

Comments Template on Consultation Paper on Further Work on Solvency of IORPs		Deadline 13 January 2015 23:59 CET
Name of Company:	Association of Consulting Actuaries (UK)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
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Reference	Comment	
General Comment	We strongly reject the idea of establishing EU capital/funding requirements for IORPs and do not believe the holistic balance sheet should be used for this purpose or any other. The existing funding and supervisory regimes in individual Member States should already provide sufficient protection for members/participants and the principle of Member State subsidiarity should be observed. Amending these has associated costs (both initial and ongoing) and no demonstrable additional benefit. It would also ensure that any existing DB plans were closed and that no new DB plans were opened. Any plan to harmonise regimes is unsuitable and will be detrimental to long term investment, growth and job prospects in the EU.	
Q1	The use of the term "contract" in the context of IORPs in the UK could be misleading. One option would be to define the term to clarify that it encompasses all the legal documentation governing	

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	the provision of benefits under the IORP, whether this takes the form of a contract, trust deed, plan rules etc	
Q2	A more usual term in the context of UK IORPs would be “accrued benefits” or “accrued liabilities” which refers to those benefit entitlements earned by members under the governing documentation of the plan up until the date of the valuation of the benefits / liabilities.	
Q3		
Q4	In the context of an IORP the rights/powers may rest unilaterally or jointly with the governing body of the IORP (e.g. the plan trustees) and/or the sponsor, the social partners or the regulator. This should be reflected in the definition of the contract boundaries. Additionally, the acquisition of benefit rights under an IORP is not solely linked to the collection / payment of contributions during the same period during which the rights are acquired. A benefit entitlement may be acquired but not fully funded at the time it is earned – an IORP rejecting a contribution payment would not necessarily prevent the benefit entitlement being acquired.	
Q5	Unilateral rights (or obligations) of an IORP to terminate the contract/agreement/promise or reject additional contributions to the contract/agreement/promise or modify the promise in a way that contributions fully reflect the risk <u>should form part of</u> the definition of contract boundaries for IORPs. Where similar powers under the governing documentation of the IORP can be exercised unilaterally or jointly by other parties (possibly together with the IORP), these should also form part of the definition. For example, such powers may rest with the sponsor or may be held jointly by the sponsor and the IORP.	
Q6	Yes.	
Q7		
Q8		
Q9	Yes.	
Q10		
Q11	Yes – contract boundaries could be defined based on future benefit payments. Where liabilities build up due to continued service of the member (rather than arising as the result of a	

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	contribution paid to the IORP) this would be the more appropriate approach.	
Q12	The recognition of cash flows in the technical provisions should be limited to those payments that the IORP is obliged to make based on the benefits accrued up until the date at which the technical provisions are to be valued. As such it can be argued that no allowance should be made in technical provisions for increases in benefits related to future salary increases (ie technical provisions should be on an « ABO » as opposed to « PBO » basis). Benefit accrual in respect of service after the assessment date, discretionary benefits / increases that had not been granted at the valuation date, benefit rights / entitlements that only arise if a contribution is paid (that had not been received at the valuation date) should not form part of the technical provisions as these obligations have not yet arisen.	
Q13	IORPs should not be required to include pure discretionary benefits within technical provisions.	
Q14	No. The contract boundaries should not be required to include cash flows in respect of benefits linked to future service accrual or linked to contribution payments that had not yet been received by the IORP at the valuation date of the technical provisions. These events have not yet occurred and as such the rights and obligations have not yet arisen.	
Q15	The definition should be restricted to contributions paid / service completed up to the valuation date of the technical provisions.	
Q16		
Q17	No. Recognition of the powers / rights of the sponsor should be included within the definition.	
Q18	We recommend retaining both 2.a. and b. The points made are distinct, for example steps can be taken to prevent additional obligations being granted, but the IORP could continue to operate in respect of the previously accrued obligations without having to be terminated. Additionally, a number of sponsors may participate in the same IORP. The agreement for one of these sponsors could be terminated whereas the IORP continues in operation for the others.	
Q19	The rights of the sponsor should be reflected in the definition.	
Q20	Yes.	
Q21	Yes. However, please note that some IORPs will have both types of benefits and so would need to apply parts a) and b) to different obligations within the same IORP.	

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Q22	Sponsor may be able to terminate accrual, subject to a final contribution payment which may or may not secure member benefits in full. How would this be treated ? Consideration of rights exercised jointly by the IORP (in the UK context by the plan trustees) and the sponsor ?	
Q23	Yes. Though as noted in responses to previous questions, we would wish to see further adaptations made to the definition.	
Q24	Seem reasonable. Note that mixed benefits described a wide spectrum from almost pure discretionary benefits through to almost pure conditional benefits. Depending on the treatment of mixed benefits as part of the technical provisions, this category may need to be further subdivided.	
Q25	For individual IORPs sufficient historical data may not be readily available to determine a meaningful pattern. Additionally, decisions taken in previous years may not be an appropriate guide to future decision-making in relation to discretionary benefits. Consider aligning approach with IFRS (constructive obligation) or whether the benefits are being funded for under the locally applicable funding standards	
Q26	Unlikely to be sufficiently objective or robust – insufficient data, influencing factors on previous decisions that no longer apply, new factors influencing decision-makers (potentially including the implications on solvency / funding requirements being consulted upon in this Consultation Paper).	
Q27	No. We do not consider that pure discretionary benefits should be recognised in the holistic balance sheet. As such, IORPs should not be required to produce best estimates of future payments.	
Q28	No. This should be for Member States and their national competent authorities to determine.	
Q29	This should be for Member States and their national competent authorities to determine.	
Q30	This should be for Member States and their national competent authorities to determine.	
Q31	This should be for Member States and their national competent authorities to determine.	
Q32	Yes.	
Q33		
Q34	This should be for Member States and their national competent authorities to determine.	

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Q35	Yes.	
Q36	Yes. Were an EU-level approach to valuing sponsor support to be taken, this should be principles based only, with the local supervisor left to determine the detail of how any valuation is undertaken, if one is needed in the absence of simply being able to count sponsor support as a balancing item.	
Q37	Yes, but market consistent has a number of definitions.	
Q38		
Q39	Fully support this approach. The use of Sponsor Support as a balancing item is essential to the proportionality of any solvency framework for IORPs. Further, our view is that this approach should be used in all cases. Those managing IORPs and national competent authorities can then consider this in the context of risk management and any risk-based supervisory response	
Q40		
Q41		
Q42		
Q43		
Q44	These are matters that should be determined by each Member State against the backdrop of its own supervisory regime and the comparative importance of second pillar retirement provision.	
Q45	Yes	
Q46	Yes	
Q47		
Q48		
Q49		
Q50		
Q51		
Q52		
Q53		
Q54	No	

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Q55		
Q56	No	
Q57	Yes – we agree that a simplified one-size-fits-all approach is not possible. This is because of the wide range of characteristics of sponsors across the whole of the EEA. Any attempt to turn the valuation of maximum sponsor support into a simple calculation which can then be applied to any single sponsor is unlikely to be successful.	
Q58		
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Q69	Yes	
Q70		
Q71	Yes	
Q72	No. The existing funding regime is already satisfactory in this area and the level of complexity introduced by the holistic balance sheet is unlikely to improve the overall outcomes for members (and may have a negative impact in terms of level and type of retirement provision to be provided).	
Q73	No. The risk evaluation for pensions, as currently proposed, requiring competent authorities to specify the details, provides a potentially much more valuable tool for considering risk management in a way that is relevant to IORPs in different member states.	

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Q74	No. Given the complexities involved in the calculations it is difficult to see that any users would be well placed to understand and benefit from public disclosure of the holistic balance sheet.	
Q75	No. The existing funding and risk management regimes in place at a national level are already adequate.	
Q76	Option 1.	
Q77		
Q78	Yes	
Q79	Option 3.	
Q80		
Q81		
Q82		
Q83		
Q84		
Q85	Level B, since this reflects economic reality, not a theoretical « risk-free » rate.	
Q86	Applied as a member state option.	
Q87	Level B	
Q88	Applied as a member state option.	
Q89	In recent years, we have been encouraged by far greater levels of corporate interest in cross border plans, leading to increasing numbers being implemented. Such plans already allow for minimum funding requirements based on host country social and labour law within the funding structure regulated by the home country. As alluded to in the text, we believe that the main issue preventing a higher take up rate for cross border IORPS has been the requirement to be fully funded at all times, particularly at outset. Another reason for the low take up rate is the difficulty in gaining supervisory approval to transfer assets and liabilities between IORPS in different member states.	

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	Adding in further host country requirements for cross border plans would lead to greater complexity and costs of compliance. This is likely to further deter sponsors from supporting defined benefit plans on a cross border basis, thereby having the opposite effect to that desired. Since financing is linked to prudential regimes, it is more appropriate to allow member states to specify additional requirements through national prudential regimes rather than social and labour laws.	
Q90	No. It should be left to the discretion of member states.	
Q91	Flexibility required with approval of national supervisor.	
Q92	Flexibility required with approval of national supervisor.	
Q93	Flexibility required with approval of national supervisor.	
Q94	Flexibility required with approval of national supervisor.	
Q95	Flexibility required with approval of national supervisor.	
Q96	Any supervisory responses specified at the EU level should be purely principles based ; the detail of how supervisory responses will be implemented should be determined by the national supervisor.	
Q97	The consultation itself says it all - "IORPs may...not be able to comply with new prudential requirements nor be able to set up a feasible plan to achieve compliance." which would have a dramatic impact on retirement benefit provision etc. In our view the introduction of the holistic balance sheet approach to funding would result in the removal of any future defined benefit pension accrual in the UK. Existing arrangements would be closed to the future accrual of benefits and wound up where possible. The Confederation of British Industry has estimated that the additional call on UK businesses' funds from the introduction of such a funding regime could be in the order of €440 billion which is equivalent to an additional 7.9% of affected firms' total employment costs for each of ten years. This would have widespread impacts on the UK and European economy.	
Q98	We believe the impact of a possible future European prudential framework would be	

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	inappropriate if applied to existing schemes and would have a significant adverse effect for long term investment growth and job prospects. We therefore wholeheartedly support the use of grandfathering to reduce the impact. The new requirements should not apply to either the accrued rights or future rights under any scheme established before any such rules potentially come into force. In the absence of explicit grandfathering then we would strongly support the use of lengthy transitional periods to reduce the impact of any future possible EU prudential regime. This would allow IORPs, investment markets and labour markets to adapt to a new framework and develop appropriate responses in as cost-efficient a manner as is possible.	
Q99	We do not see any evidence that this would stimulate cross-border activity. Indeed, when combined with the impact of Article 13(5) of the current IORP II agreed Council draft providing transferring regulators with a blanket veto on transfer of assets cross-border this will kill DB cross-border activity.	
Q100		
Q101	We do not see any evidence that this would stimulate cross-border activity. Indeed, when combined with the impact of Article 13(5) of the current IORP II agreed Council draft providing transferring regulators with a blanket veto on transfer of assets cross-border this will kill DB cross-border activity.	
Q102		
Q103	We do not see any evidence that this would stimulate cross-border activity. Indeed, when combined with the impact of Article 13(5) of the current IORP II agreed Council draft providing transferring regulators with a blanket veto on transfer of assets cross-border this will kill DB cross-border activity.	
Q104		
Q105	We do not see any evidence that this would stimulate cross-border activity. Indeed, when combined with the impact of Article 13(5) of the current IORP II agreed Council draft providing transferring regulators with a blanket veto on transfer of assets cross-border this will kill DB cross-border activity.	
Q106		
Q107	We do not see any evidence that this would stimulate cross-border activity. Indeed, when	

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	combined with the impact of Article 13(5) of the current IORP II agreed Council draft providing transferring regulators with a blanket veto on transfer of assets cross-border this will kill DB cross-border activity.	
Q108		
Q109	We do not see any evidence that this would stimulate cross-border activity. Indeed, when combined with the impact of Article 13(5) of the current IORP II agreed Council draft providing transferring regulators with a blanket veto on transfer of assets cross-border this will kill DB cross-border activity. Also if Example 6 is intended to be as close as possible to the current regimes, why is a « status quo » not presented as an Example for comment ?	
Q110		
Q111	We consider that the existing funding framework combined with the risk evaluation for pensions, as currently proposed, provides a prudential regime that is market-consistent and risk based, providing an objective and transparent view of the financial situation of IORPS and promoting proper risk management. The proposed holistic balance sheet is not practical and does not improve on the existing regime. Further, it is likely to have a detrimental impact on the level and type of retirement provision provided in the UK as well as more widely on the European economic environment. We recognise that it may be possible to simplify the holistic balance sheet, as outlined by EIOPA, however, we do not support its implementation, in any form. .	