Review of Key Aspects of the Implementation of the IORP Directive', *CEIOPS-OP-03-08*.

References describing the EU Standard Cost Model are available on:  
[http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/eu\\_scm/eu\\_scm\\_en.htm](http://ec.europa.eu/dgs/secretariat_general/admin_burden/eu_scm/eu_scm_en.htm)

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Enclosure: Annex A – Reporting Requirements for Supervisors  
Annex B – Reporting Requirements for Members & Beneficiaries  
Annex C – Reporting Frequency to Supervisory Authorities

## V. ANNEXES

### Annex A: Reporting Requirements to Supervisory Authorities

**Table I: Current Reporting Requirements**

Nr.	Description of current reporting requirements	Reference to IORP Article	Shall/May in IORP Directive?	Frequency of reporting required?
<b>Article 13</b>				
1	<b>All documents necessary for the purpose of supervision, including:</b>	IORP Directive, Article 13, paragraph c	may	Regularly
1.1	<b>Internal interim reports</b>	IORP Directive, Article 13, paragraph c (i)	may	Regularly
1.2	<b>Actuarial valuations and assumptions</b>	IORP Directive, Article 13, paragraph c (ii)	may	Regularly
1.3	<b>Asset-liability studies</b>	IORP Directive, Article 13, paragraph c(iii)	may	Regularly
1.4	<b>Evidence of consistency with investment-policy principles</b>	IORP Directive, Article 13, paragraph c(iv)	may	Regularly
1.5	<b>Evidence that contributions have been paid in as planned</b>	IORP Directive, Article 13, paragraph c(v)	may	Regularly
1.6	<b>Detailed auditor's report</b>	IORP Directive, Article 13	may	Regularly
1.7	<b>Certificate of the auditor</b>	IORP Directive, Article 13	may	Regularly
<b>Other Articles</b>				
2	<b>Annual accounts and annual reports</b> for each pension scheme operated by the institution. The reports should give a true and fair view of the institution's assets, liabilities and financial position.	IORP Directive, Article 10 & 13	shall	On request
3	<b>Statement of investment-policy principles (SIPP)</b> which includes: <b>investment risk measurement methods, the risk-management process implemented, the strategic asset allocation and asset-liability studies.</b>	IORP Directive, Article 12 & 13	shall	Regularly / At least every three years
4	A certification or a report which reflect <b>the adjusted development of the technical provision and changes in risk covered.</b>	IORP Directive, Article 15, paragraph 3	shall (in case the IORP decides to calculate TP every three years)	Intervening years
<b>EIOPA Report on Reporting Requirements to Supervisory Authorities (2011b)</b>				
5	<b>Whistle blow-report</b>	EIOPA Report (2011b)	Not specified	Not specified
6	<b>Stress test</b>	EIOPA Report (2011b)	Not specified	Not specified
7	<b>Further documents, including:</b>			
7.1	<b>Composition of membership</b>	EIOPA Report (2011b)	Not specified	Not specified

7.2	<b>Amount of contributions</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.3	<b>Amount of benefits paid and transferred</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.4	<b>Allocation of assets to different asset classes</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.5	<b>Transaction if assets</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.6	<b>Funding</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.8	<b>Solvency requirements</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.9	<b>Commissions to be paid</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.10	<b>Return on investment</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.11	<b>Investment income losses</b>	EIOPA (2011b)	Report	Not specified	Not specified
7.12	<b>Net asset value</b>	EIOPA (2011b)	Report	Not specified	Not specified
8	<b>Special register for assets covering TP</b>	EIOPA (2011b)	Report	Not specified	Not specified
9	<b>New Pension scheme</b>	EIOPA (2011b)	Report	Not specified	Not specified
10	<b>Cross-border information</b>	EIOPA (2011b)	Report	Not specified	Not specified

**Table II: Possible new reporting Requirements**

Description of possible information requirements	EIOPA Advice on Review of IORP Directive	Detailed description	Shall/May in IORP II Directive?	Frequency of reporting required?
<b>1. Information regarding the business of IORPs, including:</b>				
<b>1.1 Information on the main trends</b>	CfA Section 28.5	The main trends and factors that contribute to the development, performance and position of the institution over its planning time horizon including any significant legal or regulatory issues;	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually</b>
<b>1.2 Information on objectives</b>	CfA Section 28.5	A description of the objectives of the institution, including the relevant strategies and time frames.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually</b>
<b>2. Qualitative and quantitative information regarding IORPs performance, including:</b>				
<b>2.1 Information on contributions and expenses</b>	CfA Section 28.5	Information on the institution's contributions and expenses relating to occupational retirement provision by material geographical areas; a comparison of the information with that reported on the previous reporting period and the reasons for any material changes;	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually</b>
<b>2.2 Information regarding the performance during reporting periods (net contributions)</b>	CfA Section 28.5	An analysis of the institution's overall performance during the reporting period (contributions minus expenses)	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually</b>

2.4 Projections of the performance	CfA Section 28.5	Projections of the institution's performance, with information on significant factors that might affect such performance, over its planning time horizon	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
2.5. Information on risk mitigating techniques	CfA Section 28.5	Information on any material risk mitigation techniques purchased or entered into during the reporting period.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
<b>3. Qualitative and quantitative information regarding the performance of IORPs investments, including:</b>				
3.1. Information on income and expenses with respect to investment activities	CfA Section 28.5	Information on income and expenses with respect to investment activities during the last reporting period, a comparison of the information with that reported on the previous reporting period and reasons for any material changes.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
3.2. Information on the overall investment performance	CfA Section 28.5	An analysis of the institution's overall investment performance during the reporting period and also by relevant asset class.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
3.3. Projections of the expected investment performance	CfA Section 28.5	Projections of the institution's expected investment performance, with information on significant factors that might affect such investment performance, over its business planning time horizon.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
3.4 Information on the key assumptions with regard to investment decisions	CfA Section 28.5	The key assumptions which the institution makes in its investment decisions with respect to the movement of interest rates, exchange rates, and other relevant market parameters, over its planning time horizon.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
3.5. Information about any investments in tradable securities	CfA Section 28.5	Information about any investments in tradable securities or other financial instruments based on repackaged loans, and the institution's risk management procedures in respect of such securities or instruments.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually
<b>4. Other reporting requirements, including:</b>				
4.1. Information on any material contributions and expenses	CfA Section 28.5	Institutions shall report information of any material contributions and expenses, other than from occupational retirement provision or investment, over the institution's planning time horizon.	shall (but <b>proportionality</b> needs to be taken into account)	At least annually

## Annex B: Reporting Requirements for Members & Beneficiaries

**Table I: Current Reporting Requirements**

Nr.	Description of current reporting requirements	Reference to IORP Article	Shall/May in IORP Directive?	Frequency of reporting required?
<b>Article 11 (DC &amp; DB schemes)</b>				
1	Any relevant information regarding <b>changes</b> to the pension scheme	IORP Directive, Article 11, paragraph 2 (b)	shall	On request/Regularly
2	The <b>target level</b> of the retirement benefit & The <b>level of benefits</b> (in case of cessation of employment)	IORP Directive, Article 11, paragraph 4 (a)	shall	On request
3	The level of benefits in case of cessation of employment	IORP Directive, Article 11, paragraph 4 (b)	shall	On request
4	The <b>arrangements</b> relating to the <b>transfer of pension rights</b> to another institution for occupational retirement provision in the event of termination of the employment relationship.	IORP Directive, Article 11, paragraph 4 (d)	shall	On request
5	Brief <b>particulars of the situation of the institution</b>	IORP Directive, Article 11, paragraph 4 (d)	shall	Annually
6	<b>Current level of financing individual members accrued entitlements</b>	IORP Directive, Article 11, paragraph 4 (d)	shall	Annually
7	Data on the <b>benefits which are due</b> and the corresponding <b>payment options</b> (on retirement or when other benefits become due)	IORP Directive, Article 11, paragraph 5	shall	On request
<b>Article 11 (DC schemes)</b>				
8	The range of investment options	IORP Directive, Article 11, paragraph 4 (c)	shall	On request
9	The actual investment portfolio	IORP Directive, Article 11, paragraph 4 (c)	shall	On request
10	The risk exposure	IORP Directive, Article 11, paragraph 4 (c)	shall	On request
11	The costs related to investments	IORP Directive, Article 11, paragraph 4 (c)	shall	On request
<b>Other Articles (DB &amp; DC schemes)</b>				
12	The rights and obligations of parties involved in the pension scheme	IORP Directive, Article 9,f(i)	shall	Not specified
13	the <b>financial, technical and other risks</b> associated with the pension scheme	IORP Directive, Article 9,f(ii)	shall	Not specified
14	the <b>nature and distribution of those risks</b>	IORP Directive, Article 9,f(iii)	shall	Not specified
15	<b>Annual accounts and annual reports</b> for each pension scheme operated by the institution. The reports should give a true and fair view of the <b>institution's assets, liabilities and financial position.</b>	IORP Directive, Article 10	shall	On request
16	<b>Statement of investment-policy principles (SIPP)</b> which includes: <b>investment risk measurement</b>	IORP Directive, Article 12	shall	At least every three years / On

	<b>methods, the risk-management process implemented and the strategic asset allocation and asset-liability studies.</b>			request
17	A plan which represent a <b>concrete and realisable</b> way to <b>re-establish</b> the required amount of assets to cover fully the technical provision in due time.	IORP Directive, Article 16	shall	In case the IORP has insufficient assets to cover the Technical Provisions
18	Any requirements imposed by the competent authorities of the host member state on institutions located in that member state (in case of <b>cross-border activity</b> )	IORP Directive, Article 20	shall	Regularly

**Table II: Possible Pension Benefit Statement**

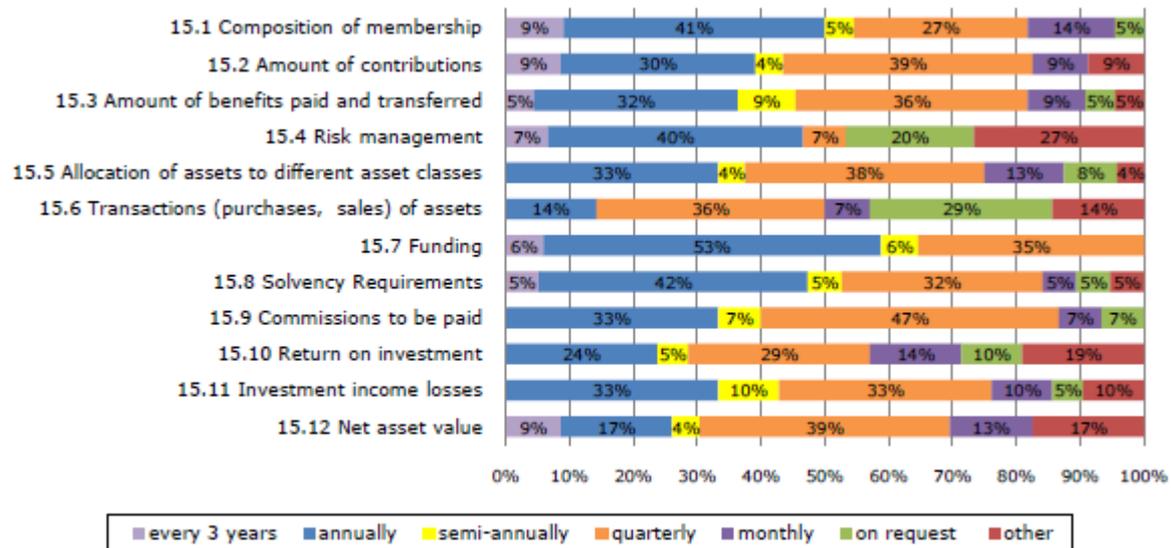
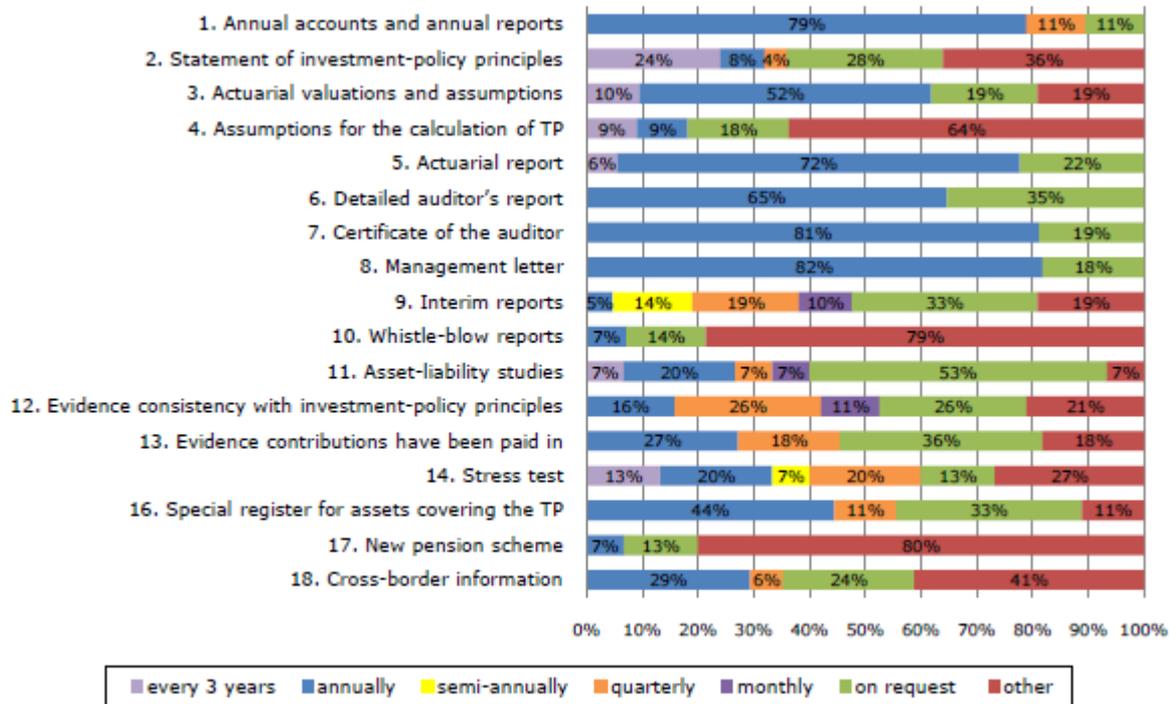
Description of possible new reporting requirements	EIOPA Advice on Review of IORP Directive	Detailed description	Shall/May in IORP II Directive?	Frequency of reporting required?
<b>1. GENERAL SECTION (DB and DC)</b>				
<b>1.1. Identification of the individual IORP</b>	<b>CfA Section 29.5., specific sub-CfA 23.1</b>	The name (number) of the individual IORP and the name of the competent authority that supervises the IORP.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>1.2. Pension scheme guarantees:</b>	<b>CfA Section 29.5.</b>	A description of the nature of guarantees, including of the right and obligations of the parties involved in the pension scheme; and a description of possible adjustment benefit mechanisms.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>1.3. Current balance</b>	<b>CfA Section 29.5., specific sub-CfA 23.1</b>	The accrued balanced and a summary of inflows and outflows with particular reference to the contribution arrangements and the charges actually levied. The current level of financing of individual members accrued individual entitlements should be particularly clear.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>1.4. Pension Projections</b>	<b>CfA Section 29.5., specific sub-CfA 23.1</b>	The target level of the retirement benefit and a personalized pension projection.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>1.5. Practical information</b>	<b>CfA Section 29.5., specific sub-CfA 23.1</b>	Cross-reference to other documents deemed relevant, including a link to the IORP website.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>2. MODULAR SECTION (DC only)</b>				
<b>2.1. Detailed breakdown of costs</b>	<b>CfA Section 29.5.</b>	Detailed breakdown of costs and associated charges.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>2.2. Information on investment options &amp; risk profile</b>	<b>CfA Section 29.5., specific sub-CfA 23.1</b>	Brief description of the objectives and investment policies, including the range of investment options, the actual investment portfolio and the associated risk exposure; a synthetic indicator consisting of a series of categories on a numerical scale with the individual investment option assigned to one of the categories and finally a risk/reward profile and/or the time horizon adopted for the investment policies.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>
<b>2.3 Information on past performance</b>	<b>CfA Section 29.5., specific sub-CfA 23.1</b>	Descriptive and graphical (by means of a bar-chart) overview of the past performances. This includes performance scenarios for years where there is no relevant data.	shall (but <b>proportionality</b> needs to be taken into account)	<b>At least annually and on request</b>

## Annex C: Current reporting frequency to Supervisory Authorities

Table I: Frequency per country

	Frequency																			
	AT	BE	BG	DE	ES	IE	IT	LI	LU	LV	NL	NO	PL	PT	RO	SI	SK	SE	UK	
1. Annual accounts and annual reports	A	A	A	A	A	R	A	Q	A	A	A	A	A	A	A	Q	A	A	R	
2. Statement of investment-policy principles	R,O	E, R,O	A	A, O	O	R	O	R	Q	E	R	R	E,O	E	E,O	E	O	O	R	
3. Actuarial valuations and assumptions	O	A,R	O	A	E,A	R		A	A	A	A	A, R,O		A	A	A		R,O	E	
4. Assumptions for the calculation of TP	O	O	O	O	R			R	O					O	A	O			E	
5. Actuarial report	A	A,R	A	A	E,A	R		A	A	A	A	R		A	A	A		A	R	
6. Detailed auditor's report	A	A,R	A	A		R	A	A	A	R		R	A	A	A	A		R	R	
7. Certificate of the auditor	A	A		A	A	R		A	A	A	A	A		A	A	A	A	R	R	
8. Management letter	A	A	A					R	A	A		A	A	A	A				R	
9. Interim reports	O	R	M,R	Q	R	R	A, O,M, R,O	Q		O		S	S,Q		S	R	O		R	
10. Whistle-blow reports		O	O	O	R	O	O			O	A		O	O		R,O	O		O	
11. Asset-liability studies	R	R,O	A,M	A	R			R	R	Q	R	R		E		A			R	
12. Evidence consistency with investment-policy principles	R	R,O	M,O	Q	R			A	Q	Q	Q	R	O	A,O	A	Q	M		R	
13. Evidence contributions have been paid in	R	O			R	R		A	Q	Q	A			A					R,O	
14. Stress test	S	O		A,O	E,A			O	Q	A		Q,O		E		R		Q	R	
15. Further documents/ information in the following fields:																				
15.1 Composition of membership	Q	A	M	Q	A,Q	E	Q,M		A	Q	A	A	A,Q	A	M	R	S	A	E,A	
15.2 Amount of contributions	A	A	M,O	Q	A,Q	E	Q	Q	Q	Q	A	A,S	Q	A	M	Q	S	Q	E,A, O	
15.3 Amount of benefits paid and transferred	A	A	M,O	Q	A,Q	E	Q	Q	A	Q	A	A,S	Q	A	M	Q	S	Q	R	
15.4 Risk management	A	A	Q,O	A	A		O		R			O	E,O	A		A		R	R	
15.5 Allocation of assets to different asset classes	Q	A	A, M, O	Q	A,Q		Q	A	A,Q	Q	A	A,S	Q	Q	M	R	M	Q	A,R	
15.6 Transactions of assets	O	A,R	O	Q	A,Q		Q						Q		R	R	M	Q	R	
15.7 Funding	A	A	A	Q	A,Q	E		Q	A	Q	A	A,S		A		Q		Q	A	
15.8 Solvency Requirements	A	A	M	A,O	A,Q	E		Q		Q	A	A,S		A		Q	Q	Q	A	
15.9 Commissions to be paid	A		Q	Q	A,Q		Q	A	A	Q	A			Q	M	Q	S		R	
15.10 Return on investment	Q	R	M,O	A	A,Q		Q,M	Q	A	A	Q	A,S	O		M	A	O	Q,O	R	
15.11 Investment income losses	A	A	M,O	Q	A,Q		A	Q	A	Q	Q	A,S		Q	M	A	S	Q,O	R	
15.12 Net asset value	Q		M,O	Q	A,Q	E	Q,M	Q	A	Q	Q	A,S	O	Q	M	Q	O		E,A, O	
16. Special register for assets covering TP		A,O		A					A,R						A	Q		R	R	
17. New pension scheme	R	O	O	O	O	O	O		R	O	A		O	O		O	O		O	
18. Cross-border information	O	A	R,O	A, O	A	O		O	R	Q			R	O		A,O	R		A	

**Table II: Frequency of reporting requirement**



## (b) Part II

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# Assessing the Compliance Costs of an IORP II proposal: Guidance Document

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## I. INTRODUCTION

The Commission Services are in the process of preparing the impact assessment report that will accompany the legislative proposal to review directive 2003/41/EC (IORP II proposal). A substantive assessment of the impact of possible quantitative requirements (pillar 1) is being performed with the Quantitative Impact Study carried out by EIOPA and economic research carried out by the Commission's Joint Research Centre and the European Central Bank.

This document focuses on the compliance cost assessment of possible governance requirements (Pillar 2). It provides background information for the questionnaire to assess the potential compliance costs of the technical advice presented by EIOPA, as reflected in "EIOPA's advice to the European Commission on the review of the IORP Directive 2003/41/EC" (EIOPA-BOS-12/015) dated 15.2.2012, as well as further considerations concerning governance requirements.

The method used to assess governance cost is analogous to the one presented in the Administrative Burden Assessment Guidance Document. Nonetheless, there are some minor discrepancies. The purpose of this document is too briefly point out these differences.

This document does not represent or pre-judge the formal proposals of the European Commission.

### 1.1 Compliance costs

Compliance costs generally consist of broadly two parts. Firstly, the one-off costs and secondly the recurrent costs.

Analogously, for the purpose of this exercise IORPs are required to make an estimation of the total compliance work or project expenses split by costs which they already have or have at least planned to do and additional expenses due to the IORP II compliance.

### 1.2. Proportionality

The principle of **proportionality**, which requires that any intervention is targeted and does not go beyond what is necessary to achieve the objectives, needs to guide the process of identifying different policy options and their comparison.

In this regard it should be noted that **none of the proposed requirements by EIOPA in its "Advice to the European Commission on the review of the IORP Directive 2003/41/EC" are set in stone**. For this compliance costs assessment, it is proposed to assume an *"upper*

*bound scenario*". Accordingly, for each of the potential governance requirements, the costs imposed by the most stringent option will be tested. While it is possible that the initial results of this exercise might indicate a cost, it will be possible through application of the EU Standard Cost Model to assess the cost of other options.

## **II. STEP BY STEP GUIDE ON THE QUESTIONNAIRE**

### **2.1 Identification and classification of requirements**

Correspondingly, the assessment of compliance starts with a full **mapping** of the existing and newly introduced obligations.

As aforementioned, for the purpose of this exercise, the mapping will be limited to the **upper bound scenario** implied by *"EIOPA's advice to the European Commission on the Review of Directive 2003/41"*.

The results of this mapping can be found in Annex A of this guidance document

### **2.2. Cost parameters & Administrative actions**

The cost parameters used for the administrative burden assessment are deemed appropriate for this assessment. However, due to the inherent complexity and the likelihood that a specific governance requirement consists of a multitude of relevant administrative actions, IORPs are required to identify the individual actions which are associated to specific requirement.

As guidance, IORPs are encouraged -albeit not obliged- to use the typology provided in the Administrative Burden guidance document. In addition, for each of these administrative actions, IORPs are asked to indicate whether the associated costs are one-off or recurring.

By doing so, IORPs are expected to make a more accurate estimation of the incremental costs of a relevant governance requirement.

### III. ANNEXES

#### Annex A: Governance Requirements

**Table I: Existing Governance Requirements**

Description of current reporting requirements	Reference to IORP Article	Detailed description	Shall/May in IORP Directive
<b>1. General governance requirements</b>			
1.1 Conditions of operation	Article 9, paragraph 1 (c)	"Each Member State shall, in respect of every institution located in its territory, ensure that: properly constituted rules regarding the functioning of any pension scheme operated by the institution have been implemented and members have been adequately informed of these rules."	shall
1.2 Sound procedures and adequate internal control mechanisms	Article 14, paragraph 1	"The competent authority shall ensure that every institution in their territory to have <b>sound administrative and accounting procedures</b> and adequate internal control mechanisms."	shall
1.3 Legal separation	Article 8	"There shall be a legal separation of the sponsoring undertaking and the institution for occupational retirement provision."	shall
<b>2. Fit and proper</b>			
2.1 Conditions of operation	Article 9, paragraph 1 (b)	"Each Member State shall, in respect of every institution located in its territory, ensure that: <b>the institution is effectively run by persons of good repute</b> who must themselves have <b>appropriate professional qualifications and experience</b> or <b>employ advisers with appropriate professional qualifications and experience.</b> "	shall
<b>3. Risk management</b>			
3.1. Statement of investment policy principles	Article 12	"Each Member State shall ensure that every institution located in its territory prepares and, at least every three years, reviews a written statement of investment policy-principles. This statement contains at least such matters as... <b>the risk-management processes implemented.</b> "	shall
3.2. Investment rules	Article 18	The investment rules in <b>Article 18 presuppose the existence of an effective risk management system.</b>	shall
<b>4. Own Risk and Solvency Assessment (ORSA)</b>			
	N/A	N/A	N/A

<b>5. Internal Control System</b>			
<b>5.1. Internal control mechanism</b>	<b>Article 14, paragraph 1</b>	"The competent authority shall ensure that every institution in their territory to have sound administrative and accounting procedures and <b>adequate internal control mechanisms</b> "	<b>shall</b>
<b>6. Internal audit</b>			
	N/A	N/A	N/A
<b>7. Actuarial function</b>			
<b>7.1. Technical Provisions</b>	<b>Article 9, paragraph 1(d) &amp; Article 15, paragraph 4</b>	Each Member State shall, in respect of every institution located in its territory, ensure that: <b>(the calculations for) all technical provisions are computed (executed) and certified by an actuary or, if not by an actuary, by another specialist in this field,</b> including an auditor, according to national legislation, on the basis of actuarial methods recognised by the competent authorities of the home Member State;	<b>shall</b>
<b>8. Outsourcing</b>			
<b>8.1 Entrusting management to other entities</b>	<b>Article 9, paragraph 4</b>	"A Member State may permit or require institutions located in its territory to <b>entrust management of these institutions, in whole or in parts to other entities</b> operating on behalf of those institutions."	<b>May</b>
<b>8.2 Appointing investment managers</b>	<b>Article 19, paragraph 1</b>	" <b>Member States shall not restrict institutions from appointing, for the management of the investment portfolio, investment managers</b> established in another Member State and duly authorised for this activity, in accordance with Directives 85/611/EEC, 93/22/EEC, 2000/12/EC and 2002/83/EC, as well as those referred to in Article 2(1) of Directive 2003/41/EC."	<b>May</b>
<b>8.3 Appointing custodians</b>	<b>Article 19, paragraph 2</b>	" <b>Member States shall not restrict institutions from appointing, for the custody of their assets, custodians</b> established in another Member State and duly authorised in accordance with Directive 93/22/EEC or Directive 2000/12/EC, or accepted as a depository for the purposes of Directive 85/611/EEC. The provision referred to in this paragraph shall not prevent the home Member State from making the appointment of a depository or a custodian compulsory."	<b>May</b>

**Table II: Possible new Governance Requirements**

Possible new governance requirements	EIOPA Advice on Review of IORP Directive	Comment(s)
<b>1. General governance requirements</b>		
1.1 System of governance	CfA section 18.5, points 1 and 2	
1.3. Remuneration policy	CfA section 18.5, point 3	See Annex B of the Compliance Costs Guidance Document
<b>2. Fit and proper</b>		
	CfA section 19.5	1.
<b>3. Risk management</b>		
	CfA section 20.5, point 10	
<b>4. Own Risk and Solvency Assessment (ORSA)</b>		
	CfA section 21.5, points 1 to 4	The ORSA should cover DB and DC schemes.
<b>5. Internal Control System</b>		
5.1. Internal control	CfA 22.5, point 1-3	
5.2. Compliance	CfA 22.5, point 4	2.
5.3. Whistle-blowing	CfA 22.5, point 5	3.
<b>6. Internal audit</b>		
6.1. Internal audit function description	CfA 23.5, points 1-6	4.
6.2. Whistle-blowing	CfA 23.5, point 7	5.
<b>7. Actuarial function</b>		
7.1. Actuarial function description	CfA 24.5, points 1-7	

7.2. Whistle-blowing	CfA 24.5, point 8	
8. Outsourcing		
	CfA 25.5, points 1-5	6.
9. Depositories		7.
	CfA 26.5, point 3	

## Annex B: Remuneration Policy

1. When establishing and applying the remuneration policy referred to in Article X, institutions shall comply with at least the following principles:
  - a. the remuneration policy and remuneration practices shall be established, implemented and maintained in line with the institution's business and risk management strategy, its risk profile, objectives, risk management practices and the long-term interests and performance of the institution as a whole and shall incorporate measures aimed at avoiding conflicts of interest;
  - b. the remuneration policy promotes sound and effective risk management and shall not encourage risk-taking that exceeds the risk tolerance limits of the institution;
  - c. the remuneration policy applies to the institution as a whole, and contains specific arrangements that take into account the tasks and performance of the administrative body, management body and supervisory body, persons who effectively run the institution, holders of key functions and other categories of staff whose professional activities have a material impact on the institution's risk profile;
  - d. the administrative, management or supervisory body of the institution establishes the general principles of the remuneration policy for those categories of staff whose professional activities have a material impact on the institution's risk profile and is responsible for the control of its implementation; the administrative or management body of the institution is responsible for the implementation of the remuneration policy which support sound, prudent and effective management of institutions;
  - e. there shall be clear, transparent and effective governance with regard to remuneration, including the definition of the remuneration policy and its oversight;

- f. an independent remuneration committee shall be created, where appropriate in relation to significance of the institutions in terms of size and internal organization, in order to periodically support the administrative, management or supervisory body in overseeing the design of the remuneration policy and remuneration practices, their implementation and operation;
  - g. the remuneration policy shall be disclosed to each member of the institution's staff.
2. When establishing and applying the remuneration policy referred to in Article X for the categories of staff including the administrative, management or supervisory body, persons who effectively run the institution, holders of key functions and other categories of staff whose professional activities have a material impact on the institution's risk profile, institutions shall comply with the following principles:
- a. where remuneration schemes include both fixed and variable components, such components shall be balanced so that the fixed or guaranteed component represents a sufficiently high proportion of the total remuneration to avoid employees being overly dependent on the variable components and allowing the institution to operate a fully flexible bonus policy, including the possibility of paying no variable component;
  - b. where variable remuneration is performance-related, the total amount of the variable remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall result of the institution or the group to which the institutions belongs. The variable part of remuneration of the staff engaged in the functions referred to in Articles X to Y shall be independent from the performance of the operational units and areas that are submitted to their control;
  - c. the payment of a substantial portion of the variable remuneration component, irrespective of the form in which it is to be paid, shall contain a flexible, deferred component that takes account of the nature and time horizon of the institution's business. The deferral period shall not be less than three years and the period shall be correctly aligned with the nature of the business, its risks, and the activities of the employees in question;
  - d. when assessing an individual's performance, not only financial but also non-financial criteria shall be taken into account;
  - e. the measurement of performance, as a basis for variable remuneration, shall include a downwards adjustment for exposure to current and future risks, taking into account the institution's risk profile and cost of capital;
  - f. termination payments shall be related to performance achieved over the whole period of activity and be designed in a way that does not reward failure;
  - g. members of staff subject to the remuneration policy should commit to not using any personal hedging strategies or remuneration and liability-related

insurance which would undermine the risk alignment effects embedded in their remuneration arrangement.

3. The actions to be taken in paragraph 2 shall take into account the internal organization of the institution.

**Figure C – Simplified version of the questionnaire**

*Brussels, 8.4.2013*

**Results template to assess the administrative burden of an IORP II proposal**

**Q1. Please specify the administrative burden in the table below in EUR currency.**

	Current burden	Likely burden due to IORP II proposal	
	<i>Recurrent</i>	<i>One-off implementation</i>	<i>Recurrent</i>
<b>Compliance with governance requirements</b>			
<b>Reporting to supervisors</b>			
<b>Pension Benefit Statement (reporting to members and beneficiaries)</b>			

**Q2. Where the administrative burden is likely to increase due to the IORP II proposal, please explain the reason(s). You may wish to focus on the most important reasons and use the tables in the annex.**

**Q3. If the figures from Q1 reflect the situation for large IORPs, please provide advice on how to adjust these figures for smaller IORPs. Please indicate also the cut-off point between large and small.**

**Q4. Please indicate if you think that the IORP II proposal could lead to a reduction in the administrative burden.**

**Q5. Other comments and suggestions.**

## Notes:

1. Figures should reflect the IORP II proposal based on the information available today, as contained in the two guidance documents and the two detailed questionnaires. Where the information available today does not provide an explicit indication that a requirement might be tightened or loosened in comparison with the current practice, no burden should be reported.
2. The figures should not anticipate on how national legislators and regulators could implement new requirements agreed at the EU level.
3. Respondents should focus on the questions in this short results template. Respondents might wish to respond as well to some or all of the questions in the two more detailed questionnaires to the extent that it helps informing the responses in the short results template.
4. Please indicate only those costs which are an administrative burden. The cost which would be incurred by the IORP even in the absence of regulation (business-as-usual costs) should not be taken into account in this exercise.
5. Please focus the likely burden on costs relating to the IORP II proposal. The current burden should focus on costs relating to national legislation and regulation. This is because in many cases national approaches have gone beyond the current IORP Directive.
6. Please focus on the administrative burden for IORPs, unless borne predominantly by the sponsoring undertaking. In the latter case please specify that the administrative burden is predominantly borne by the sponsoring undertaking.
7. The main innovation foreseen for reporting to members and beneficiaries is the introduction of a short individualised Pension Benefit Statement (PBS) following a standard template of around 2 pages. The first page would contain general information for all types of pension schemes, including information about an individual's personal situation (e.g. accrued pension rights and projections). A second page would contain generic information for defined-contribution schemes about risk, returns and costs in order to help individuals take investment decisions. The provision of the PBS would be mandatory, but the information it contains would not be legally binding. More detailed information, either on request or automatically, would be available at the national level. It is currently not envisaged that IORP II will propose substantial changes to the more detailed information. The PBS builds on and extends corresponding EIOPA advice.
8. The focus of this exercise is on governance and reporting (pillars 2 and 3). For the sake of simplicity, qualitative requirements (pillar 1) should be taken as those that prevail today in national approaches. For example, the own risk and solvency assessment (ORSA) is a possible new pillar 2 measure requiring IORPs to document how the technical provisions are calculated. If current national legislation does not require the inclusion of an explicit risk margin in the technical provisions, then, for the purpose of this exercise, the ORSA should not document the calculation of such a margin either.
9. No changes are foreseen to the meaning of members and beneficiaries.

## **ANNEX – BREAKDOWN OF BURDEN**

### **I. Compliance with governance requirements**

	<b>We currently abide to the general requirements of EIOPA's CfA</b>	<b>Current burden</b>	<b>Likely burden due to IORP II proposal</b>	
		<i>Recurrent</i>	<i>One-off implementation</i>	<i>Recurrent</i>
<b>1. General Governance structure &amp; Functions</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>2. Fit &amp; Proper</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>3. Risk Management</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>4. ORSA supervisory report</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>5. Internal Control System</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>6. Internal Audit</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>7. Actuarial Function</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>8. Outsourcing</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>9. Depositories</b>	<input type="checkbox"/> Yes			

	<input type="checkbox"/> Partially <input type="checkbox"/> No			
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## II. Reporting to supervisors

	We currently abide to the general requirements of EIOPA's CfA	Current burden	Likely burden due to IORP II proposal	
		<i>Recurrent</i>	<i>One-off implementation</i>	<i>Recurrent</i>
<b>Information on the main trends</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information on objectives</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information on the contributions and expenses from occupational retirement provision</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information regarding the performance relating to occupational retirement provision</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Projections of the performance</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information on risk mitigating techniques</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information on income and expenses with respect to investment activities</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information on the overall investment</b>	<input type="checkbox"/> Yes			

<b>performance</b>	<input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Projections of the expected investment performance</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information on the key assumptions with regard to investment decisions</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			
<b>Information about any investments in tradable securities Information on any material contributions and expenses</b>	<input type="checkbox"/> Yes <input type="checkbox"/> Partially <input type="checkbox"/> No			

### III. Pension Benefit Statement (reporting to members and beneficiaries)

	Current burden	Likely burden due to IORP II proposal	
	<i>Recurrent</i>	<i>One-off implementation</i>	<i>Recurrent</i>
<b>Information on pension scheme guarantees</b> (all schemes)			
<b>Information on current balance</b> (all schemes)			
<b>Information on pension projections</b> (all schemes)			
<b>Practical information</b> (all schemes)			
<b>Detailed breakdown of costs</b> (DC only)			
<b>Information on investment options &amp; risk profile</b> (DC only)			
<b>Information on past performances</b> (DC only)			

## **2. RESULTS**

Pensions Europe provided preliminary results on 24 May 2013 (for most participating MSs) and the Commission Services asked national supervisors to carry out an informal plausibility check. The final results were provided by Pensions Europe on 18 July 2013 (PensionsEurope, 2013).

The results of the exercise were largely qualitative because the IORP industry could not systematically quantify the administrative burden even for the current national regulation. The PensionsEurope survey, nevertheless, pointed to a number of common trends in relation to recurrent burden and one-off implementation burden.

### **2.1. Recurrent costs**

A systematic quantification of the burden was not provided by Pensions Europe, but the responses from individual IORPs suggest that the additional recurrent burden of the proposed action could range, depending on the MS, between 13% and 65% of the current recurrent burden (Figure D). The weighted average across MSs for which data are available amounted to 18% of the current recurrent burden.

**Figure D – Potential additional recurrent burden from the IORP II proposal (full Call for Advice basis)**

	<b>Additional recurrent burden</b> <i>(in percentage of current burden)</i>	<b>Assets</b> <i>(€ billions, end-2011)</i>	<b>Weight</b> <i>(in percent of total)</i>
DE	1.50	138.6	9.2
ES	1.59	31.8	2.1
AT	1.65	14.5	1.0
FI	1.31	4.4	0.3
UK	1.13	1,319.9	87.5
<b>Total</b>	<b>-</b>	<b>1,509.2</b>	<b>100</b>
<b>Average</b>	<b>1.44</b>		
<b>Weighted average</b>	<b>1.18</b>		

*Source: PensionsEurope (2013), Commission Services*

The Commission Services have carefully examined this result with the aim of reducing the potential recurrent burden for the IORP industry. This has led to several decisions to put forward a proposed action that is considerably more proportionate than what was envisaged at the time of launching the PensionsEurope survey. Answers from IORPs to the PensionsEurope survey suggested that most of the increase in the recurrent burden would arise from the reporting of harmonised quantitative requirements in the own risk and solvency report (ORSA), the introduction of the Solvency II functions and the standardisation of the Pension Benefit Statement. The proposed action has taken into account proportionality for two out of those three items. First, the risk evaluation for pensions (REP) report fully replaces the ORSA and does not require reporting of harmonised quantitative requirements. Second, the proposed action reduces the number of governance functions in comparison to Solvency

II. As a result, the estimate additional recurrent burden of 18% implied by the Pensions Europe survey was reduced by two-thirds to 6% (Figure E).

**Figure E – Potential additional recurrent burden from the IORP II proposal (adjusted for proportionality)**

	<b>Additional recurrent burden</b> <i>(in percentage of current cost)</i>
Weighted average (full Call for Advice basis)	1.18
Weighted average (adjusted for proportionality by two-thirds)	1.06

*Source: PensionsEurope (2013), Commission Services*

A quantitative indication of the recurrent burden of the proposed action for the IORP industry as a whole could be derived by adding insights from the OECD's data on operating expenses, comprising all costs arising from the general administration of the pension fund, notably those relating to administration and investment management. For the EU MS, the OECD data suggest that operating expenses range between 0.1% and 1.3% of total assets depending on the country. This suggests that the current operating expenses of the IORP industry in the EU are of the order of €5.6 billion a year (Figure F).

As is the situation for any financial institution much of those operating expenses are business-as-usual costs. An IORP that wants to operate a pension scheme will, even in the absence of regulation, seek professional advice, carry out risk management and disclose information to members. The actual administrative burden, i.e. the expenses incurred by the IORP because of regulation, is difficult to disentangle from the business-as-usual costs. However for the purposes of this impact assessment, the administrative burden is assumed to range around 5% to 15% of the total operating costs. This suggests that the current administrative burden for the IORP industry amounts to around €280 and 850 million a year (Figure F).

**Figure F – Operational expenses and estimate of current administrative burden**

	Operational expenses <i>(in percentage of total assets, 2011*)</i>	Assets <i>(in € millions, end-2011)</i>	Operational expenses <i>(in € millions)</i>	Estimate of current administrative burden <i>(in € millions)</i>	
				5% of operating expenses	15% of operating expenses
BE	0.5	15,910	79.7	4.0	12.0
DK	0.1	7,060	7.1	0.4	1.1
DE	0.5	138,570	277.1	13.9	41.6
ES	1.3	31,758	412.9	20.6	61.9
LU	0.1	970	0.1	0.0	0.1
NL	0.1	774,060	774.1	38.7	116.1
AT	0.5	14,500	72.5	3.6	10.9
PL	0.5	390	2.0	0.1	0.3
PT	0.2	19,071	38.1	1.9	5.7
SI	0.9	1,835	16.5	0.8	2.5

SK	0.4	1,145	4.6	0.2	0.7
FI	0.4	4,419	17.7	0.9	2.7
UK	0.3	1,319,930	3,959.8	198.0	594.0
<b>Total</b>			<b>5,662.7</b>	<b>283.1</b>	<b>849.4</b>

Source: OECD, Commission Services.

Note: \* or latest data available.

Taking into account that the PensionsEurope survey, as mentioned above, could be considered to suggest that the proposed action increases the recurrent administrative burden in the order of 6% (see Figure E above), the potential increase of the recurrent burden would be of the order of around €17 to 51 million a year, or 27 to 80 cents per member/beneficiary per year (see Figure G). Even doubling the assumed rate of increase of the administrative burden due to the proposed action from 6% to 12% is not likely to impose a disproportionate administrative burden on the IORP industry (see Figure G).

**Figure G – Estimate of current and potential additional recurrent burden from the IORP II proposal**

	Current recurrent burden (in € millions)	Potential recurrent burden from the IORP II proposal (in € millions)		Potential increase in the recurrent burden			
				(in € millions)		(in € per member/beneficiary*)	
				6% of current burden	12% of current burden	6% of current burden	12% of current burden
Estimate of current administrative burden: 5% of operating expenses	283.1	300.1	317.1	17.0	34.0	<b>0.27</b>	<b>0.53</b>
Estimate of current administrative burden: 15% of operating expenses	849.4	900.4	951.3	51.0	101.9	<b>0.80</b>	<b>1.59</b>

Source: Commission Services

Note: \*) for 64 million pension scheme members/beneficiaries.

## **2.2. One-off implementation costs**

There is no systematic estimate of the one-off implementation cost of the proposed action but the Pensions Europe survey suggests that this cost depends on national circumstances. Figure H illustrates that the indications from the Pensions Europe survey suggest that in some MSs one-off costs are not expected to be material (e.g. BE). This is because much of the cost was reduced by taking proportionality into account. In other MSs the implementation costs could be more important and the range from the Pensions Europe survey is wide. Without taking into account the highest and lowest values (to avoid outliers), the simple average of the one-off costs amounts to around €205,000 per IORP. Applied to the EU as a whole - for the

around 7,000 IORPs that are subject to the IORP Directive - this suggests that the one-off cost of implementing the proposed action could be expected to be of the order of around €1.4 billion, or, on average, €22 per member/beneficiary.

**Figure H – Potential one-off implementation cost of the IORP II proposal (full Call for Advice basis)**

	One-off implementation cost (€ per IORP)	IORPs with more than 7,000 members (number, 2012)	One-off implementation cost	
			(€ millions)	(€ per member/beneficiary <sup>***</sup> )
BE	0*			
DE	879,121			
ES	100,196			
IT	12,000			
UK	500,000			
<b>Simple average**</b>	<b>204,065</b>	<b>7,000</b>	<b>1,428</b>	<b>22</b>

Source: PensionsEurope (2013), Commission Services

Note: \* not material; \*\* excluding highest and lowest value; \*\*\* for 64 million pension scheme members/beneficiaries.

**ANNEX J – PRELIMINARY AND ILLUSTRATIVE EXAMPLE FOR THE PENSION BENEFIT STATEMENT**

**Pension Benefit Statement**

This document provides you with essential information about this pension scheme. It is not marketing material. The information is required by law to help you understand the benefits and risks concerning the scheme. You are advised to read it so you can make an informed decision about retirement savings and investments.

<p><b>IORP 123</b></p> <p>This institution is authorised in [name of the Member State] and regulated by [name of the competent authority]. The institution is sponsored by [name of the sponsoring undertaking].</p>						
<b>Personal details</b>						
Full name:			Member number:			
Date of birth:			Date of statement:			
Retirement age:						
<b>Guarantees</b>						
<input type="checkbox"/> no guarantees <input type="checkbox"/> full guarantees <input checked="" type="checkbox"/> partial guarantees			Add short explanation of the nature of the guarantee, the level of financing, security mechanisms and benefit reduction mechanisms.			
<b>Balance, contributions and costs</b>						
<b>Pension benefits or capital accumulated up to previous year</b>		<b>Contributions this year</b>		<b>Costs this year</b>	<b>Pension benefits or capital accumulated up to today</b>	
lump sum	Benefits per month	Employer's contribution	Own contributions		lump sum	Benefits per month
[A]	[B]	[C]	[D]	[E]	[F]	[G]
<b>Practical information</b>						
Where and how to obtain further free-of-charge information, including from websites, about:						
<ul style="list-style-type: none"> <li>• the IORP or the pension scheme;</li> <li>• relevant legal documents;</li> <li>• transfers to another IORP;</li> <li>• additional personalised pension projections.</li> </ul>						

## Pension projections

Projections are provided for illustrative purposes and do not entitle to a claim on the institution. The actual outcome will depend on several factors, including but not limited to the nature of the guarantee, the level of financing and investment returns.

Age	Target level of benefits	Capital accumulation	
	(per month)	lump sum	benefit per month
Retirement age minus two years	[H]	[K]	[N]
Retirement age	[I]	[L]	[O]
Retirement age plus two years	[J]	[M]	[P]

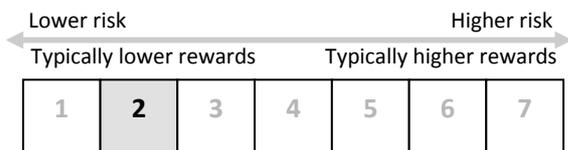
## Breakdown of costs

Administration cost	Portfolio transaction cost	Safekeeping of assets cost	Other costs	Total costs

## Investment profile

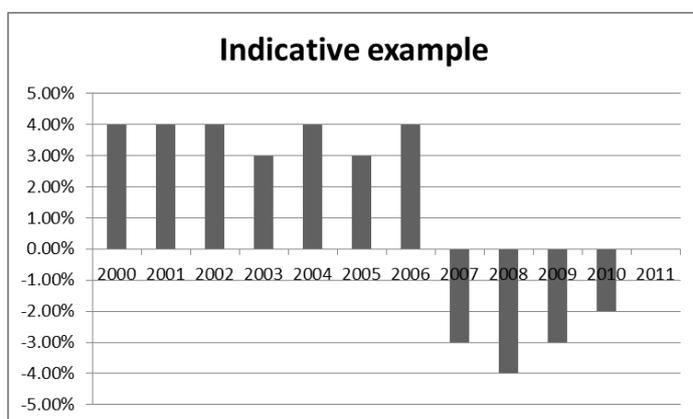
<b>Investment option:</b> <input checked="" type="checkbox"/> [Fund A] <input type="checkbox"/> [Fund B] <input type="checkbox"/> [Fund C] <input type="checkbox"/> [Fund D] <input type="checkbox"/> [Fund E]	<b>Fund allocation rule:</b> <input checked="" type="checkbox"/> according to actual age <input type="checkbox"/> according to target age <input type="checkbox"/> other rule <input type="checkbox"/> no pre-set rule	<i>Add a short explanation of the investment options and, where applicable, the rule to allocate a member to a particular fund.</i>
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## Risk and reward profile



*Add a short explanation of the risk and reward profile of the pension scheme or of the investment option relevant for the member.*

## Past performances



*The bar chart will be supplemented with statements which:*

- Warn about the limited value of past performances as a guide for future performance;
- Indicate briefly how performances have been calculated;
- Indicate in which year the fund came into existence and/or where applicable which years were omitted;
- Clearly indicate whether simulated information has been used