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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services and Banking Union (IORP) Financial Services Attachés
Subject:	Working Party on Financial Services and Banking Union (IORP) - 30.01.2026: Consolidation - Presidency Questionnaire on IORP Commission Proposal 2025/0362(COD). Replies from 24 MS

IORP Commission Proposal 2025/0362 (COD) Deadline: **-**
From: SK, BE, PL, RO, NL, GR, LT, DK, AT, BG, PT, DE, SE, LV, FR, HR, FI, EE, SI, ES, IE, IT, LU, MT, . **Updated: 26/01/2026 11:32**

PUBLIC

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Please kindly provide your contributions in the table below.

Drafting suggestions: you may use '**track changes**'* or formatting (for example **bold-underline** for additions and ~~strike-through~~ for deletions, **where necessary, in a different colour**). *Track changes can only be connected once the cursor is placed in editable areas (Drafting or Comments columns).

To make it feasible to consolidate all contributions, the structure of the table must not be changed, so **no rows can be added or deleted.**

New provisions may only be added in any of the **'existing cells'.**

Name of document: please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on … .docx**

Thank you for your cooperation!

Commission proposal	Drafting suggestions and Comments
Proposal for a **2025/0362 (COD)** **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** **amending Directives (EU) 2016/2341 and 2016/97 as regards the strengthening of the framework for occupational retirement provision** (Text with EEA relevance)	PL (Comments): **PL: The current proposals for provisions do not raise any doubts PL. PL does not submit comments on the entire project.** NL (Comments): The Netherlands would like to express its appreciation to DG FISMA for the considerable work carried out thus far and for the constructive efforts invested in the preparation of the supplementary Pension package and in this IORP proposal. Regarding our written comments, we would like to underline that all remarks and positions expressed at this stage remain subject to **parliamentary scrutiny.** Consequently, they are of a preliminary nature and without

PUBLIC

Commission proposal	Drafting suggestions and Comments
	prejudice to the final position, which will be determined following the completion of the parliamentary scrutiny process. In general we are positive about the Commission's ambition to promote pension savings in funded pension systems in the member states, both to reduce the risk of old-age poverty among citizens in the European Union and to ensure the stability of the member states' public finances. We are also strongly supportive of the aim to enhance strong, integrated capital markets. Deepening and integration of the European Savings and Investment Union is crucial in order to meet the challenges facing Europe. Enhancing pension schemes across the EU can contribute to these goals. In that context we are therefore positive about the ambitions reflected in the Pension Package. At the same time, we would like to emphasize that pension products are not just financial products, but that the way in which a pension system in a Member State can be set up in a permanent way is strongly related to the social and cultural context in that Member State. The Dutch supplementary pension system is very well developed. The system which includes mandatory participation with the strong involvement of social partners, ensures a largely adequate pension accrual for approximately 90% of employees. Elements that contribute to the protection of participants, including the provision of information and choice guidance, reliable governance and strong supervision, are already strongly embedded In this context, we will look closely at whether any proposed rules do not detrimentally affect the functioning of our system. LT (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Since we have not yet received opinions on the proposal from all interested institutions, we reserve the right to revise the drafting suggestions in the future BG (Comments): BG: We would like to thank the Presidency for the opportunity to comment on the proposal. However, we are still assessing the proposal and the national position has not been addopted. Therefore, at this stage our comments are preliminary. PT (Comments): All comments provided should be understood as preliminary, as defined reflections on the proposal are still being conducted. Expressed stances should therefore be subject to reservation and scrutiny. DE (Comments): **General comments** Scrutiny: We reserve further scrutiny in relation to all recitals and provisions of this proposal. Minimum harmonisation: We welcome that the proposal retains the minimum harmonisation approach of IORP II. However, the proposal includes elements aiming at more harmonisation than required. For example, • the provision on internal stress testing (Article 18a), • empowerments for guidelines, RTS/ITS and delegated acts.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We argue that the IORP II framework should not make use of instruments like guidelines or RTS/ITS. In fact, these instruments affect areas that would require Level 1 provisions, for example: Article 10(3) (guidelines on information for the authorisation assessment) and Article 36(4) (guidelines on information to be given to members and beneficiaries). Prudential framework: The framework should not be mixed-up with elements which are of risk-based solvency requirement type, such as the assessment of the overall funding needs as part of the prudent person principle (proposed in Article 19(1a)). Rather we propose to keep the Member State options of the directive with potential improvements in detail. Proportionality and administrative burden: The proposal introduces entirely new concepts and various new duties for both IORPs and competent authorities, for example, underperformance assessment (Article 41a) and supervisory dialogue (Article 49a) and the requirement that IORPs have to report on an annual basis information on investment returns and costs to the competent authority (Article 50). We feel this proposal runs counter to the simplification agenda and will create much new bureaucracy. We should keep in mind the overall aim of simplification. SE (Comments): The comments in this document are only preliminary, not exhaustive and might be subject to future changes. The following comments should thus not be read as any formal Swedish position. LV (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We have included our preliminary comments in the document, we would like to keep an option to provide further comments on the text at a later stage. FR (Comments): **FR: General comments** France thanks the Commission for publishing its proposal to review the IORP2 Directive, six years after its entry into application. France considers that parametric adjustments may indeed be welcome, without the need to overhaul the regulatory framework for IORPs. Overall, it should be emphasized that France shares the objective of professionalizing further IORPs: we view the additional requirements rather favourably, including the additional supervisory powers for NCAs and the prudential assessment. However, a balance must be struck: new requirements need to be weighed against the need for simplification, which is part of the European agenda. Detailed comments are provided below and shall be considered as preliminary comments from the French delegation, depending on further consultation with stakeholders and detailed analysis from the French authorities. HR (Comments): General comment:

PUBLIC

Commission proposal	Drafting suggestions and Comments
	HR has taken note of the Commission's latest proposal under the IORP II review and, at this stage, maintains scrutiny reservations, as the proposal is still under internal assessment and requires further detailed analysis. Firstly, we would like to confirm our understanding of the provisions of Articles 3 and 4 of the proposal in connection with the proposed extended definition of the IORP in Article 6 point 1), namely that the application of the IORP II Directive is not mandatory for the **entities managing national social security pension schemes (mandatory pension funds) nor the schemes themselves, or to other national private pension products** which are subject to sound governance, effective supervision and prudential requirements **laid down in national legislation**. As a matter of interpretation, Articles 3 and 4 of the proposal, read in conjunction with the extended definition of an IORP in Article 6 point 1), do not provide for mandatory application of the IORP II Directive to entities managing national social security pension schemes (mandatory pension funds), nor to the schemes themselves, nor to other national private pension products that are subject to sound governance, effective supervision and prudential requirements under national legislation. This interpretation follows directly from the structure and intent of the proposal and does not allow for an alternative reading whereby such entities or schemes would fall automatically within the scope of the Directive. In order to prevent any possible misinterpretation in the application phase, HR considers it necessary to explicitly include compulsory employment-related pension schemes in Article 2(2) among the entities to which the IORP II Directive shall not apply. Furthermore, the proposed amendment to Article 6 (definition of an IORP) must clearly reflect the discretionary nature of Article 4 and unambiguously state that the definition of an IORP applies only where a Member State has exercised the discretion

PUBLIC

Commission proposal	Drafting suggestions and Comments
	provided for in Article 4 and has explicitly extended the application of the IORP II Directive to personal pension products under its national framework. Regarding the proposal, HR welcome the overall objective of the review of the IORP II Directive to build a stronger and more efficient occupational pensions landscape in Europe. In particular, HR supports the establishment of common standards to ensure sound management and safeguard member's interests, while respecting national social and labour law on the organisation of pension systems. HR supports the introduction of authorisation process and ex ante prudential assessment as well as the clarification and streamlining the steps for cross-border activities of IORPs. HR also supports the clarification of the provisions regarding the option of the Member State to allow temporary underfunding of occupational pension schemes, the liberalisation of the outsourcing of activities by IORPS, introducing the obligation to appoint a depositary for DC schemes to ensure consistent protection of members and beneficiaries. Furthermore, HR supports the proposal to introduce the Pension tracking system to ensure that savers receive comprehensive, reliable and up-to-date information. However, we would propose a longer timeline for setting up the tracking system. As for proposed changes with regard to Pension Benefit Statement, we fully support enhanced transparency and inclusion of information on the costs, however we would like to point out that providing a detailed breakdown of costs for each individual investment option would place a significant operational and administrative burden, both for occupational pension schemes and for regulatory authorities. Many investment strategies involve pooled vehicles, layered fee structures, and dynamic asset allocations, making it complex and costly to accurately attribute and continuously update costs at the level of each investment option if this should include costs of investments by each asset class. From regulatory perspective, supervision of such highly detailed cost data would significantly increase the volume and complexity of information to be reviewed, without necessarily improving

PUBLIC

Commission proposal	Drafting suggestions and Comments
	member understanding or decision-making. In this context, a comprehensive overview of all costs borne by members over the previous 12 months is considered sufficient and proportionate to achieve transparency objectives. We propose that such overview should be presented in a granular manner by cost category (e.g. investment costs, transaction costs, administrative expenses), rather than per asset class. Overall, we believe that this approach would provide an appropriate balance between transparency, proportionality, and supervisory effectiveness, without imposing excessive burdens, while still ensuring meaningful cost disclosure. With respect to the proposed changes on supervision and NCA's powers, in general we support the proposal, especially regarding the NCA's powers specified in new provisions of Article 50. However, at this stage we are still analysing the impact of several new provisions on NCA's and its resources, especially the new article 49a (Institutionalised supervisory dialogue). Supervisory dialogue may support supervisory convergence and improve early identification of systemic risk, however differences in supervisory practices and national legislation could lead to inconsistency in how the dialogue is conducted and interpreted. Therefore, it presents significant challenges which should be addressed by EIOPA in the form of guidelines or recommendations indicating the set of early warning parameters. We are considering the proposals on expanding EIOPA's powers under this Directive. EE (Comments): Estonia in general supports the objectives of the IORP Directive's review. Enhancing inclusion and improving citizens financial well-being at retirement are the challenges we are facing. However, design and regulation of national personal pensions should remain within the competence of the Member States.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	While imposing new requirements both, benefits and burden rising thereof, should be carefully considered. Estonia in general supports simplifications and the reduction of administrative burden. Please note that we have a parliamentary scrutiny reservation and all comments presented are preliminary. The recitals need yet to be revised, based on drafting suggestions we have made. IT (Comments): General comment We want to highlight that all our comments should be considered as preliminary and subject to possible changes as the proposal is still under scrutiny reservation and we are awaiting possible indications from our relevant Parliamentary Committees on supplementary pensions. The proposal provides that numerous regulatory aspects should be defined at EU level, thereby risking an override of the current minimum-harmonisation approach of the Directive — an approach that is necessary to maintain in order to permit to MS to take into account the heterogeneity of supplementary pension systems (and of the overall national pension systems) and the corresponding diversity in supervisory frameworks. Apart from the main distinction between DC and DB pension funds, also in the sector of DC funds there is a wide variety of models in different MS, with a different degree of choice offered to members. On the basis of the preliminary assessment we have carried out, several amendments may have a significant impact on the national regulation, in particular on member-disclosure requirements, which have a crucial role for

PUBLIC

Commission proposal	Drafting suggestions and Comments
	a DC country like Italy, therefore their introduction deserve to be carefully evaluated, taking proper account of the practical implications for the various pension system. In particular, revisions concerning supervisory aspects may result burdensome, both for IORPs and NCAs, as they seem to imply a deviation from the risk-based approach that is a core principle in the supervision of IORPs and are incompatible with the limited resources available. Finally, the new requirements must not generating undue/additional costs for IORPs potentially shiftable on the final pension provided to members (going in the opposite direction of the declared objectives of the proposal). LU (Comments): LU acknowledges the need to strengthen the second pillar of occupational pensions to supplement "Pay as you go "pensions systems across Europe. Creating the right incentives for IORPs, as far as is possible through this directive, to operate in an environment across borders in the whole EU but without overburdening them with disproportionate new requirements will be key for promoting the pension funds sector. We recognize building scale in the IORP sector could help to create synergies and make economies of scale, but some of the proposals risk to run counter against trying to build from where we stand. New administrative burdens in relation to governance requirements, additional reporting to be provided, new conduct of business rules as well as increased supervisory scrutiny with regards to performance and collaboration platforms lack proportionality, in particular for existing smaller IORPs. We have doubts that more regulation will help in building scale, if this is done at the expense of smaller more national specific IORP structures. Any regulatory addition must lead to a tangible added value for members and beneficiaries.

PUBLIC

Commission proposal	Drafting suggestions and Comments
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53, Article 62 and Article 114(1) thereof,	
Having regard to the proposal from the European Commission,	
After transmission of the draft legislative act to the national parliaments,	
Having regard to the opinion of the European Economic and Social Committee[1], 1 OJ C […], […], p. […].	
After consulting the European Data Protection Supervisor,	
Acting in accordance with the ordinary legislative procedure[2], 2 Position of the European Parliament of ..... and decision of the Council of	
Whereas:	
(1) In view of the ageing population of the European Union and the rising dependency ratio, strengthening complementary sources of retirement income has become indispensable to preserve intergenerational solidarity, social cohesion and the long-term stability of pension systems across the Union.	
(2) While the organisation of pension systems remains a national competence, the adequacy and financial sustainability of pensions are of common concern for the stability and cohesion of the Union. Ensuring that citizens have access to well-designed personal pension products contributes	DE (Drafting suggestions): (2) While the organisation of pension systems remains a national competence, the adequacy and financial sustainability of pensions are **also** of

Commission proposal	Drafting suggestions and Comments
both to individual financial security and to the resilience of the Union's economy.	common concern for the stability and cohesion of the Union. Ensuring that citizens have access to well-designed ~~personal pension products~~ **supplementary pensions** contributes both to individual financial security and to the resilience of the Union's economy. DE (Comments): Draft suggestion to include both private pension products and occupational pension schemes.
(3) Despite being among the world's highest savers, Union households still hold a large share of their financial wealth in short-term bank deposits with limited returns. Developing attractive occupational and personal pension products can help mobilise those savings for long-term investment, generating higher returns for savers and channelling capital towards productive uses that support growth, innovation and the green and digital transitions.	DE (Drafting suggestions): (3) Despite being among the world's highest savers, Union households still hold a large share of their financial wealth in short-term bank deposits with limited returns. Developing attractive occupational ~~and personal~~ pension ~~products~~ **schemes as well as attractive personal pension products** can help mobilise those savings for long-term investment, generating higher returns for savers and channelling capital towards productive uses that support growth, innovation and the green and digital transitions. DE (Comments): The correct terms are "occupational pension schemes" and "personal pension products.
(4) Appropriate regulation and supervision at Union and national level remain important for the development of safe and secure occupational retirement provision across all Member States. Directive (EU) 2016/2341 of the European Parliament and of the Council[3] has contributed to a more harmonised prudential framework for institutions for occupational retirement provision (IORPs). However, the supplementary pension sector remains underdeveloped in many Member States, which could jeopardise the financial	DE (Drafting suggestions): (4) Appropriate regulation and supervision at Union and national level remain important for the development of safe and secure occupational retirement provision across all Member States. Directive (EU) 2016/2341 of the European Parliament and of the Council[3] has contributed to a more

Commented [A1]: Telefonat mit BMAS Leven am 19.12.2025 : « supplementary pensions » als Oberbegriff betrieblich/privat.

Commented [A2]: Telefonat mit BMAS Leven am 19.12.2025 : « as welll …products » nicht in Klammern.

Commission proposal	Drafting suggestions and Comments
security of citizens, in particular in light of ongoing demographic trends within the Union. As part of strong multi-pillar pension systems, developed in dialogue with social partners, it is essential to support the further uptake of supplementary pensions such as IORPs and to help deliver better outcomes for long-term savers. This requires policy action both at national and at Union level. 3 Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast) (OJ L 354, 23.12.2016, p. 37, ELI: http://data.europa.eu/eli/dir/2016/2341/oj).	harmonised prudential framework for institutions for occupational retirement provision (IORPs). However, the supplementary pension sector remains underdeveloped in many Member States, which could jeopardise the financial security of citizens, in particular in light of ongoing demographic trends within the Union. As part of strong multi-pillar pension systems, developed in dialogue with social partners, it is essential to support the further uptake of supplementary pensions ~~such~~ **as well** as IORPs and to help deliver better outcomes for long-term savers. This requires policy action both at national and at Union level. 3 Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast) (OJ L 354, 23.12.2016, p. 37, ELI: http://data.europa.eu/eli/dir/2016/2341/oj). DE (Comments): Rationale for drafting suggestion: There is a difference between supplementary pensions and the institutions that provide them.
(5) The Savings and Investments Union (SIU) announced by the Commission in its Communication of 19 March 2015[4] aims to enable citizens to save and invest for their future, channel investments towards the priorities of the Union, deepen integration and scale in the Union's capital markets, and ensure effective supervision across the single market. Among those four strands, helping citizens save and invest for their future is at the heart of the SIU's ambition. Ensuring that Union citizens can build adequate retirement income is one of the most concrete ways in which the Union can make a difference in people's lives. The work on supplementary pensions, and in particular on occupational pensions, embodies this citizen-centred approach.	DE (Drafting suggestions): (5) The Savings and Investments Union (SIU) announced by the Commission in its Communication of 19 March ~~2015~~**2025**[4] aims to enable citizens to save and invest for their future, channel investments towards the priorities of the Union, deepen integration and scale in the Union's capital markets, and ensure effective supervision across the single market. Among those four strands, helping citizens save and invest for their future is at the heart of the SIU's ambition. Ensuring that Union citizens can build adequate retirement income is one of the most concrete ways in which the Union can

PUBLIC

Commission proposal	Drafting suggestions and Comments
4 Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions of 19 March 2025, COM(2025) 124 final.	make a difference in people's lives. The work on supplementary pensions, and in particular on occupational pensions, embodies this citizen-centred approach. DE (Comments): Correction. IE (Comments): Should the date of the SIU Communication be '19 March 2025'.
(6) With approximately three trillion euros in assets under management, institutions for occupational retirement provision ('IORPs') play an essential role in the Union's financial system but tend to be less active in listed equity, private equity, venture capital and infrastructure markets. Provided that investments in equity and alternative asset classes are prudently managed, such investments can be a valuable component of their portfolios, offering diversification, higher long-term returns for pension savers and protection against inflation, while also providing crucial funding for the real economy. It is therefore important to ensure that there are no undue regulatory barriers to such investments.	MT (Comments): It is to be noted that the term "pension saver" is not defined in the amendments to the IORP II Directive. It is therefore unclear whether the personal pension being referred to is limited to the PEPP or to any other personal product manufactured and or distributed within the Member State.
(7) The review of Directive (EU) 2016/2341 builds on the European Insurance and Occupational Pensions Authority (EIOPA)'s 2023 technical advice for the review of the IORP II Directive[5] and its 2025 'technical input on the review of the IORP II Directive and the PEPP Regulation in the context of the Savings and Investments Union'[6]. It also takes into account recent findings and recommendations from the Special Report 14/2025 of the European Court of Auditors concerning the development of supplementary pensions in the Union[7], as well as the OECD Core Principles of Private	

PUBLIC

Commission proposal	Drafting suggestions and Comments
Pension Regulation[8], which set out internationally recognised standards for the governance, transparency and supervision of occupational pensions. 5 See EIOPA's Technical advice for the review of the IORP II Directive 6 See EIOPA's Technical input for the reviews of the IORP II Directive and the PEPP Regulation in the context of the Savings and Investments Union. 7 See the Special report 14/2025 of the European Court of Auditors 8 See OECD Core Principles of Private Pension Regulation	
(8) Achieving sufficient scale is often a prerequisite for the efficient and sustainable functioning of IORPs. Smaller IORPs may face higher administrative and investment costs, limited diversification, and difficulties in attracting or retaining the necessary professional expertise. Greater scale can help mitigate those constraints by improving risk pooling, governance capacity, and access to a broader range of investment opportunities, thereby contributing to more stable and cost-effective outcomes for members and beneficiaries.	AT (Comments): Studies show that large pension funds do not necessarily invest more effectively than smaller pension funds and that asset size is not meaningfully related to investment performance. Fewer IORPs may result in less competition. https://www.dnb.nl/en/publications/research-publications/working-paper-2024/822-large-pension-funds-do-not-invest-more-effectively-than-smaller-pension-funds/ https://reason.org/commentary/large-public-pension-systems-dont-have-better-investment-returns/
(9) Directive (EU) 2016/2341, however, has not been sufficiently effective in fostering economies of scale, resulting in pension providers that are often too small to benefit from diversification or efficiency gains, and therefore	

PUBLIC

Commission proposal	Drafting suggestions and Comments
expose members and beneficiaries to higher costs and lower net returns. It is therefore necessary to facilitate such economies of scale.	
(10) Directive (EU) 2016/2341 should apply to all IORPs, unless they are expressly excluded pursuant to Article 2(2). Its application should reflect the objectives pursued by that Directive and the diversity of arrangements within Member States, and should be implemented in a manner that recognises the full spectrum of existing occupational pension provision.	
(11) In some Member States, national law provides that IORPs, despite having legal personality, are to be operated by authorised entities responsible for acting on their behalf. It is therefore appropriate that Article 2(1) of Directive (EU) 2016/2341 refers explicitly not only to situations where IORPs do not have legal personality, which should continue to be covered, but also to those cases where IORPs have legal personality yet, in accordance with national law, are to be operated by such authorised entities.	
(12) In certain Member States, responsibility for the operation of an IORP may be shared between the IORP itself and the authorised entity acting on its behalf, each performing distinct but complementary functions. The application of Directive (EU) 2016/2341 should be coherent with that allocation of responsibilities under national law and ensure that all those responsible are fully subject to its requirements, irrespective of the legal form of the IORP. This situation should however be distinguished from outsourcing as referred to in Article 31 of that Directive, since the shared exercise of responsibilities in these instances stems from the institutional structure of the IORP as defined under national law and not from a contractual outsourcing of functions. Member States should also ensure that the assets of IORPs are legally separate from those of the authorised entities operating them.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(13) The determination of whether an institution qualifies as an IORP should depend on the activities carried out, irrespective of its legal form or designation under national law. In several Member States, employment-related retirement provision is provided by funded institutions which are excluded from the scope of Directive (EU) 2016/2341 pursuant to its Article 2(2), or are otherwise not covered by that Directive without being subject to any other Union prudential legislation. Some of those institutions are already covered by Regulation (EU) 2018/231 of the European Central Bank[9] on statistical reporting requirements for pension funds, reflecting their economic importance and the need for comprehensive and consistent information across all types of pension institutions. Taken together, such institutions excluded from the scope of Directive (EU) 2016/2341 hold very substantial assets and constitute an important component of the overall employment-related retirement landscape alongside IORPs. In view of their scale and their relevance for financial stability and pension adequacy, it is important for Member States to ensure that all institutions managing retirement savings, whether occupational or personal, are subject to sound governance, effective supervision and prudential requirements commensurate with the nature and magnitude of the risks they bear. In light of the solid framework provided by Directive (EU) 2016/2341 and to promote consistency in supervisory practices, ensure a level playing field and high standards of governance and risk management across all forms of retirement provision, while respecting the diversity of national pension systems and existing institutional arrangements, Member States should have the option to apply that Directive to institutions otherwise excluded from its scope and not covered by any other Union prudential framework. This is particularly relevant where the level of benefits offered to members and beneficiaries depends on the performance of the institution in managing assets and is not guaranteed by a public authority. Member States should notify the Commission and the European Insurance and Occupational Pensions Authority of their use of this option.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
9 Regulation (EU) 2018/231 of the European Central Bank of 26 January 2018 on statistical reporting requirements for pension funds (ECB/2018/2) (OJ L 45, 17.2.2018, p. 3, ELI: http://data.europa.eu/eli/reg/2018/231/oj).	
(14) In some Member States, IORPs may also be allowed to provide personal pension products, including the pan-European Personal Pension Product, as reflected in Regulation (EU) 2019/1238 of the European Parliament and of the Council[10]. To ensure a clear and sound organisation of such activities, and coherent and effective supervision across different forms of retirement provision, it is therefore appropriate to reflect this within Directive (EU) 2016/2341. 10 Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/1238/oj).	FR (Comments): FR : France supports this proposal for explicit recognition, in that it directly enshrines in European law the recognition of practices already recognised at national level.
(15) The organisation of occupational retirement provision may benefit from greater flexibility in how IORPs structure and manage pension schemes and sponsorship arrangements. Therefore, Member States should ensure that IORPs are allowed to operate different pension schemes, including those with distinct investment policies, and to accept sponsorship from multiple sponsoring undertakings, including within the same pension scheme. That flexibility can facilitate the achievement of greater scale, thereby enhancing cost efficiency, risk diversification and governance capacity, to the benefit of members and beneficiaries.	NL (Comments): We support the aim of increasing scale and taking away impediments for realising scale in IORPs. However, regarding this recital and article 9a we make a scrutiny reservation as we will have to analyse further the possible consequences of this article for the Dutch system. In the Dutch context, social partners/employers define to a large extent the remit of an IORP. DK (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	It is key that this statement does not interfere with national decisions and that it reflects the possibility stated in the second part of the proposed article 9a: *'Article 9a* **Multi-sponsor IORPs** … The first paragraph shall be without prejudice to a decision by a Member State to require that schemes with multiple sponsoring undertakings be operated under Directive 2009/138/EC.'; LU (Comments): Under LU law, IORPs may be structured with several compartments, and each compartment may encompass one or more pension schemes with differing characteristics, including investment policies and contribution rates. Further analysis and discussion are however required how to adequately addresses these structures. For example, while a pension scheme may involve several sponsoring employers within the same group, typically operating under harmonised parameters such as contribution rates, it remains unclear how multiple employers could be accommodated within a single pension scheme or compartment while ensuring robust segregation of assets and liabilities at employer level. MT (Comments): With regards to the amendments to the definition of "sponsoring undertaking", Malta seeks clarification regarding the new term included in the definition referring to "professional body or association".
(16) Directive (EU) 2016/2341 distinguishes between the authorisation and registration of IORPs but does not define either concept, while requiring Member States to maintain a national register of IORPs. This has resulted in	

PUBLIC

Commission proposal	Drafting suggestions and Comments
divergent supervisory practices, including cases where competent authorities do not conduct an *ex ante* prudential assessment, or, in certain cases, where no prudential assessment is carried out at all. The absence of a prudential assessment as part of the registration or authorisation process may undermine the proper functioning of the internal market and the protection of the rights of members and beneficiaries. To avoid regulatory arbitrage and safeguard the interests of pension savers, all IORPs should be subject to an authorisation procedure that includes an appropriate prudential assessment by the competent authority. In line with EIOPA's technical advice on the review of the IORP II Directive and with the Implementing Guidelines of the OECD Recommendation on Core Principles of Private Pension Regulation, the authorisation process should also require IORPs to establish and maintain a business plan for all planned activities.	
(17) To enhance effective and adaptable occupational retirement provision, as well as economies of scale, IORPs should be allowed to operate several pension schemes, including those with distinct investment approaches, and to accept sponsorship from several undertakings within the same scheme, while ensuring proper management and the protection of members and beneficiaries.	NL (Comments): See recital 15. DK (Comments): It is key that this statement does not interfere with national decisions and that it reflects the possibility stated in the second part of the proposed article 9a: 'Article 9a Multi-sponsor IORPs … The first paragraph shall be without prejudice to a decision by a Member State to require that schemes with multiple sponsoring undertakings be operated under Directive 2009/138/EC.'; ES (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We refer to the comments made on Article 9 a) regarding pension schemes including distinct investment policies.
(18) Experience with the functioning of Directive (EU) 2016/2341 has shown that the procedures governing the authorisation and supervision of IORPs, in particular in the context of cross-border activities, can give rise to delays and inconsistencies across Member States, which may discourage IORPs from engaging in or expanding their cross-border activities. To improve the functioning and supervision of cross-border activities of IORPs, the procedural steps for authorisation and cross-border activities should therefore be elaborated and streamlined. The timelines should be made clearer and exchanges of information between home and host competent authorities should be made faster, allowing closer coordination including, where appropriate, through the involvement of the European Insurance and Occupational Pensions Authority ('EIOPA').	
(19) It is unnecessarily burdensome to impose on an IORP that is carrying out cross-border activities in a host Member State full initial cross-border procedures where such IORP wishes to extend those activities to additional sponsoring undertakings or schemes in the same host Member State. Such an approach could lead to duplication of procedures, increased administrative costs and delays, without improving the protection of members and beneficiaries. To facilitate proportionate and efficient supervision and ensure effective cooperation between the competent authorities of the home and host Member States, such extensions should be made subject to a simplified notification procedure to be completed within one month. That timeline ensures that competent authorities can carry out the necessary coordination and oversight without creating undue delays or burdens for IORPs.	
(20) The rules governing collective transfers of all or part of a pension scheme's liabilities, technical provisions, and other obligations and rights play a key role in supporting consolidation and the achievement of scale in	

PUBLIC

Commission proposal	Drafting suggestions and Comments
occupational retirement provision. Where such rules are overly strict, they create undue obstacles to achieving scale and facilitating consolidation, which can be detrimental to the long-term interests of savers. At the same time, it is important that members and beneficiaries, or their representatives, can effectively express their views on proposed cross-border transfers. To facilitate such transfers, it is therefore appropriate to clarify and simplify the applicable Union rules, ensuring that procedures remain transparent, proportionate and consistent with the protection of members and beneficiaries, while enabling greater efficiency and integration in the internal market. This should include provisions for timely notification, approval by the sponsoring undertaking where applicable, and the possibility for members and beneficiaries to formally express opposition.	
(21) For domestic collective transfers from one IORP to another, Member States should ensure that simple, transparent and operationally efficient procedures are in place to enable consolidation and restructuring of pension schemes within their territories. Such procedures should facilitate the attainment of scale and cost efficiency and should not be more restrictive than the procedures applicable to cross-border transfers.	
(22) Member States have the option to allow temporary underfunding of occupational pension schemes. Different Member States have implemented that option in varying ways, while others have chosen not to use it, resulting in inconsistencies that may affect the protection of members and beneficiaries. While preventing underfunding is important, an absolute prohibition could, in some cases, force abrupt reductions in pension promises, which may be detrimental to members and beneficiaries. To ensure a balanced and proportionate approach and an adequate protection of members and beneficiaries, Member States should allow temporary underfunding for a limited period, determined by national law, which in any case should not exceed ten years.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(23) Certain technical parameters in Directive (EU) 2016/2341 stem from Council Directive 79/267/EEC[11], the first Life Insurance Directive, and have remained unchanged since their introduction. It is therefore appropriate to provide for the possibility of their adjustment through delegated acts, should this be considered necessary to ensure that they remain appropriate in light of market developments and supervisory practices. 11 First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (OJ L 63, 13.3.1979, p. 1, ELI: http://data.europa.eu/eli/dir/1979/267/oj)	
(24) Directive (EU) 2016/2341 requires IORPs to hold an adequate available solvency margin. That solvency margin does not fully capture exposures to market and longevity risks, including where the IORP underwrites biometric risk or guarantees a given investment performance or level of benefits. Some Member States require IORPs to hold additional risk-based regulatory own funds above the required solvency margin. In Member States where such risk-based requirements do not exist, comparable protection for savers and beneficiaries should be ensured. In particular, IORPs covering biometric risk or offering guarantees and which are not subject to risk-based capital requirements, should carry out regular stress tests to assess their ability to remain funded over a long-term horizon, including under adverse market and demographic scenarios, and competent authorities should have the power to require remedial actions where an underfunding is identified.	DK (Comments): It is important to clarify which IORPs the new requirements for internal stress testing apply to, including the significance of the existence of a sponsor guarantee. In cases where the sponsor has an obligation, it does not appear to be equally relevant to require additional tests as in cases where such an obligation does not exist. It is important not to create unnecessary burdens.
(25) Private assets, including private equity, private debt and venture capital, can improve the risk-return characteristics of investment portfolios by enhancing diversification and potentially delivering higher long-term returns.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
However, such assets are often more complex to value and to assess in terms of risk, hence requiring substantial professional expertise. Pursuant to Article 19 of Directive (EU) 2016/2341, IORPs should invest in the best long-term interests of members and beneficiaries and in accordance with the prudent person rule. That rule, however, is not sufficiently specified, and several Member States have introduced, in line with that Article, detailed and sometimes restrictive investment limits. Such across-the-board constraints may prevent well-governed institutions with adequate risk-management capacity from investing efficiently in alternative assets. It should therefore be laid down that the key investment framework is a risk-based prudent person principle, allowing institutions to invest in any type of asset, provided that they can properly identify, measure, monitor, manage and report the associated risks. Accordingly, as a safeguard for members and beneficiaries, the possibility for Member States to apply investment restrictions should be limited to cases where the investment risk is borne by members and beneficiaries, and, those restrictions should not result in a blanket prohibition on investing in certain asset classes.The chapeau communication of 19 November 2025[12] provides further non-binding guidance on the application of the prudent person principle, including on how it should support the efficient allocation of long-term savings. 12 Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Commitee and the Committee of the Regions – Enhancing the capacity of the EU supplementary pension sector to improve retirement income and supply long-term capital to the EU economy. [PO = please include the number of the document and the internet link].	
(26) Experience has shown that the governance requirements set out in Directive (EU) 2016/2341 do not always ensure consistent standards of sound	LU (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
management and effective oversight across IORPs. In particular, differences in internal control functions, the handling of conflicts of interest, and the composition and effectiveness of administrative, management or supervisory bodies may weaken the protection of members and beneficiaries and the integrity of pension scheme management. To enhance the resilience, transparency and accountability of IORPs, the system of governance should therefore be further specified, and competent authorities should be equipped with the powers necessary to assess and, where appropriate, strengthen IORPs' governance systems.	The review of the IORP II framework should, in LU's view, continue to be guided by a principle of minimum harmonisation, while preserving an appropriate degree of autonomy for national competent authorities. Local regulators are best placed to assess the specific risks and opportunities inherent in their respective pension systems. Against this background, additional supervisory or regulatory requirements should be carefully calibrated, as they may entail higher operational costs and could ultimately have an impact on pension outcomes for members and beneficiaries. While this section indicates an intention to further strengthen the toolkit available to competent authorities, it would be important to clarify how such enhancements would operate in practice, and to ensure that they are implemented in a manner that respects existing supervisory frameworks and avoids unnecessary overlap or interference at EU level, including with the role of EIOPA.
(27) The effective and prudent management of an IORP depends on the fitness and propriety of the persons who effectively run the IORP, its administrative, management or supervisory bodies, and key function holders, including those to whom functions have been outsourced. Directive (EU) 2016/2341 refers to the concept of collective fitness for those who effectively run the IORP. Further clarification is needed to ensure that this concept is applied in a manner consistent with the diversity of governance structures across Member States. In particular, collective fitness should apply where the administrative, management or supervisory body operates as a collegiate body whose members jointly perform strategic or oversight functions. Where functions are distinct or exercised individually, the assessment of fitness should relate to each person's specific role, responsibilities and decision-making powers. Furthermore, the current provisions do not explicitly provide for ongoing monitoring or timely notification of changes, which may also result in gaps in governance, insufficient oversight of risks, or unaddressed conflicts of interest. To ensure adequate protection of members and beneficiaries and effective supervision by competent authorities, the	ES (Comments): We refer to the comments made on Article 19 We refer to the comments made on Article 22 regarding fitness requirement applied to administrative, management or supervisory bodies.

PUBLIC

Commission proposal	Drafting suggestions and Comments
requirements for fitness and propriety should be laid down, competent authorities should be given the responsibility to assess suitability on an ongoing basis, and they should have the power to require the removal of individuals who no longer meet those requirements.	
(28) Effective risk management is essential to ensure the sound and prudent operation of IORPs and to protect members and beneficiaries. Operational and structural choices of IORPs, including participation in pooled investment structures, shared services, or transfers, can affect their overall risk profile. To ensure sound and prudent management, IORPs should assess the risks they are or could be exposed to against the risk tolerance limits approved by their management or supervisory body, taking into account the capacity and appetite for risk of members and beneficiaries. Economies of scale and efficiency options can reduce operational and investment risks for members and beneficiaries and should therefore be considered in the own-risk assessment.	
(29) In line with the OECD Core Principles of Private Pension Regulation and their Implementing Guidelines, it is appropriate to further strengthen the requirements of the statement of investment policy principles by ensuring that it sets out clear investment objectives consistent with each scheme's retirement income goal, liabilities and risk tolerance, defines performance objectives and monitoring methods, and addresses the use of complex or alternative asset classes and related counterparty risk. Where members may choose investments, the statement should also provide for an appropriate range of options, including a default one.	AT (Comments): We do agree; providing members with a default options where members may choose investments makes sense.
(30) The pooling of assets can deliver economies of scale, improve investment performance and reduce costs for members and beneficiaries. However, Article 31 of Directive (EU) 2016/2341 allows Member States to prohibit the outsourcing of activities by IORPs, including the outsourcing of investment management. The use of that option has resulted in regulatory	

PUBLIC

Commission proposal	Drafting suggestions and Comments
barriers to efficiency gains and economies of scale. A more risk-based approach would ensure that outsourcing is generally permitted or required, provided that it does not impair the quality of governance, unduly increase operational risk, undermine the continuous and satisfactory service to members and beneficiaries, or hinder effective supervisory oversight. It should therefore be laid down that that Member States should allow, or where appropriate require, outsourcing by such institutions, without prejudice to opposing specific outsourcing arrangements on a case-by-case basis on duly justified prudential grounds.	
(31) Depositaries provide a convenient remedy for safeguarding assets and overseeing the management of occupational pension schemes, particularly in defined contribution schemes where members and beneficiaries fully bear the investment risk. Under Directive (EU) 2016/2341, Member States have discretion to require, as a general rule, a depositary or to allow IORPs to perform these functions themselves. That discretion has led to inconsistencies and supervisory challenges in cross-border activities. Differences in national rules on the types of entities that may act as depositaries and the scope of their responsibilities may undermine effective prudential oversight, reduce transparency, and increase the risk of conflicts of interest or operational failures. In recent years, the rules on depositaries laid down in Directive 2009/65/EC of the European Parliament and of the Council[13] have been updated and strengthened to ensure a high level of investor protection. Members and beneficiaries of IORPs, who similarly entrust their retirement savings to professional managers, should benefit from no less protection than investors covered by Directive 2009/65/EC. Therefore, to ensure consistent protection of members and beneficiaries, enhance trust in the pension system, and facilitate cross-border activities, Directive (EU) 2016/2341 should require the appointment of a professional depositary for occupational pension schemes where members and beneficiaries fully bear the investment risk. The amendments should set out clear rules for such depository on the safekeeping	NL (Drafting suggestions): Depositaries provide a convenient remedy for safeguarding assets and overseeing the management of occupational pension schemes, particularly in defined contribution schemes where members and beneficiaries fully bear the investment risk **and no element of collective risk sharing is involved.** Under Directive (EU) 2016/2341, Member States have discretion to require, as a general rule, a depositary or to allow IORPs to perform these functions themselves. That discretion has led to inconsistencies and supervisory challenges in cross-border activities. Differences in national rules on the types of entities that may act as depositaries and the scope of their responsibilities may undermine effective prudential oversight, reduce transparency, and increase the risk of conflicts of interest or operational failures. In recent years, the rules on depositaries laid down in Directive 2009/65/EC of the European Parliament and of the Council[13] have been updated and strengthened to ensure a high level of investor protection. Members and beneficiaries of IORPs, who similarly entrust their retirement savings to professional managers, should benefit from no less protection than

PUBLIC

Commission proposal	Drafting suggestions and Comments
of assets and oversight duties for depositaries, while allowing greater flexibility for other schemes and ensuring that competent authorities may not unduly restrict the choice of depositaries established in another Member State. However, to avoid unnecessary burden for IORPs, Member States may maintain existing safe-keeping measures providing a level of protection comparable with depositaries. 13 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, p. 32, ELI: http://data.europa.eu/eli/dir/2009/65/oj)	investors covered by Directive 2009/65/EC. Therefore, to ensure consistent protection of members and beneficiaries, enhance trust in the pension system, and facilitate cross-border activities, Directive (EU) 2016/2341 should require the appointment of a professional depositary for occupational pension schemes where members and beneficiaries fully bear the investment risk **and no element of collective risk sharing is involved.** The amendments should set out clear rules for such depository on the safekeeping of assets and oversight duties for depositaries, while allowing greater flexibility for other schemes and ensuring that competent authorities may not unduly restrict the choice of depositaries established in another Member State. However, to avoid unnecessary burden for IORPs, Member States may maintain existing safe-keeping measures providing a level of protection comparable with depositaries. NL (Comments): In case of IORPs with collective investment and risk-sharing among member/beneficiaries, a depositary would give too little added value in terms of their protection to justify the costs. EIOPA proposed to make the depositary mandatory for “pure DC” only, where “pure DC” was understood to be schemes that excluded risk sharing. (EIOPA technical input 8 September 2025 https://www.eiopa.europa.eu/document/download/d3e95b85-875f-4b7e-83de-e3b7c829afa4_en?filename=EIOPA-BoS-25-418-Technical%20input%20to%20EC%20IORP%20II%20PEPP.pdf) We are positive towards the explicit referral in the last sentence of this recital that MS may maintain safe-keeping measures that provide protection

PUBLIC

Commission proposal	Drafting suggestions and Comments
	comparable to a depositary. We do feel that this could be clarified in the current wording of article 33. DK (Comments): It is important to ensure that the last part ("However, to avoid unnecessary burden for IORPs, Member States may maintain existing safe-keeping measures providing a level of protection comparable with depositaries") provides a genuine opportunity to protect the members in other ways, e.g. through the use of registered assets or other means. AT (Drafting suggestions): Therefore, to ensure consistent protection of members and beneficiaries, enhance trust in the pension system, and facilitate cross-border activities, Directive (EU) 2016/2341 should require the appointment of ~~a~~ **one or several** professional depositar~~y~~**ies** for occupational pension schemes where members and beneficiaries fully bear the investment risk. The amendments should set out clear rules for such depository on the safekeeping of assets and oversight duties for depositaries, while allowing greater flexibility for other schemes and ensuring that competent authorities may not unduly restrict the choice of depositaries established in another Member State. However, to avoid unnecessary burden for IORPs, Member States may maintain existing safe-keeping measures providing a level of protection comparable with depositaries. AT (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Requiring depositaries for IORPs makes sense. However, IORPs should not be restricted to one single depositary – as more depositaries can offer better specialisation and diversification. LU (Comments): LU fully supports the introduction of the mandatory appointment of a depositary instead of the IORP acting in such capacity.
(32) Fragmented and incomplete information on accrued and projected pension entitlements makes it difficult for members and beneficiaries to obtain a clear overview of their future retirement income, particularly when they participate in several supplementary pension schemes. That lack of transparency can undermine engagement with retirement planning and trust in the pension system. To ensure that savers receive comprehensive, reliable and up-to-date information, Member States should require IORPs to provide data to national pension tracking systems, where such systems exist, in a standardised and interoperable format. Such systems should allow members and beneficiaries to access, in a coherent and comparable manner, information on their accrued rights, accumulated capital and projected benefits, while ensuring that IORPs remain responsible for the accuracy and completeness of the data transmitted. To avoid duplication of reporting requirements for IORPs, the format and structure of information should be consistent with the information included in the pension benefit statements.	DE (Drafting suggestions): ~~(32) Fragmented and incomplete information on accrued and projected pension entitlements makes it difficult for members and beneficiaries to obtain a clear overview of their future retirement income, particularly when they participate in several supplementary pension schemes. That lack of transparency can undermine engagement with retirement planning and trust in the pension system. To ensure that savers receive comprehensive, reliable and up-to-date information, Member States should require IORPs to provide data to national pension tracking systems, where such systems exist, in a standardised and interoperable format. Such systems should allow members and beneficiaries to access, in a coherent and comparable manner, information on their accrued rights, accumulated capital and projected benefits, while ensuring that IORPs remain responsible for the accuracy and completeness of the data transmitted. To avoid duplication of reporting requirements for IORPs, the format and structure of information should be consistent with the information included in the pension benefit statements.~~ DE (Comments): Whether a MS sets up a pension tracking system (PTS) is solely within the competence of the Member States. Subsidiarity must strictly be observed. This

PUBLIC

Commission proposal	Drafting suggestions and Comments
	also applies to coverage, data transmission and monitoring of IORPs in relation to PTS.
(33) The Pension Benefit Statement (PBS) is an essential instrument enabling members and beneficiaries to understand their pension entitlements over time and across different schemes. It should provide clear, comprehensive, and relevant information that enables members and beneficiaries to assess their financial situation and take any necessary action to secure an adequate pension. Currently, the absence of a uniform approach at Member State level, together with the fact that most members accrue pensions with multiple IORPs during their careers, results in PBSs that vary in format and presentation, thereby limiting comparability and aggregation. Current rules also do not require the inclusion of information on the costs, the performance of investments or on any investment options available and their corresponding risks. To enhance transparency and support informed decision-making, it is necessary to introduce requirements for the design of the PBS and on the provision of information on costs, investment returns and investment options. For the same reason, it is necessary to ensure greater standardisation and, where possible, alignment with the PEPP Benefit Statement referred to in Article 36 of Regulation (EU) 2019/1238, while taking into account the defined benefit or defined contribution characteristics of the pension schemes, and the specificities of occupational pension provision.	AT (Drafting suggestions): ~~For the same reason, it is necessary to ensure greater standardisation and, where possible, alignment with the PEPP Benefit Statement referred to in Article 36 of Regulation (EU) 2019/1238, while taking into account the defined benefit or defined contribution characteristics of the pension schemes, and the specificities of occupational pension provision.~~ AT (Comments): Current PBS statement practice is well established and very well includes information on cost, performance and options available – therefore no need to change that and require standardisation. An alignment with PEPP statement proves no value added, as the PEPP is a third pillar product needing to follow individual financial product information requirements. ES (Comments): We refer to the comments made on Article 38.6 regarding the new PBS format.
(34) Persistent underperformance of IORPs may reduce the value of members' and beneficiaries' accrued rights and undermine trust in supplementary pensions. In line with the Implementing Guidelines of the OECD Recommendation on Core Principles of Private Pension Regulation, performance should be comparably disclosed and assessed against clear and	AT (Comments): We welcome the harmonised framework to inform members and beneficiaries of underperformance.

PUBLIC

Commission proposal	Drafting suggestions and Comments
objective benchmarks reflecting the investment policy. There is currently no harmonised framework to inform members and beneficiaries of underperformance. To address that, IORPs should be required to promptly inform their competent authority and provide evidence that the scheme's costs and charges are justified and proportionate, and that the scheme is in line with the risk tolerance of its members and beneficiaries. Where the competent authority is not satisfied with such justification or underperformance persists for at least three years, IORPs should communicate clearly to members and beneficiaries about such underperformance, explain its causes, and outline measures to remedy the situation. Member States should ensure the establishment of objective benchmarks for assessing underperformance.	Data shows (OECD Pension Markets in Focus series and national data) that there are considerable performance differences between countries but also between IORPs. The harmonised framework to inform members and beneficiaries of underperformance might help address outliers. Still, we caution that competent authorities should not be overwhelmed with a disproportionate workload by extensive benchmarking. Furthermore, some expectation management: members cannot simply change the IORP in case they are not satisfied with the performance because they are bound by the choice of their employer/works council. ES (Comments): We refer to the comments made on Article 41.a) regarding the concept of "underperformance" and the regulation of benchmarks.
(35) With increasing life expectancy, members and beneficiaries may face greater need to manage longevity risk, and retirement savings need to be managed effectively to provide adequate income during the decumulation phase. Directive (EU) 2016/2341 requires IORPs to provide general information during the pre-retirement and pay-out phases but does not specify the type of information needed to support members and beneficiaries in making informed choices during decumulation. To enhance transparency, comparability, and informed decision-making, IORPs should therefore be subject to minimum disclosure requirements for the decumulation phase. Such disclosures should be clear, accessible, and proportionate, taking into account national specificities, and should cover pay-out options, associated costs and charges, applicable taxes, risks, and projections, including for variable annuities.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(36) The shift from defined benefit pension schemes to defined contribution pension schemes places greater financial risk on members and beneficiaries, as variable benefits replace previously guaranteed benefits. Members and beneficiaries are often faced with complex choices regarding benefits or investments, and their ability to make appropriate decisions can be impaired by information asymmetries, limited knowledge or understanding, behavioural biases, or complex and inadequate choice environments. Combining multiple choices further increases the difficulty for members and beneficiaries to assess the potential effects of their decisions. IORPs play a key role in safeguarding the long-term interests of members and beneficiaries through prudent management of assets and sound governance. To strengthen confidence in the system and ensure that investment decisions remain aligned with members' best interests, fiduciary duties relating to risk management and investment policy should be reinforced. To enhance protection and ensure that pension schemes deliver outcomes that members and beneficiaries might reasonably expect, IORPs should be subject to a general duty of care. Such duty should require institutions to act honestly, fairly, and professionally in the best interests of members and beneficiaries, to seek adequate, risk-adjusted and cost-efficient returns over the long term, and to provide guidance and safeguards to support informed and suitable decision-making, taking into account the nature of the pension scheme, the risks borne by members and beneficiaries, the responsibilities of the institution, and, where relevant, the role of social partners and sponsors.	DK (Comments): DK agrees on the importance of ensuring the interests of members and beneficiaries and therefore strongly supports the introduction of a duty of care principle. AT (Comments): To alleviate the decision problem for uninformed plan members, IORPs should get a general right to implement default life-cycle investment schemes and allocating all plan members to the respective strategies, including switching plan members from currently not for them suitable strategies into default life-cycle investment schemes with an opting-out choice. With such an approach the IORP can well implement the "duty of care" principle.
(37) Occupational pensions are long-term arrangements on which workers rely to secure an adequate retirement income. Members in defined contribution schemes face specific risks, including retirement income risk, investment risk, costs and charges, administrative and governance risks, and gaps in knowledge. To design appropriate investment strategies and offer suitable investment options that align with members' capacity to bear losses and their risk-return preferences, IORPs have a central role in assessing these risks from	AT (Comments): Information about all costs incurred is important, as the beneficiaries must bear not only the investment risk but also all costs. Therefore, the costs of third parties (indirect costs) incurred directly in the respective fund/fund of

PUBLIC

Commission proposal	Drafting suggestions and Comments
the perspective of members and beneficiaries. To support informed decision-making and safeguard members' interests, IORPs should conduct long-term risk assessments, provide relevant investment choices, and deliver key information, including all costs and charges and projections, taking into account national specificities.	funds as well as the costs of any hedging transactions should also be disclosed. Four cost drivers may be identified: A) Low cost transparency makes indirect cost management difficult, B) high proportion of expensive, actively managed funds, C) lack of economies of scale due to low fund volumes, D) lack of competition.
(38) To ensure that members and beneficiaries can effectively exercise their rights and have access to fair and timely redress, IORPs should establish effective complaints-handling procedures and provide information on available alternative dispute resolution mechanisms. For the same reason, Member States should have in place adequate, independent and impartial alternative dispute resolution bodies, including for cross-border cases, and ensure that competent authorities can receive and respond to complaints alleging infringements of Directive (EU) 2016/2341.	
(39) Differences in the powers, tools, and practices available to competent authorities across Member States may hinder effective supervision of IORPs and the timely prevention or correction of infringements. Without the powers to obtain necessary information, to require compliance with applicable laws and regulations, to review and evaluate IORPs' strategies, processes, and reporting procedures, or to impose sanctions, competent authorities may be unable to ensure that IORPs maintain sufficient financial resources, comply with governance and risk management requirements, or can withstand adverse events or changes in economic conditions. To address those risks, Member States should ensure that competent authorities have all necessary powers to obtain information, conduct systematic and risk-based reviews and assessments, monitor deteriorating financial conditions, engage in regular supervisory dialogue, take preventive and corrective measures in a timely	DK (Comments): An obligation to engage in regular supervisory dialogue should be seen in light of the national supervisory authorities' right to plan supervision based on a risk-based approach and should therefore not prescribe specific intervals or similar requirements.

PUBLIC

Commission proposal	Drafting suggestions and Comments
manner, and impose effective, proportionate, and dissuasive administrative sanctions.	
(40) IORPs vary significantly in terms of scale, operational efficiency, and organisational structure. Smaller or fragmented IORPs may face difficulties in achieving economies of scale, engaging in effective asset pooling, or optimising operational and investment efficiency. Early identification of structural challenges and vulnerabilities is therefore essential to ensure that IORPs can deliver value for members and beneficiaries over the long term. Competent authorities play an important role in fostering strategic reflection by IORPs on their long-term sustainability, including on aspects such as scale, organisational configuration, and potential for consolidation or cooperation where those are ways to address identified shortcomings. Competent authorities should therefore conduct regular structured supervisory dialogues with IORPs, during which IORPs can identify potential weaknesses and consider strategic options, including measures to enhance efficiency, scale, and resource sharing, while retaining primary responsibility for ensuring that members and beneficiaries receive adequate retirement benefits.	DK (Comments): An obligation to engage in regular supervisory dialogue should be seen in light of the national supervisory authorities' right to plan supervision based on a risk-based approach and should therefore not prescribe specific intervals or similar requirements AT (Comments): The competent authorities may be a sparring partner but should refrain from forcing or de facto making decisions that are up to the management of the IORPs and competitive pressure. ES (Comments): We refer to the comments made on Article 49.a) regarding regular supervisory dialogue
(41) Without timely, complete, and comparable information, competent authorities may be unable to assess compliance, monitor risks, or take preventive and corrective measures effectively. To address that issue, Member States should ensure that competent authorities have the powers to require IORPs to submit all information necessary for supervision, to carry out on-site inspections, and to obtain detailed reporting on costs, charges, and investment returns.	
(42) The outsourcing of key functions or other activities by IORPs can generate economies of scale and bring value or lower costs to members and beneficiaries. However, it may also create additional risks and hinder effective	ES (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
supervision. Without access to relevant information and business premises, and without cooperation from service providers, competent authorities may be unable to monitor outsourced activities or ensure compliance. To address those risks, Member States should ensure that IORPs enable competent authorities to access data and premises of service providers and to carry out on-site inspections directly or through delegated authorities. IORPS should also fully cooperate during supervision. To ensure effective cross-border supervision of outsourced functions, EIOPA should be able to assist competent authorities in joint on-site inspections.	We refer to the comments made on Article 50 a) regarding EIOPA's involvement in on-site inspections. LU (Comments): LU : EIOPA presence during the on-site inspections should not be mandatory and only when solicited by a competent authority. Moreover, it might be difficult to impose on-site inspections, including for outsourcing outside of EU (cf. article 31 Directive 2016/2341, no explicit restriction to outsourcing outside of EU).
(43) Transparent, comparable, and easily accessible information on the total annual costs, past performance, and risk profiles of pension schemes operated by IORPs is essential for members and beneficiaries to make informed decisions about their retirement savings. Such disclosure could foster efficiency, cost-effectiveness, and the potential to achieve economies of scale, ultimately benefiting members and beneficiaries. To ensure comparability and accessibility, competent authorities should publish that information on a single public website for all relevant pension schemes or investment options, covering at least the previous ten years.	DK (Comments): DK can acknowledge the objective. However, implementation should be proportionate and focus on schemes where public comparability provides added value for members, taking into account market structure and size, and avoiding unnecessary administrative burdens. AT (Comments): Comprehensive transparency on performance and cost will help foster competition. Information about all costs incurred is important, as the beneficiaries must bear not only the investment risk but also all costs. Therefore, the costs of third parties (indirect costs) incurred directly in the respective fund/fund of funds as well as the costs of any hedging transactions should also be disclosed. LU (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU : We do not see the rationale to publicly disclose annual costs, past performance, and risk profiles of pension schemes operated by IORPs. (IORPs are pilar II pension funds / no distribution to public investors).
(44) Where cross-border activities are significant with respect to the market of the host Member State and require close collaboration between the competent authorities of the home Member State and the host Member State, especially where an IORP might risk being in financial difficulties to the detriment of members and beneficiaries, EIOPA should be able to set up and coordinate collaboration platforms, in a similar manner as under Directive 2009/138/EC of the European Parliament and of the Council[14]. 14 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1, ELI: http://data.europa.eu/eli/dir/2009/138/oj).	ES (Comments): We refer to the comments made on Article 55 a) regarding EIOPA's involvement in on-site inspections.
(45) Insurance undertakings and insurance intermediaries can also distribute occupational pension products. To ensure that all prospective members, members and beneficiaries receive **equivalent information and protection**, such undertakings and intermediaries should be subject to **rules related to information consistent with those applicable to IORPs, including obligations relating to the transmission of information to pension tracking systems**.	GR (Drafting suggestions): (45) Insurance undertakings and insurance intermediaries ~~**can**~~ **may** also distribute occupational pension products**, according to national legislation**…. GR (Comments): **EL**: We consider that this should be without prejudice to national legislation and specificities. We would propose a more flexible wording. DK

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): Does this mean that Solvency II undertaking offering pension products have to fulfil the IORP requirements? If so, the Solvency II directive should be amended to ensure legal hooks etc. It is not clear how the first part should be understood: is distribute the same as offer? DE (Drafting suggestions): (45) Insurance undertakings and insurance intermediaries can also distribute occupational pension products. To ensure that all prospective members, members and beneficiaries receive equivalent information and protection**,** such undertakings and intermediaries should be subject to rules related to information consistent with those applicable to IORPs~~, including obligations relating to the transmission of information to pension tracking systems~~**.** DE (Comments): Whether a MS sets up a pension tracking system (PTS) is solely within the competence of the Member States. Subsidiarity must strictly be observed. This also applies to coverage, data transmission and monitoring of insurance undertakings and insurance intermediaries in relation to PTS. We suppose the bold type has been used by mistake.
(46) In order to attain the objectives set out in Directive (EU) 2016/2341 and this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of certain technical parameters in Directive (EU) 2016/2341 stemming from Council Directive 79/267/EEC, which have remained unchanged since their introduction, as well as on the Pension Benefit Statement. It is of particular importance that the Commission carry out	

PUBLIC

Commission proposal	Drafting suggestions and Comments
appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.	
(47) In order to ensure uniform conditions for the implementation of the provisions on reporting of investment returns, net of investment costs, and all costs and charges incurred in connection with the IORPs' activities, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 180/2011 of the European Parliament and of the Council[15]. 15 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj).	
(48) Directives (EU) 2016/97 and (EU) 2016/2341 should therefore be amended accordingly.	
(49) Amendments to Directive (EU) 2016/2341 regarding the authorisation of IORPs should replace the current regime of registration or authorisation in order to ensure consistent supervisory standards across the Union. However, it would be too burdensome to require all IORPs to apply for a new authorisation. IORPs already registered or authorised under that Directive should be given Therefore, Member States should provide for automatic recognition of IORPs which were already registered or authorised under that Directive.	IE (Comments): IE - Is this text after "IORPs already registered or authorised under that Directive should be given ???"
(50) Regulation (EU) 2016/679 of the European Parliament and of the Council applies to the processing of personal data for the purposes of this	LU (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
Directive. Member States should ensure that processing of data carried out in application of this Directive fully respects Directive 2002/58/EC of the European Parliament and of the Council[16] where that Directive is applicable. 16 Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, p. 37, ELI: http://data.europa.eu/eli/dir/2002/58/oj)	The sentence is incomplete: "However, it would be too burdensome to require all IORPs to apply for a new authorization. IORPs already registered or authorized under that Directive should be given…" We agree with this proposal to remove the registration regime and require an authorization for all IORPs.
HAVE ADOPTED THIS DIRECTIVE:	
Article 1	
Amendments to Directive (EU) 2016/2341	
Directive (EU) 2016/2341 is amended as follows:	
(1) the words 'registered or authorised' are replaced by 'authorised' throughout the Directive;	HR (Comments): We agree with the proposal.
(2) the words 'size, nature, scale and complexity' are replaced by 'nature, scale and complexity' throughout the Directive;	BE (Comments): Given the enormous diversity within the world of IORPs, not only between different Member States but even within a single Member State, we advocate a proportional application of the obligations arising from the Directive. Therefore, the reference to 'size' should be kept. GR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	EL: The purpose as well as the practical implications of deletion of the reference to "size" are not clear. HR (Comments): We agree with the proposal.
(3) the words 'their size and internal organisation, as well as to the size, nature, scale and complexity of their activities' are replaced by 'the nature, scale and complexity of their activities' throughout the Directive;	GR (Comments): **EL**: The purpose as well as the practical implications of deletion of the reference to "size" are not clear. HR (Comments): We agree with the proposal. LU (Comments): LU does not support the deletion of the word "size". What's the rationale of deleting the word "size"?
(4) Article 2 is amended as follows:	SK (Comments): In order to better understand this provision and subsequent changes proposed, we would like to ask whether the Commission intends to **harmonise personal pension products across Member States** and, if so, whether this harmonisation is to be achieved through the IORP Directive that is applicable to occupational pension schemes. **In light of the above, as well as other changes in definitions and new terms that are intended to supplement this regulation (relating to personal pension schemes), it is crucial that these terms are better understood.**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	HR (Comments): In line with our general comment, in order to prevent any possible misinterpretation in the application phase, HR considers it necessary to explicitly include **compulsory employment-related pension schemes in Article 2(2) among the entities to which the IORP II Directive shall not apply.**
(a) in paragraph 1, the second sentence is replaced by the following:	
'Where, in accordance with national law, IORPs are constituted in a form under which authorised entities are responsible for operating them and acting on their behalf, Member States shall apply this Directive either to those IORPs or, subject to paragraph 2, to such authorised entities, or to both, as appropriate.';	HR (Comments): We agree with the proposal.
(b) the following paragraph 3 is added:	
'3. Where, pursuant to paragraph 1, authorised entities are responsible for operating IORPs and acting on their behalf, Member States shall ensure that the assets of the IORPs are legally separate from those of the authorised entities.	HR (Comments): We agree with the proposal.
For the purposes of the first subparagraph, where the authorised entities referred to in paragraph 2, point (b), operate IORPs and act on their behalf, Member States shall not restrict such authorised entities established in another Member State from carrying out those activities.';	NL (Drafting suggestions): For the purposes of the first subparagraph, where the authorised entities referred to in paragraph 2, point (b), operate IORPs and act on their behalf, Member States shall not restrict such authorised entities established in

PUBLIC

Commission proposal	Drafting suggestions and Comments
	another Member State from carrying out those activities, **without prejudice to national social and labour law on the organisation of pensions schemes and the autonomy of social partners, including compulsory membership and the outcomes of collective bargaining agreements.**'; NL (Comments): In the Dutch context there is no separation between an authorised entity that operates the IORP and the IORP itself. However in a cross border context it is important that national social and labour law is respected. GR (Comments): **EL**: We would appreciate clarifications on the reasoning of this proposal. BG (Comments): BG: Is our understanding correct that pursuant to this sub-paragraph if a company is authorized for IORPs management in MS A, its authorization entitles it to start managing IORPs also in MS B? If so, as MS A and MS B could have different requirements with regard to IORPs management, how are these requirements communicated and supervised, what are the competences of the MS A and MS B supervisory authorities? HR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We agree with the proposal. ES (Comments): We would like to better understand the implications of this subparagraph. Would it in any way imply establishing an EU passport for the pension fund management entities covered by Directives mentioned in paragraph 2(b) of the IORP Directive?
(5) Articles 3 and 4 are replaced by the following:	
'Article 3 **Application to IORPs operating social security schemes**	
IORPs which also operate pension schemes that are considered to be social security schemes covered by Regulations (EC) No 883/2004 and (EC) No 987/2009 shall be covered by this Directive in respect of their retirement provision business not covered by those Regulations. In that case, the liabilities and corresponding assets shall be ring-fenced, and it shall not be possible to transfer those liabilities and corresponding assets to the pension schemes which are considered to be social security schemes, or vice versa.	SK (Comments): We are not sure what was intended by redrafting this definition, from which practically only the words "*compulsory employment-related*" were deleted. It is not clear to us what we should pursue and what we should re-evaluate within the framework of our national legislation. How is the amendment to Article 3 reflected in the subsequent provisions? In particular, we seek clarification as to whether amendments to other provisions are directly driven by the amendment to Article 3. A clear understanding of the definitions and their application is a prerequisite for the proper interpretation of the subsequent provisions. The assessment of other Articles is therefore limited by the current **lack of clarity as to what is included in, or excluded from**, the relevant definitions, and consequently by the inability to assess the impact of the amendments and any potential issues they may give rise to at the level of our Member State.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	BG (Comments): BG: Pursuant to Art. 3, IORPs that also operate social security schemes covered by Regulations (EC) No 883/2004 and (EC) No 987/2009 shall be covered by this Directive in respect of their non-compulsory occupational retirement provision business not covered by those Regulations. At present in Bulgaria the pension insurance companies manage 4 types of pension funds – voluntary pension funds with occupational schemes, (IORPs, BG-1 in EIOPA's database of pension plans and products), universal and professional pension funds (mandatory social security schemes, BG-3 and BG-4 in EIOPA's database) and voluntary pension funds (voluntary personal products, BG-2 in EIOPA's database). Art. 3 seems an imperative provision ("shall be covered …"), it seems that as a result of the change in the wording inadvertently this provision would cover also the voluntary pension funds as these represent "retirement provision business" not covered by Regulations (EC) No 883/2004 and (EC) No 987/2009. However, Art. 4 states that MS "may apply" the Directive also to such funds as they are not covered by this Directive and are subject to national law. FR (Comments): **FR:** France is not commenting on this point at this stage as it is continuing its analysis of the impact of such a measure on the existing schemes in France. HR (Comments): We refer you to our general comment. It is not clear to us why the references to "compulsory employment related pension schemes" and "compulsory occupational retirement provision

PUBLIC

Commission proposal	Drafting suggestions and Comments
	business" are deleted. As stated in our comment on Article 2, the text should clearly exclude compulsory employment related pension schemes from the scope of the IORP II directive. EE (Comments): In the first sentence reference should be made only to occupational pension arrangements instead of retirement provision business not covered by the Regulations. According to new Article 4, application of the Directive to institutions not covered by definition is optional. In practice IORPs could also operate pension schemes that are social security schemes covered by Regulations (EC) No 883/2004 and (EC) No 987/2009, but also PEPPs and national personal pension schemes.
Article 4 **Optional application**	IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system.
Member States may apply some or all of the provisions of this Directive to institutions, irrespective of their legal form, operating on a funded basis for the purpose of providing retirement benefits:	FR (Comments): **FR:** France is not commenting on this point at this stage as it is continuing its analysis of the impact of such a measure. On the other hand, **France appreciates the optional possibility** of submitting certain institutions operating on a funded basis, if Member States so wish. At first glance, this seems to be the right approach in this area, adapted to specific national circumstances. Indeed, imposing **without an optional obligation** a one-size-fits all regime risks disrupting stable systems that operate effectively under their existing

Commission proposal	Drafting suggestions and Comments
	rules. Extending IORP II scope to include agencies like public-sector funds would impose a regulatory burden disproportionate to their mission. These institutions often follow strict national oversight. Subjecting them to additional EU-level prudential rules could undermine their flexibility and purpose without generating clear consumer protection benefits. It would also create regulatory complexity, confusion and excessive administrative redundancy. HR (Comments): We can accept the voluntary application of IORP II Directive on entities mentioned in points a) and b) **and would be strongly against any mandatory application.** LU (Comments): LU : What's the rationale to amend this article?
(a) that are excluded from the scope of this Directive pursuant to Article 2(2), points (a) and (d); or	
(b) that are not covered by this Directive or by Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU and 2014/65/EU.	
In the case of institutions referred to in Article 2(2), point (a), Member States may decide on the application of provisions of this Directive only insofar as that application is compatible with Regulations (EC) No 883/2004 and (EC) No 987/2009.	SK (Comments): We would like to request the provision of specific examples of the financial institutions that were the subject of targeted measures. In addition, we seek clarification regarding the meaning of compatibility with Regulation (EC) No 883/2004, which is based on a fundamentally different regulatory framework.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We would appreciate further elaboration in order to enable us to adequately identify, assess, and take into account the relevant considerations. GR (Comments): **EL**: We are concerned about what incompatibility could arise, in case of application of IORP II to institutions which are covered by Regulations (EC) No 883/2004 and (EC) No 987/2009, as the subject matter of the Directive and the Regulations is different. We would like further clarifications.
Where, in accordance with national law, the institutions referred to in the first paragraph are operated by authorised entities responsible for acting on their behalf, Member States may decide to apply this Directive either to those institutions or to the authorised entities responsible for operating them and acting on their behalf, or to both, as appropriate.	
Member States may decide to apply Articles 11 and 11a under this Article only if all the provisions of this Directive apply.	
Member States shall notify the Commission and EIOPA where they make use of the options referred to in in the first and second paragraphs, indicating the types of institutions or, where applicable, authorised entities covered by the use of those options and the provisions of this Directive that apply to them.	
The Commission shall make that information publicly available.’;	
(6) Article 5 is amended as follows:	PT (Comments): To ensure enhanced proportionality in the application of this Directive and considering the reinforcement of its requisites under this review, PT would welcome discussing the possibility to review the thresholds foreseen in

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Article 5 concerning small IORPs. This suggestion is in line with EIOPA's recommendation and may be adequate to avoid an overly burdensome regulatory regime for entities with few members and low amount of AuM.
(a) the title is replaced by the following:	
'Small IORPs';	
(b) the second paragraph is deleted;	BE (Comments): Given the enormous diversity within the world of IORPs, not only between different Member States but even within a single Member State, we advocate a proportional application of the obligations arising from the Directive. An additional way of providing for this proportional approach would be to introduce additional categories, such as small- and medium-sized and large IORPs. These categories could then also serve to ensure a more proportional application of other regulations such as DORA and SFDR (by referring to the IORP categories in the latter legislation) as is currently the case for small insurance companies that fall outside the scope of SII. IE (Comments): IE to reserve its position to enable further examination of proposed deletion of this paragraph.
(7) Article 6 is amended as follows:	
(a) in point (1), the wording 'and which carries out activities directly arising therefrom;' is replaced by 'and which carries	SK (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
out activities directly arising therefrom, and, where permitted under national law, personal retirement provision;’;	What was the intention behind the amendment to the definition, or the inclusion of the wording “*where permitted under national law, personal retirement provision*”? **How does the inclusion of this element affect the interpretation of an IORP within the meaning of the IORP II Directive**? How does it impact the determination of what constitutes, or does not constitute, an IORP for the purposes of recognition and classification? What objective was this amendment intended to achieve? DE (Drafting suggestions): (a) in point (1), the wording ‘and which carries out activities directly arising therefrom;’ is replaced by ‘and which carries out activities directly arising therefrom, and, where permitted under national law, **from** personal retirement provision;’; DE (Comments): Correction. HR (Drafting suggestions): For the purposes of this Directive: (1) ‘institution for occupational retirement provision’, or ‘IORP’, means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed: (a) individually or collectively between the employer(s) and the employee(s) or their respective representatives, or

Commented [A3]: Telefonat mit BMAS Leven am 19.12.2025 : Im Kommentar knapp « Correction », ohne weitere Ausführungen.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(b) with self-employed persons, individually or collectively, in compliance with the law of the home and host Member States, and which carries out activities directly arising therefrom and which carries out activities directly arising therefrom, **and, personal retirement provision where a Member State has opted under national law to apply all of the provisions of this Directive to personal retirement provision.** HR (Comments): In line with our general comment, the text should clearly state that there is no intention to capture the national mandatory pension funds or national private pension products (in HR for example open voluntary pension funds) which are subject to sound governance, effective supervision and prudential requirements **laid down in national legislation** by the definition of IORP. **The proposed change in Article 6 should clearly reflect the intended national discretion in Article 4, and clarify that the definition of an IORP only applies if a MS has opted to use the discretion in Article 4 and has indeed expanded the application of the IORP directive to personal pension products. Also, this should only be the case where a MS has elected to apply all of the provisions of IORP to such schemes. Otherwise, national pension products that apply only a few provisions of the IORP directive could be considered full IORPs, which they are not.** The same approach should be used elsewhere in the text (i.e. in the definition of "member"). IE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): IE to reserve its position
(b) point (3) is replaced by the following:	
'(3) 'sponsoring undertaking' means any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural persons, which acts as an employer, a professional association or body, or in a self-employed capacity or any combination thereof and which offers a pension scheme or pays contributions to an IORP;';	SK (Comments): The proposed provisions use two terms, "*personal pension provision*" and "*personal retirement provision*". Is this distinction intentional? If so, is it intended to differentiate a specific type of scheme? Or is this inconsistency unintentional? GR (Comments): **EL**: We agree with COM's proposal. PT (Comments): PT supports the redraft of the definition for sponsoring undertakings. DE (Comments): With the amended definitions, an employer who pays contributions to an IORP for the purpose of personal retirement provision would also be a 'sponsoring undertaking'. It should be examined whether this could have unintended consequences. (To date, the term 'sponsoring undertaking' has been clearly associated with occupational pension schemes.) HR (Comments): Scrutiny reservation, depending on the definition of the IORP.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Comments): LU : What's the definition of "professional association or body"? Does this "body" require legal personality? Could this be defined more precisely and clearly? Who will ultimately assume the biometric and/or financial risks (art 76+77 IORP law)?
(c) point (5) is replaced by the following:	
'(5) 'member' means a person, other than a beneficiary or a prospective member, whose past or current occupational activities entitle or will entitle him/her to retirement benefits in accordance with the provisions of a pension scheme, except that for the purposes of Titles I, II, III, V and VI, 'member' also means personal pension saver where personal pension provision by IORPs is permitted under national law;'	DE (Drafting suggestions): '(5) 'member' means a person, other than a beneficiary or a prospective member, whose past or current occupational activities entitle or will entitle him/her to retirement benefits in accordance with the provisions of a pension scheme, except that for the purposes of Titles I, II, III, V and VI, 'member' also means personal pension saver where personal ~~pension~~ **retirement** provision by IORPs is permitted under national law;' DE (Comments): Use of the same wording as under point (1). HR (Comments): Scrutiny reservation, depending on the definition of the IORP. EE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
	'(5) 'member' means a person, other than a beneficiary or a prospective member, whose past or current occupational activities entitle or will entitle him/her to retirement benefits in accordance with the provisions of a pension scheme, except that for the purposes of Titles I, II, III, V and VI, 'member' also means personal pension saver where personal pension provision by IORPs is permitted under national law and if Member States have chosen to apply this Directive also to personal pensions pursuant to Article 4;' EE (Comments): The organisation of pension systems should remain a national competence. Proposed point (5) intervenes to the provision of national pension products and contradicts the general principle mentioned above. If member could include also personal pension saver where personal pension provision by IORPs is permitted under national law, should be left for Member States to decide. IE (Comments): IE to reserve its position MT (Comments): Amendments to the definition of "member" - The Commission has included the terms "pension saver" and "personal pension provision" here, and it is to be noted that the terms are not defined in the amendments to the IORP II Directive. It is therefore unclear whether the personal pension being referred to is limited to the PEPP or to any other personal product manufactured and or distributed within the Member State.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(d) the following points (20), (21) and (22) are added:	NL (Drafting suggestions): The following points (20), (21), **(22) and (23)** are added: NL (Comments): See the text suggestion for a point (23) below.
'(20) 'service provider' means an undertaking to which an IORP has outsourced activities covered by this Directive;	HR (Comments): We can accept the proposal.
(21) 'personal pension product' means a personal pension product as defined in Article 2, point (1), of Regulation (EU) 2019/1238 of the European Parliament and of the Council*.	HR (Comments): We can accept the proposal.
(22) 'pension tracking system' means a digital tool, typically a secure web portal or mobile application, that provides individuals with an overview of their individual accrued pension entitlements, and projections of future benefits, across the pension schemes of which the individual is a member or beneficiary.	DE (Drafting suggestions): (22) 'pension tracking system' means a digital tool, typically a secure web portal or mobile application, that provides individuals with an overview of their individual accrued pension entitlements, and projections of future benefits, across the pension schemes of which the individual is a member or beneficiary. DE (Comments): No further need for this definition. HR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We can accept the proposal. EE (Comments): We support the concept of a pension tracking system in general and the objectives. However, including pension tracking systems to this Directive represents a notable shift from guidance (COM Recommendations) to stronger intervention without a clear intervening rationale. Furthermore, should Member State not follow the Recommendation how could this provision then be implemented? LU (Drafting suggestions): (22) 'pension tracking system' means a digital tool, **~~typically a secure web portal or mobile application~~**, that provides individuals with an overview of their individual accrued pension entitlements, and projections of future benefits, across the pension schemes of which the individual is a member or beneficiary. LU (Comments): We do not see a particular reason to specify that a pension tracking system "typically takes the form of a secure web portal or mobile application". It should be avoided to overly narrow down this definition.
_____	NL (Drafting suggestions): **(23) 'collective risk sharing' means a pension scheme with collective investments for all members and beneficiaries that contains elements of (investment) risk-sharing between these members and beneficiaries**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	NL (Comments): We suggest to add a new definition of collective risk sharing, in support of suggested changes to article 33.
* Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/1238/oj).';	
(8) in Article 7, the second paragraph is replaced by the following:	IE (Comments): IE – should the text of the first paragraph be amended given its current reference to 'registered or authorised'?
'Where, pursuant to national law, IORPs are authorised to provide personal pension products, all assets and liabilities corresponding to the personal pension provision business shall be ring-fenced, without any possibility to transfer those assets and liabilities to the other retirement provision business of the institution.';	AT (Drafting suggestions): Where, pursuant to national law, IORPs are authorised to provide personal pension products, all assets and liabilities corresponding to the personal pension provision business shall be ring-fenced.' AT (Comments): There is no need for such a restriction. There should be the possibility to transfer those assets and liabilities under some circumstances. For instance, if a member wishes to merge several pension entitlements at the time of retirement. SE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	How will this article affect insurance companies regulated by Solvency-II? If IORPs are permitted to sell insurance products such as PEPP, this ringfenced part of their business will be governed by less strict IORP rules while their competitors will follow stricter SII rules? FR (Comments): **FR:** France supports the proposal to explicitly recognise the possibility for IORPs to provide personal pension products (see recital 14 and several articles). However, France questions the reasons behind the Commission's proposal to ring-fence this activity from all other IORP activities. Such ring-fenced obligation does not exist in national law in France. **Could the Commission clarify the reasons for this addition to Article 7?** HR (Comments): We can accept the proposal. SI (Comments): We oppose the proposed change. Deleting current requirement for insurance undertakings of ring-fencing which requires clear separation of supplementary pension activities from other insurance activities. Maintaining this separation is essential for the protection of members and to prevent the mixing of assets and liabilities from other insurance activities. We also do not support the proposed requirement to separate assets and liabilities between collective and individual pension schemes. Given the size of the Slovenian market, such a requirement would reduce economies of scale and negatively impact the position of pension fund members.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We have reservations about the general encouragement of merging IORPs, as indicated in the introductory explanations to the proposal, since domestic pension funds play an important role in financing the Slovenian economy. IE (Comments): IE to reserve its position IT (Comments): The requirement to ring-fence the assets and liabilities corresponding to an IORP's "personal pension provision business" does not seem fi for DC schemes where there are individual accounts. Moreover, this provision does not seem consistent with the Commission's goal of promoting the growth of IORP assets also through asset pooling.
(9) the following Article 8a is inserted:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 8a **Right of establishment and freedom to provide services**	FR (Comments): **FR:** No comment at this stage. France does not identify any difficulties so far in this article. LU (Comments): LU continues to strongly promote the development of an obstacle-free Single Market, recognising it as a cornerstone of economic growth and fairness across the European Union. The right of establishment and freedom to provide services principles are key pillars for a truly integrated single market and should be promoted in order to allow for more cross-border IORP activity.
1. IORPs shall be allowed to provide services throughout the Union in accordance with Articles 11 and 11a.	HR (Comments): We would suggest that, in case where IORPs do not have a legal personality and are managed by authorised entity to which this Directive apply, the cross-border provisions apply only to IORPs, not other pension products which they can manage under national law. IE (Comments): IE – Ireland is unclear why this provision is needed as Article 11 and the proposed Article 11a set out obligations/requirements on a cross-border basis.
2. Member States shall not restrict IORPs from establishing in their territory.';	BG (Comments): BG: Is our understanding correct that by means of this provision IORPs established in MS A are entitled to open a branch in MS B without further

PUBLIC

Commission proposal	Drafting suggestions and Comments
	formalities? If so, as MS A and MS B could have different requirements with regard to IORPs activities, how are these requirements communicated and supervised, what are the competences of the MS A and MS B supervisory authorities? HR (Comments): We can accept the proposal. IE (Comments): E – Ireland is unclear on what this provision is seeking to provide for. Any authorisation process for schemes by Member States will specify requirements that an IORP must satisfy before being allowed to operate.
(10) Article 9 is amended as follows:	
(a) the title is replaced by the following:	DE (Drafting suggestions): (a) the title is replaced by the following:

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Authorisation';	DE (Drafting suggestions): '**Authorisation <u>and register</u>**'; DE (Comments): The register is an important element of this Article and should be mentioned in the title.
(b) paragraph 1 is replaced by the following:	
'1. Member States shall in respect of every IORP the main administration of which is located in their territory ensure that the IORP is authorised by the competent authority and included in a national register.	NL (Comments): We are positive re the requirement to authorise IORPs provided that – as the grandfathering clause of Article 3 now aims for - IORPs that are currently registered are automatically recognised as authorised. FR (Comments): FR: At first reading, **France sympathises with this new obligation**, which should reduce the risk of regulatory arbitrage between Member States and standardise procedures carried out by NCAs when authorizing an IORP, including with an appropriate prudential assessment. It is imperative that the grandfathering clause provided for in Article 3 be retained in order to avoid an authorisation burden for existing IORPs and NCAs. France intends to analyse in detail the authorisation process proposed in this article and submit comments at a later stage. HR

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): We have no strong concerns on the proposed changes in Article 9. Under HR legal framework entities managing IORP must be authorised and prudential assessment is part of the authorisation process. IE (Comments): IE – this may require a lead in time for Member States following transposition of the amending Directive to allow time for all existing schemes to be authorised. As the Commission is aware, while there has been a significant amount of scheme consolidation, Ireland still has a large number of IORPs, in comparison to other Member States, which would require authorisation.
The location of the main administration shall be the place where the main strategic decisions of an IORP are made.	
Member States shall require competent authorities to perform a prudential assessment as part of the authorisation of IORPs. The assessment shall take into account the nature, scale and complexity of the activities of the IORP concerned.	SK (Comments): In light of concerns of the National bank of Slovakia (NBS), questions arise as to whether the prudent assessment will be harmonised and applied consistently across Member States. The consideration of the nature, scale and complexity of the IORP´s activities appears overly general. GR (Drafting suggestions): ~~**Member States shall require competent authorities to perform a prudential assessment as part of the authorisation of IORPs. The assessment shall take into account the nature, scale and complexity of the activities of the IORP concerned.**~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The home Member State shall require every IORP for which authorisation is sought, at least the following: **a) To submit a scheme of operations in accordance with the following paragraph** **b) To show evidence that it will be in a position to hold redulatory own funds to cover the required solvency margin, going forward;** c) **to show evidence that it will be in a position to comply with the system of governance referred to in Chapter I, Title III;** GR (Comments): **EL**: Although we would support in principle COM's proposal, we strongly propose, for legal clarity, that the areas of the prudential assessment be included in the text of the article. PT (Comments): PT tends to support the reinforcement of prudential requirements for IORPs in line with what is proposed by the COM, specifically by previewing the conduction of an assessment and demanding the presentation of a business plan. DE (Drafting suggestions): Member States shall require competent authorities to perform a prudential assessment as part of the authorisation of IORPs. The assessment shall take into account the nature, scale and complexity of the activities of the IORP

PUBLIC

Commission proposal	Drafting suggestions and Comments
	concerned. **The prudential assessment is based on the information specified in paragraph 5.** DE (Comments): Requirement should be specified further on level 1: The authorisation requirements are key for the IORP II framework and of substantial economic importance. For this reason, the minimum information IORPs have to submit to the competent authority should be set out at level 1 in a separate paragraph rather than to leave the specification to EIOPA guidelines. Member States may stipulate further submission requirements to take national characteristics of their IORPs into account. Regarding information clusters, cf. the comments on the added paragraphs 4 to 6 below. ES (Comments): Regarding the prudential assessment, we are concerned about its scope, since in our system no prudential requirements are imposed on management companies. As for pension funds, in Spain the majority are DC schemes, and we believe that requiring such an assessment would not make sense.
IORPs seeking authorisation shall prepare and submit to the competent authority a business plan for all their planned activities, detailing the financial resources available to cover current and future operating costs. The business plan shall contain projections of at least three years of the IORP's income and expenses and a breakdown of the IORP's operational costs, including where relevant, the distribution and acquisition costs and any other elements to assist the competent authorities to assess compliance with the operating requirements.	BE (Drafting suggestions): "IORPs **referred to in Article 9a and** seeking authorisation shall prepare and submit to the competent authority a business plan for all their planned activities, detailing the financial resources available to cover current and future operating costs. The business plan shall contain projections of at least three years of the IORP's income and expenses and a breakdown of the IORP's operational costs, including where relevant, the distribution and

PUBLIC

Commission proposal	Drafting suggestions and Comments
	acquisition costs and any other elements to assist the competent authorities to assess compliance with the operating requirements." BE (Comments): This goes against the principle of burden reduction, as it leads to additional work for both the IORPs and the NCAs. Therefore, it is recommended that the obligation to submit such a business plan is limited to so-called "commercial" IORPs, being multi-sponsor IORPs where the employers do not have economic ties and does not apply to "traditional" IORPs, i.e. IORPs established by an employer (or a group of employers with economic ties) to manage the pension plans of its staff. GR (Drafting suggestions): IORPs seeking authorisation shall prepare and submit to the competent authority ~~**a business plan**~~ **a scheme of operations** for all their planned activities, detailing the financial resources available to cover current and future operating costs. The ~~**business plan**~~ **scheme of operations** shall contain**, at least,** projections of at least three years of the IORP's income and expenses and a breakdown of the IORP's operational costs, including where relevant, the distribution and acquisition costs and any other elements to assist the competent authorities to assess compliance with the operating requirements **and projections for the future needs of the required solvency margin**. GR (Comments): **EL**: We would propose to modify the name, from 'business plan', to 'scheme of operations', as IORPs do not engange in business activity.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	In addition, in order the NCA to be able to assess the solvency condition of the IORP, projections of required solvency margin should be also included. Last, the contents of the scheme of operations should be the mimimum ones and the member states should be able to include additional elements, according to national specificities. DE (Drafting suggestions): IORPs seeking authorisation shall prepare and submit to the competent authority a business plan for all their planned activities, detailing the financial resources available to cover current and future operating costs. The business plan shall contain projections of at least three years of the IORP's income and expenses and a breakdown of the IORP's operational costs, including where relevant, the distribution and acquisition costs and any other elements to assist the competent authorities to assess compliance with the operating requirements. **The business plan is based on the information specified in this subparagraph and in paragraph 6.** DE (Comments): Requirement should be specified further on level 1: cf. previous comment. ES (Comments): For the same reasons mentioned above, we do not see the need to require such an extended business plan to the pension fund within the authorization process.
The subsequent acceptance of one or more sponsoring undertakings shall not require the IORP to undergo a new authorisation procedure.';	GR (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The subsequent acceptance of one or more sponsoring undertakings shall not require the IORP to undergo a new authorisation procedure **of prudential nature.** **This is without prejudice to Member States legislation requiring the prior approval of each acceptance or prior authorization of subsequent acceptance of one or more sponsoring undertakings and laying down the conditions for authorization or approval or other requirements ';** GR (Comments): **EL**: It should be clarified that the authorization procedure referred to in this article is of prudential nature. Nevertheless, this should be without prejudice to national legislation to provide for the prior approval of each acceptance or prior authorization of subsequent acceptance of one or more sponsoring undertakings and laying down the conditions for authorization or approval or other requirements, other than of prudential nature. PT (Comments): PT supports this simplified approach, ensuring proportionality and avoiding overly complexifying the authorisation regime for IORPs.
(c) the following paragraph 1a is inserted:	DE (Drafting suggestions): (c) the following paragraph 1a is inserted:
'1a. Any decision to refuse an authorisation shall state full reasons and shall be notified to the IORP concerned.	DE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	'1a. Any decision to refuse an authorisation shall state full reasons and shall be notified to the IORP concerned. LU (Comments): LU: The text could benefit from a clarification that the six month deadline should run, only once a complete notification has been made.
Without prejudice to Article 48(9), each Member State shall make provision for a right of appeal to the courts where its competent authorities have not dealt with an application for an authorisation within six months of the date of its receipt.';	DE (Drafting suggestions): Without prejudice to Article 48(9), each Member State shall make provision for a right of appeal to the courts where its competent authorities have not dealt with an application for an authorisation within six months of the date of its receipt.'; (d) The following paragraphs 4 to 6 are added: '**(4) IORPs seeking authorisation shall be required to submit at least the following basic information to the competent authority:** **(a) […];** **(b) […];** **(c) […];** **[…].** **(5) For the purpose of the prudential assessment according to the third subparagraph of paragraph 1, IORPs seeking authorisation shall be required to submit at least the following information to the competent authority:** **(a) […];** **(b) […];**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(c) […]; **[…].** **(5) As part of the business plan according to the forth subparagraph of paragraph 1, IORPs seeking authorisation shall be required to submit at least the following additional information to the competent authority:** **(a) […];** **(b) […];** **(c) […];** **[…].';** DE (Comments): In the drafting suggestions, we propose to consider three clusters of information which could be detailed later: • basic information (which could include, for instance, the purpose and structure of the IORP, the region of business, the articles of association, company-law aspects as other parties' qualified holdings in the IORP); • information for the prudential assessment; • information for the business plan including information for the assessment of operating requirements (in particular, regarding

PUBLIC

Commission proposal	Drafting suggestions and Comments
	quantitative requirements and governance – Titel II and III of the Directive). IE (Comments): IE – the proposed six-month timeframe can only apply if MSs are provided with adequate lead in time for authorisation as per IE's comments on paragraph 1 above. IT (Comments): The six-month deadline for NCAs to deal with authorisation applications may give rise to practical issues, as it could conflict with the authorisation timelines established under our national procedural framework, which in certain cases provides for suspensive periods. LU (Drafting suggestions): Without prejudice to Article 48(9), each Member State shall make provision for a right of appeal to the courts where its competent authorities have not dealt with a~~n~~ a **complete** application for an authorisation within six months of the date of its receipt.';
(11) the following Article 9a is added:	
'Article 9a **Multi-sponsor IORPs**	
Member States shall ensure that IORPs are allowed to operate different pension schemes, including those with different investment policies, and to	BE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
accept sponsorship from multiple sponsoring undertakings within the same pension scheme.	Technical remark: this Article makes reference to "the first paragraph", but there is only one paragraph. NL (Comments): Scrutiny reservation, we refer to our comment regarding recitals 15/17. GR (Drafting suggestions): Member States shall ensure that IORPs are allowed to operate different pension schemes, including those with different investment policies~~**, and to accept sponsorship from multiple sponsoring undertakings within the same pension scheme**~~. GR (Comments): **EL**: Although we support COM's proposal for allowing IORPs to operate differenct pension schemes, we have great concerns for allowing many different sponsors to contribute to the same pension scheme. This provisions raises significant issues, especially about liability allocation and funding obligations. Since the financial strength of sponsors may differ significantly, when a sponsor becomes insolvent or stops contributing, the remaining sponsors may need to cover the gap. Furthermore, decision making becomes complex among multiple employers and potential conflicting interests would need to be addressed. Last, transfer of the assets and liabilities of specific sponsors to other IORPs are going to be impeted. Strong ring-fencing rules must apply, as well as strict record-keeping and reporting requirements per sponsor. Therefore, we propose the acceptance of one or more sponsors exclusively in separate pension schemes. PT

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): PT supports this possibility granted to IORPs, allowing for multi-sponsorship. SE (Comments): How does this affect smaller IORPs which were established for the sole purpose of managing the pensions of a specific company's employees? These are almost exclusively DB pension schemes with little flexibility. FR (Comments): **FR:** France supports this opening, including the flexibility proposed by the Commission, which does not prevent Member States from classifying certain organisations as falling under S2. HR (Comments): Could you please explain further what is meant by "different pension schemes"? Does this refer to the type of IORP (defined benefit, defined contribution) or other PPPs, if allowed by national law. SI (Comments): .
The first paragraph shall be without prejudice to a decision by a Member State to require that schemes with multiple sponsoring undertakings be operated under Directive 2009/138/EC.';	GR (Comments): **EL**: The intention of the proposal is not clear. DK

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): Denmark considers this possibility crucial, as it allows for e.g. existing national decisions to regulate multi-sponsor entities under other regulatory frameworks. SI (Comments): We believe that the provision of the second paragraph is unclear, as it is not evident whether it is an option or an obligation for the member state. IT (Comments): This provision, at the moment, is not clear enough. A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system. MT (Comments): The second paragraph of Article 9a provides that Member States may allow schemes with multiple sponsoring undertakings to be operated under Directive 2009/138/EC. It is unclear whether the said entity would then be required to comply with IORP II and the Solvency II Directive requirements, especially in light of Article 4 of the IORP II which allows Member States to apply any provisions of the IORP II Directive to such schemes has been removed.
(12) Article 10 is amended as follows:	
(a) in paragraph 1, the following point (c) is added:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'(c) the IORP has sufficient financial resources to cover its current and future operating costs.';	BE (Drafting suggestions): *"(c) the IORP has sufficient financial resources to cover its current and future operating costs* ***with due consideration of the liabilities that are underwritten or guarantees given by the IORP itself, and not the sponsoring undertaking, as referred to in Art. 15.1****"* BE (Comments): What does "financial resources" mean: reserves or also future contributions to cover the expenses? We suppose this provision should be limited to IORPs that fall under Art. 15.1 GR (Comments): **EL**: We see merits in COM's proposal. FR (Comments): **FR: Can the Commission clarify the reason for adding a third verification requirement for IORPs?** Does this correspond to difficulties that have been explicitly encountered? The Commission does not appear to have provided any explanation on this point in the body of its proposal. HR (Comments): We can agree with the proposal. IE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): IE – Ireland is of the view that this provision is potentially very broad having regard to the intent and meaning of 'future operating costs'
(b) the following paragraph 3 is added:	
'3. EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the prudential assessment to be carried out as part of the authorisation of IORPs, as well as on the requirements laid down in Titles II and III.';	SK (Comments): Based on the comment of the NBS, we note that there appears to be no clear need for issuing guidelines in this area, given that the entities concerned are not subject to harmonised requirements regarding their operation or authorisation across the EU. This may give rise to potential conflicts between the guidelines and national legal frameworks, potentially undermining their practical applicability. BE (Comments): In the context of burden reduction it is essential to avoid additional layers of rules and regulations. This mandate for EIOPA should therefore be deleted. NL (Drafting suggestions): ~~EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the prudential assessment to be carried out as part of the authorisation of IORPs, as well as on the requirements laid down in Titles II and III.';~~ NL (Comments): We are hesitant regarding the proposed EIOPA guidelines. When IORPs are authorised, NCAs should make sure that they comply with the relevant EU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	acquis (this could perhaps be made more explicit in the text) as well as possible national requirements. Guidelines, although non-binding, could cause conflict with national legislation and raise questions about what happens when national legislation is e.g. stricter than the EIOPA guidelines. We therefore feel that EIOPA guidelines are not suitable in this context. GR (Drafting suggestions): ~~'3. EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the prudential assessment to be carried out as part of the authorisation of IORPs, as well as on the requirements laid down in Titles II and III.';~~ GR (Comments): **EL**: We have concerns that this mandate will cause legal uncertainty. The provisions of level 1 are adequately clear. DE (Drafting suggestions): '3. ~~EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the prudential assessment to be carried out as part of the authorisation of IORPs, as well as on the requirements laid down in Titles II and III.';~~ DE (Comments): Cf. comments on Article 9: The minimum information IORPs have to submit to the competent authority should be set out at level 1. SE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Why is the increased mandate to EIOPA necessary? FR (Comments): FR: Could the Commission clarify the need for EIOPA to publish guidelines on Titles I and II as well, as a "shall" provision is used. What is the intention of the Commission in that regard? HR (Comments): We can agree with the proposal. FI (Comments): The possibility for EIOPA to issue guidelines on solvency requirements, etc., must be carefully considered. EIOPA does not recognise differences in the systems of different countries and could require matters that are not at all suitable for different coutries. EIOPA considers that IORP pensions would be consumer products. However, the Consumer protection Act does not apply to group pensions in Finnish national legislation, which also include supplementary pensions. IT (Comments): The proposal provides that numerous regulatory aspects should be defined at EU level, thereby risking an override of the current minimum-harmonisation approach of the Directive — an approach that is necessary to maintain in order to take into account the heterogeneity of supplementary pension systems (and of the overall national pension systems) and the corresponding diversity in supervisory frameworks.

Commission proposal	Drafting suggestions and Comments
	The proposal provides a broad role for EIOPA in developing guidelines and technical standards, with significant implications for supervisory methodologies, which may no longer be able to properly account for the specific features of pension funds in individual Member States. This includes the provision of this paragraph 3. LU (Drafting suggestions): ~~3. EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the prudential assessment to be carried out as part of the authorisation of IORPs, as well as on the requirements laid down in Titles II and III.~~'; LU (Comments): LU: Bearing in mind the simplification agenda, LU does not see merit in introducing these new guidelines.
(13) Article 11 is amended as follows:	SK (Comments): We do not see any added value in the proposed amendments. Based on preliminary analysis it is unclear whether the changes to provisions on cross-border activity will streamline processes or reduce administrative burdens for IORPs. We are also uncertain whether these amendments address the actual obstacles previously identified for cross-border developmeent, or whether the underlying issues lie elsewhere rather than in the processes themselves. HR (Comments): We can agree with the proposal.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IT (Comments): We will need to further assess the compatibility of the shortened timelines envisaged in the proposal with the procedural timelines established under our national framework. Furthermore, we believe that the NCA of the host MS should have a more prominent role and should have the powers to interact directly with the cross-border IORP. This interaction is crucial in order to check the compliance with the national social and labour rules and the domestic information requirements.
(a) paragraph 2 is deleted;	
(b) paragraphs 3 and 4 are replaced by the following:	
'3. Home Member States shall ensure than an IORP notifies its intention to carry out cross-border activity to its competent authority.	BE (Comments): With a view to further reducing the administrative burden, we propose to simplify the notification procedure even further by stipulating that, after completing the initial notification procedure, only a notification is required (without the exchange of information and the subsequent procedure) if the additional activity relates to the same type of pension scheme (as in the initial notification) or if it merely concerns additional sponsors for an existing pension scheme. PT (Comments): PT supports replacing the obligation to seek authorisation with a notification of intention, as envisioned by the COM.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	FR (Comments): **FR:** To develop cross-border activity, one of the points mentioned by EIOPA was the simplification of the cross-border activity notification procedure, moving primarily from a notification of intent to a notification of activity. The Commission did not make this choice, retaining the obligation for IORPs to notify their intention to undertake cross-border activity. While France does not yet have a definitive opinion on the matter—particularly given that the current version allows NCAs to anticipate arrival in a Member State—, **can the Commission clarify why it has not included this option in the amendments made to Article 11?** France is currently conducting a more detailed analysis of the additions proposed in this article. Overall, France supports elaboration of rules towards simplification, as explained in recital 18. IE (Comments): IE is unclear as to the rationale for revision to place obligation on MS to ensure that IORPs notify of intention to carry out cross-border activity as existing text (which places obligation to notify on the IORPs) appears clearer.
Member States shall require IORPs to provide the following information in effecting the notification:	
(a) the name of the host Member State(s), which shall, where applicable, be identified by the sponsoring undertaking or undertakings;	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(b) the name and the location of the main administration of the sponsoring undertaking(s);	
(c) the main characteristics of the pension scheme or schemes to be operated for the sponsoring undertaking(s).	
4. Member States shall ensure that a competent authority of the home Member State that is notified under paragraph 3 and has not issued a reasoned decision that the administrative structure or the financial situation of the IORP or the good repute or professional qualifications or experience of the persons running the IORP are not compatible with the proposed cross-border activities, communicates the information referred to in paragraph 3 to the competent authority of the host Member State within two months of receiving that information. Member States shall ensure that the competent authority of the host Member State acknowledges receipt of that information without delay. Member States shall ensure that the competent authority of the home Member State informs the IORP in writing that the information has been received by the competent authority of the host Member State.	GR (Drafting suggestions): ….. the proposed cross-border activities, communicates the information referred to in paragraph 3 to the competent authority of the host Member State within **three** ~~**two**~~ months of receiving that information. Member States shall ensure that the competent authority of the host Member State acknowledges…. GR (Comments): **EL**: We have concerns for the shortening of the time limit. We strongly propose this to remain unchanged. LU (Drafting suggestions): 4. Member States shall ensure that **~~a~~ the** competent authority of the home Member State that is notified under paragraph 3 and has not issued a reasoned decision that the administrative structure or the financial situation of the IORP or the good repute or professional qualifications or experience of the persons running the IORP are not compatible with the proposed cross-border activities, communicates the information referred to in paragraph 3 to the competent authority of the host Member State within two months of receiving that information. Member States shall ensure that the competent authority of the host Member State acknowledges receipt of that information without delay. Member States shall ensure that the competent authority of the

PUBLIC

Commission proposal	Drafting suggestions and Comments
	home Member State informs the IORP in writing that the information has been received by the competent authority of the host Member State. LU (Comments): LU: it shall be made clear that the licensing competent authority of the home Member State is notified, not any competent authority. MT (Comments): Malta notes that the first sentence of paragraph (4) is quite lengthy and suggests that this is reworded to clarify the requirement.
Member States shall ensure that the competent authority of the home Member State issues the reasoned decision referred to in the first subparagraph within one month of receiving all the information referred to in paragraph 3.’;	NL (Drafting suggestions): Member States shall ensure that the competent authority of the home Member State issues the reasoned decision referred to in the first subparagraph within ~~one month~~ **three months** of receiving all the information referred to in paragraph 3.’; NL (Comments): Proposal to keep the current time period of three months, as one month is too short. GR (Drafting suggestions): Member States shall ensure that the competent authority of the home Member State issues the reasoned decision referred to in the first subparagraph within **three** ~~**one**~~ month of receiving all the information referred to in paragraph 3.’;

PUBLIC

Commission proposal	Drafting suggestions and Comments
	GR (Comments): **EL**: We have concerns regarding the shortening of the three-months deadline. The deadline cannot commence before the IORP concerned has submitted the complete file with all the necessary supporting documents. IE (Comments): IE is of the view that a one-month period for issuing a reasoned decision may be too short considering the current 3-month period.
(c) paragraphs 6 and 7 are replaced by the following:	
'6. IORPs carrying out cross-border activity shall be subject to the information requirements referred to in Title IV imposed by the host Member State in respect of the prospective members, members and beneficiaries which that cross-border activity concerns, with the exception of the Pension Benefit Statement referred to in Article 38, which shall be subject to harmonised Union rules in accordance with paragraph 6 of that Article.	BE (Comments): Given the level playing field between insurers and IORPs, we believe that the format of the PBS cannot be determined by EIOPA. First, both institutions must be subject to the same obligations and, more importantly, plan members whose pension plans are managed by an IORP must receive the same comparable information as those whose pension plans are managed by an insurer. In view of this, Member States need the power to lay down their own rules on the format of the PBS. NL (Comments): See also comments on article 38(6) GR (Comments): **EL**: We support the COM proposal.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IT (Comments): In Italy, disclosure rules are central, as members are called to make numerous decisions throughout their participation. For this reason, the national regulatory framework seeks to promote comparability between IORPs and domestic individual pension products. The harmonisation of the PBS does not appear beneficial, as it risks failing to take into account elements that — due to the characteristics of the national system — would instead need to be specifically represented. On this regard it is important to consider the limited need of comparability of the IORPs at international level, as IORPs are company/sectorial domestic pension products, are not subject to a harmonized framework and passporting regime (unlike other financial products). It would be preferable to preserve the power of Member States to lay down detailed rules in this area, while allowing EU legislation to establish minimum-harmonisation criteria.
7. Before the IORP starts to carry out a cross-border activity, the competent authority of the host Member State shall, within one month after having received the information referred to in paragraph 3, prepare for the supervision of the relevant cross-border activities. That preparation shall relate to the requirements of social and labour law that are relevant to the field of occupational pension schemes under which the pension scheme sponsored by an undertaking in the host Member State must be operated and of the information requirements of the host Member State referred to in Title IV which shall apply to the cross-border activity. In addition, the competent authority of the host Member State shall through the means referred to in	NL (Drafting suggestions): Before the IORP starts to carry out a cross-border activity, the competent authority of the host Member State shall, within ~~one month~~ **six weeks** after having received the information referred to in paragraph 3, prepare for the supervision of the relevant cross-border activities. That preparation shall relate to the requirements of social and labour law that are relevant to the field of occupational pension schemes under which the pension scheme sponsored by an undertaking in the host Member State must be operated and

Commission proposal	Drafting suggestions and Comments
Article 59(3) and (4), communicate to the competent authority of the home Member State the legal provisions referred to in Article 59(1) which are applicable in its territory. The competent authority of the home Member State shall immediately communicate that information to the IORP.’;	of the information requirements of the host Member State referred to in Title IV which shall apply to the cross-border activity. In addition, the competent authority of the host Member State shall through the means referred to in Article 59(3) and (4), communicate to the competent authority of the home Member State the legal provisions referred to in Article 59(1) which are applicable in its territory. The competent authority of the home Member State shall immediately communicate that information to the IORP.’; NL (Comments): Proposal to keep the current time period of six weeks, as one month is too short. GR (Drafting suggestions): 7. Before the IORP starts to carry out a cross-border activity, the competent authority of the host Member State shall, ~~**within one month after having received the information referred to in paragraph 3, prepare for the supervision of the relevant cross-border activities. That preparation shall relate to**~~ **identify those legal provisions referred to in Article 59(1)** ~~**the requirements of social and labour law**~~ that are relevant to the field of occupational pension schemes under which the pension scheme sponsored by an undertaking in the host Member State must be operated ~~**and of**~~ **as well as** the information requirements of the host Member State referred to in Title IV which shall apply to the cross-border activity**.** ~~**In addition, the competent authority of the host Member State shall through the means referred to in Article 59(3) and (4)**~~ **Within 6 weeks of receiveing the information referred to in para. 3**, **the competent authority of the host Member State shall** communicate **them** to the competent authority of the home Member State **through the means referred to in Article 59(3) and (4).** ~~**the legal provisions referred to in Article 59(1) which are applicable**~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~**in its territory**~~. The competent authority of the home Member State shall immediately communicate that information to the IORP.'; GR (Comments): **EL**: We have serious concerns regarding the shortening of the six-week deadline and about the overall maximalistic stipulation of this provision. We consider it unnecessary. SE (Comments): The meaning of preparing supervision is unclear, resulting in ambiguity regarding the obligations incumbent upon the host Member State and how these differ from the current regulatory framework, which stipulates that the occupational pension institution shall be subject to ongoing supervision LU (Comments): The terms "preparation" and being ready to "prepare for the supervision of relevant cross-border activity" are unusual and yet not seen in the context of a financial services texts. From a prudential point of view, the host supervisory authority should, at this stage of the procedure and as of matter of fact, already be in a position to know its own local requirements with regards to social and labour law to supervise incoming cross-border IORPs activity. How can the host supervisor initially communicate all necessary local information to the home supervisor—or later identify any breach of local social and labor laws that the IORP must comply with in the host Member State—if the host supervisor first has to prepare himself? We suggest to revert back to the initial wording, but keep the one month deadline to streamline the process.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(d) the following paragraph 9a is inserted:	
'9a. Member States shall ensure that all procedures and formalities relating to cross-border activities and procedures can be easily completed through electronic means.';	PT (Comments): PT supports this provision, leveraging streamlined and digitised processes. LU (Drafting suggestions): ~~9a. Member States shall ensure that all procedures and formalities relating to cross-border activities and procedures can be easily completed through electronic means.~~[2]; LU (Comments): LU: the existing text does not prevent MS to make full use of electronic means and applications to ensure all procedures relating to cross-border activities can be completed. Legislation should remain technological neutral.
(e) paragraph 10 is replaced by the following:	
'10. The competent authority of the host Member State that has reasons to consider that an IORP which conducts activities in its territory is not complying with the host Member State's requirements of social and labour law relevant to the field of occupational pension schemes shall inform the competent authority of the home Member State thereof immediately.	FR (Comments): **FR:** France supports this addition in principle, as it should strengthen the protection of policyholders in the case of cross-border activities and breaches of Union or national law. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The proposed revised text will, in effect, remove the explicit requirement on CAs of host MS to supervise compliance with the host MS's requirement of social and labour law. IE would welcome further discussion on the rationale for this proposed change. IT (Comments): We note that there is an inconsistency in this paragraph 10 as it refers solely to compliance with the host Member State's social and labour law requirements, but does not include compliance with the information requirements of the host Member State referred to in Title IV which shall apply to the cross-border activity.
The competent authority of the home Member State shall, in coordination with the competent authority of the host Member State, take the necessary measures to ensure that the IORP ends the detected breach.'; (f) in paragraph 11, the following subparagraphs are added:	
'Member States shall ensure that in their territories it is possible to serve the legal documents necessary for such measures on IORPs.	BE (Comments): What does "to serve the legal documents" mean? Should a specific legal procedure be provided for in order to formally notify these measures? GR (Drafting suggestions): ~~**'Member States shall ensure that in their territories it is possible to serve the legal documents necessary for such measures on IORPs.**~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	GR (Comments): **EL**: This proposed provision goes far beyond the scope of this Directive. We would propose to delete it. LU (Comments): LU: it is unclear to us what this sentence intends to achieve. Who should serve which documents to whom?
In addition, the competent authority of the home or the host Member State may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.’;	MT (Comments): Clarification is sought as to the new amendments proposed, as Malta could not identify any changes to the text.
(g) the following paragraphs 12 and 13 are added:	
‘12. Paragraphs 10 and 11 are without prejudice to the power of host Member States to take appropriate and non-discriminatory emergency measures to prevent or penalise irregularities within their territory, in situations where immediate action is strictly necessary in order to prevent the rights of members and beneficiaries, and where equivalent measures of the home Member States are inadequate or lacking. That power shall include the possibility of preventing IORPs, insofar as is strictly necessary, from operating in the host Member State for the sponsoring undertaking.	GR (Comments): **EL**: We fully support the COM’s proposal as we see a lot of merit in it. FR (Comments): **FR:** France supports this addition in principle, as it should strengthen the protection of policyholders in the case of cross-border activities and breaches of Union or national law. The logic of subsidiarity with the home Member State, as proposed by the Commission, appears to be the right approach. LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~12. Paragraphs 10 and 11 are without prejudice to the power of host Member States to take appropriate and non-discriminatory emergency measures to prevent or penalise irregularities within their territory, in situations where immediate action is strictly necessary in order to prevent the rights of members and beneficiaries, and where equivalent measures of the home Member States are inadequate or lacking. That power shall include the possibility of preventing IORPs, insofar as is strictly necessary, from operating in the host Member State for the sponsoring undertaking.~~ LU (Comments): LU: There is currently no strong rationale to expand the current intervention toolbox, in particular considering that this creates an imbalance in terms of home—host supervisory powers. According to the existing paragraph 11, host supervisors are already empowered to take appropriate measures, including preventing the IORP to exercise in the host MS, in case the home supervisor fails to act adequately after being informed by the host supervisor of breaches in relation to social and labour law, as well as to national information requirements to members and beneficiaries. In addition, Article 11, new subparagraph 3, allows host supervisor to refer any matter to EIOPA in its mediation role.
13. Any measure adopted under paragraphs 10 to 13 involving restrictions on the activities of IORPs shall be properly reasoned and communicated to the IORP concerned without undue delay. The competent authority of the host Member State that adopts such measure shall also communicate the measure to the competent authority of the home Member State, and in the context of paragraph 11, third subparagraph, to EIOPA.’;	BE (Comments): Competent authority is defined as a national authority designated to carry out the duties provided for in this Directive Given that the measures imposed on the basis of Articles 10 to 13 will often be the result of breaches of SLL, we would like to point out that in some Member States, the competent authority responsible for prudential supervision under this Directive is not always the authority responsible for

PUBLIC

Commission proposal	Drafting suggestions and Comments
	social supervision. This implies that EIOPA will often also not be competent. This should be clarified. PT (Drafting suggestions): "13. Any measure adopted under paragraphs 10 to **12~~13~~** involving (…)" PT (Comments): PT suggests a minor correction. IE (Drafting suggestions): IE - "Any measure adopted under paragraphs 10 to ~~13~~ 12 involving……." LU (Drafting suggestions): 13. Any measure adopted under paragraphs **10 and 11** ~~10 to 13~~ involving restrictions on the activities of IORPs shall be properly reasoned and communicated to the IORP concerned without undue delay. The competent authority of the host Member State that adopts such measure shall also communicate the measure to the competent authority of the home Member State, and in the context of paragraph 11, third subparagraph, to EIOPA.' LU (Comments): LU: changes as a result of our comment made above on paragraph 12.
(14) the following Article 11a is inserted:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 11a **Changes in the information notified**	
1. Member States shall ensure that in the event of a change in any of the particulars communicated under Article 11(3), points (b) or (c), an IORP gives written notice of the change to the competent authorities of the home and the host Member States at least one month before making the change in order to enable the competent authorities of the home and the host Member States to fulfil their respective obligations under Article 11.	BE (Drafting suggestions): "*Member States shall ensure that in the event of a change in any of the particulars communicated under Article 11(3), points (b) or (c), an IORP gives written notice of the change to the competent* ***~~authorities~~ authority*** *of the home* ***~~and the host~~*** *Member State****~~s~~*** *at least one month before making the change in order to enable the competent* ***~~authorities~~ authority*** *of the home* ***~~and the host~~*** *Member State****~~s~~*** *to fulfil* ***its ~~their respective~~*** *obligations under Article 11.* ***The competent authority of the home Member State shall communicate that information to the competent authority of the host Member State****."* BE (Comments): This goes against the principle of burden reduction, as it leads to additional work for the IORP. In principle, all notifications are made to the competent authority of the home Member State. It is therefore not logical to do this notification to both the competent authority of the home Member State and the host Member State. We propose that the host NCA be informed by the home NCA. HR (Comments): We can agree with the proposal. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE is of the view that a one-month period may be too short to enable both the home and host MS to fulfil their obligations – suggest retaining the current 3-month period. LU (Drafting suggestions): 1. Member States shall ensure that in the event of a change in any of the particulars communicated under Article 11(3), points (b) or (c), an IORP gives written notice of the change to the competent authorities of the home, **which inform** ~~**and**~~ the host Member States at least one month before ~~**making**~~ the change in order to enable the competent authorities of ~~**the home and**~~ the host Member States to fulfil their respective obligations under Article 11. LU (Comments): LU: In order to facilitate the communication process, we suggest that the IORP only informs the Home authority, which in turn then informs the concerned host authorities.
2. Member States shall ensure that where members and beneficiaries fully bear the investment risk, the notification of one or more additional sponsoring undertakings to a previously notified pension scheme, or of non-material amendments to the characteristics of that scheme, is subject to a simplified notification procedure.’;	BE (Drafting suggestions): *“Member States shall ensure that* ~~***where members and beneficiaries fully bear the investment risk,***~~ *the notification of one or more additional sponsoring undertakings to a previously notified pension scheme, or of non-material amendments to the characteristics of that scheme, is subject to a simplified notification procedure.”* BE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	This seems not coherent with Article 9 relating to the authorisation procedure that provides the following: "*The subsequent acceptance of one or more sponsoring undertakings shall not require the IORP to undergo a new authorisation procedure.*" This article does in fact not distinguish between the fact that members and beneficiaries fully bear the investment risk or not. We propose to do the same here. With a view to further reducing the administrative burden, we propose to simplify the notification procedure even further by stipulating that, after completing the initial notification procedure, only a notification is required (without the exchange of information and the subsequent procedure) for all additional activities relating to the same type of pension scheme (as in the initially notified scheme) or if it merely concerns additional sponsors to a previously notified pension scheme. The '*simplified notification procedure*' should be clarified. GR (Drafting suggestions): ~~**2. Member States shall ensure that where members and beneficiaries fully bear the investment risk, the notification of one or more additional sponsoring undertakings to a previously notified pension scheme, or of non-material amendments to the characteristics of that scheme, is subject to a simplified notification procedure.';**~~ GR (Comments): **EL**: We would like further clarifications as to the rationale of this provision and further explanation as to how the COM envisages the simplified notification procedure and as to how non-material amendments are perceived.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Last, we have strong concerns about allowing more than one sponsor to contribute to a pension scheme. These concerns relate to liability allocation and funding obligations. Since the financial strength of sponsors may differ significantly, when a sponsor becomes insolvent or stops contributing, the remaining sponsors may need to cover the gap. Furthermore, decision making becomes complex among multiple employers and potential conflicting interests would need to be addressed. Last, transfer of the assets and liabilities of specific sponsors to other IORPs are going to be impeted. Strong ring-fencing rules must apply, as well as strict record-keeping and reporting requirements per sponsor. Therefore we propose the acceptance of one or more sponsors exclusively in separate pension schemes. BG (Comments): BG: How should be assessed of non-materiality of amendments to the characteristics of the occupational scheme and what aspects of the procedure should be simplified? HR (Comments): We can agree with the proposal. MT (Comments): Clarification is sought as to the interpretation of “a simplified notification procedure” in sub-article 2 of Article 11a when it comes to the notification of a previously notified pension scheme or of non-material amendments to the characteristics of that scheme.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(15) Article 12 is amended as follows:	FR (Comments): FR: France is currently analysing the changes proposed for Article 12 and the new provisions of Article 12a and plans to submit comments on a later stage – as well as on recital 20.
(a) the following paragraph 2a is inserted:	
'2a. Member States shall ensure that the transferring IORP makes available to the members and beneficiaries concerned and, where applicable, to their representatives, the information on the conditions of the transfer in a timely manner and before the application referred to in paragraph 4 is submitted.';	BE (Comments): What is meant by "*representatives*"? The works council, trade unions, etc.? It would be best to provide a clear definition of this to avoid each Member State interpreting it differently. Proposed definition: "*'employee representative' means a representative of a representative employee organisation that is authorised to represent employees, such as a trade union or a works council*." GR (Comments): **EL**: We support the COM proposal. HR (Comments): We would propose to define/specify "in timely manner", especially taking into account a deadline in point b). It should be at least two months before the application referred to in paragraph 4 is submitted.
(b) paragraph 3 is replaced by the following:	SE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): This provision may also be applicable for domestic transfers according to Art. 12a. In accordance with current regulation, the "majority" should be defined in accordance with national law, especially in purely domestic situations. In cross-border situations, the law of the home Member States should be decisive.
'3. The cross-border transfer shall be subject to prior approval by:	
(a) a simple majority of the members and beneficiaries concerned, or where applicable, a simple majority of their representatives; and	GR (Drafting suggestions): ~~**(a) a simple majority of the members and beneficiaries concerned, or where applicable, a simple majority of their representatives; and**~~ **(a) a majority of members and a majority of the beneficiaries concerned or, where applicable, by a majority of their representatives. The majority shall be defined in the statute of the pension scheme. The information on the conditions of the transfer shall be made available to the members and beneficiaries concerned and, where applicable, to their representatives, in a timely manner by the transferring IORP before the application referred to in paragraph 4 is submitted; and** GR (Comments): **EL**: We have concerns on the COM's proposal. First, social partners should determine voting modalities. Last, we do not support the deletion of the phrase "*The information on the conditions of the transfer shall be made available to the members and beneficiaries concerned and, where applicable, to their representatives, in a timely manner by the transferring IORP before the application referred to in*

PUBLIC

Commission proposal	Drafting suggestions and Comments
	paragraph 4 is submitted". Members' and beneficiaries' decision should be based on information provided by the IORP. AT (Drafting suggestions): a simple majority of the members and a simple majority of the beneficiaries concerned, or where applicable, a simple majority of their representatives; and AT (Comments): To protect the interests of the beneficiaries a "double majority" should apply. For active members, it is easier to form majorities than for beneficiaries. Therefore, it should be avoided that the active members outvote the beneficiaries. DE (Drafting suggestions): (a) **without prejudice to the articles of association of the IORP,** a simple majority of the members and beneficiaries concerned, or where applicable, a simple majority of their representatives; and DE (Comments): The rules laid down in the articles of association of the IORP must have priority. Moreover, it would not be appropriate to hinder members/beneficiaries or their representatives to fix a higher required majority in the articles of association.
(b) the sponsoring undertaking, where applicable.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
For the purposes of the first subparagraph, point (a), the simple majority shall be calculated based on the received responses.	BE (Comments): We can conclude from this that an implicit agreement is no longer posible. This shall not necessarily facilitate cross-border transfers. GR (Drafting suggestions): ~~**For the purposes of the first subparagraph, point (a), the simple majority shall be calculated based on the received responses.**~~ GR (Comments): **EL**: We do not support the COM proposal. The calculation of the majority should be determined by social partners. AT (Drafting suggestions): For the purposes of the first subparagraph, point (a), the simple majority shall be calculated based on the received responses provided that all members and beneficiaries have been duly informed of this basis of calculating the majority. AT (Comments): Until now, Member States have been able to specify the determination of the majority required for decisions. If this leeway is removed, harmonization should ensure that any member or beneficiary not participating in the vote is informed of the consequences of such voting behaviour, at least those that are not obvious.

PUBLIC

Commission proposal	Drafting suggestions and Comments
Member States may provide that, for a transfer to be approved, a participation threshold of up to 25 % of the members and beneficiaries concerned shall be reached.'; (c) in paragraph 11, the second subparagraph is replaced by the following: 'Where the transfer results in a cross-border activity, the competent authority of the home Member State of the transferring IORP shall also inform the competent authority of the home Member State of the receiving IORP of the requirements of social and labour law relevant to the field of occupational pension schemes under which the pension scheme must be operated and of the information requirements of the host Member State referred to in Title IV	GR (Drafting suggestions): ~~**Member States may provide that, for a transfer to be approved, a participation threshold of up to 25 % of the members and beneficiaries concerned shall be reached.'**~~ GR (Comments): **EL**: We do not support the COM proposal. The calculation of the majority should be determined by social partners. IT (Comments): We will need to assess the compatibility of the proposed thresholds and majority requirements with the national legal framework, as the applicable approval rules vary depending on the legal nature of the IORP. Further analysis is therefore required. BG (Comments): BG: Is there indeed a change in Art. 12 (11) – the new text seems identical with the replaced text? IE (Comments): IE – This appears to be the same text as the as current second subparagraph of Article 11 of the IORP II Directive so it is unclear what is being replaced.

PUBLIC

Commission proposal	Drafting suggestions and Comments
which shall apply to the cross-border activity. This shall be communicated within a further four weeks.’;	
(16) the following Article 12a is inserted:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 12a **Domestic transfers**	SK (Comments): We wish to highlight that partial transfers of a pension scheme might be problematic. In this regard, greater legal clatity would be needed as to the scope of the term "*members and beneficiaries concerned*", in particular, whether it covers only those transferred to another pension scheme, those remaining in the original scheme, or also those affected by the transfer of part of the scheme´s assets or liabilities. The size of this group may be interpreted differently, which could give rise to practical implementation challenges, especially in Member States where pensions schemes comprise several hundred thousand members. DE (Drafting suggestions): ~~*'Article 12a*~~ ~~**Domestic transfers**~~ DE (Comments): We do not see neither need nor justification to include these requirements in a EU Directive. HR (Comments): We can accept the proposed provisions.
Member States shall ensure that transfers between IORPs authorised within the same Member State of all or a part of a pension scheme's liabilities, technical provisions, and other obligations and rights, and corresponding	BE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
assets or cash equivalent thereof, are governed by simple and transparent procedures that ensure the protection of members and beneficiaries and the continued sound management of the pension schemes concerned.	We propose deleting the article on domestic transfers for the following reasons: - This goes against the principle of burden reduction, as it leads to additional work for both the IORPs and the NCAs. - This procedure is provided for transfers "in the broadest sense". (all or a part of a pension scheme's liabilities, technical provisions, and other obligations and rights, and corresponding assets or cash equivalent thereof). This means that it also applies to personal pension products, for example. - This complicates the goal of scaling up, as it will be more difficult for small IORPs to transfer to a larger structure. - This goes against the level playing field between IORPs and insurers.: this obligation applies only BETWEEN IORPs and not to transfers to an insurer or between insurers. DE (Drafting suggestions): ~~Member States shall ensure that transfers between IORPs authorised within the same Member State of all or a part of a pension scheme's liabilities, technical provisions, and other obligations and rights, and corresponding assets or cash equivalent thereof, are governed by simple and transparent procedures that ensure the protection of members and beneficiaries and the continued sound management of the pension schemes concerned.~~ FR (Comments): FR: No comments at this stage – under analysis, especially regarding consequences on existing national provisions. IE (Comments):

Commission proposal	Drafting suggestions and Comments
	IE would welcome further clarity and discussion on this proposed amendment. As drafted it would appear to require national competent authority approval where only one member of a scheme wishes to transfer assets. This will place an onerous burden on competent authorities and cuts across the stated aim of facilitating the consolidation of IORPs.
Such transfers shall be subject to prior approval by the competent authority, which shall verify at least all of the following:	AT (Comments): In case of domestic transfers, there is no need for prior approval by the competent authority. A domestic transfer means that both entities are supervised. If there are concerns regarding the receiving institution, these are already part of the regular supervision. DE (Drafting suggestions): ~~Such transfers shall be subject to prior approval by the competent authority, which shall verify at least all of the following:~~ IE (Comments): IE – See above comments
(a) that the information submitted is complete and accurate;	DE (Drafting suggestions): ~~(a) that the information submitted is complete~~ and accurate; IE (Comments): IE – See above comments
(b) that the administrative structure, financial situation, and the good repute or professional qualifications and experience of the persons who	DE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
effectively run the IORPs concerned are compatible with the proposed transfer;	~~(b) that the administrative structure, financial situation, and the good repute or professional qualifications and experience of the persons who effectively run the IORPs concerned are compatible with the proposed transfer;~~ IE (Comments): IE – See above comments
(c) that the long-term interests of members and beneficiaries are adequately protected;	DE (Drafting suggestions): ~~(c) that the long-term interests of members and~~ beneficiaries ~~are adequately protected;~~ IE (Comments): IE – See above comments
(d) that the assets to be transferred are sufficient and appropriate to cover the related liabilities, technical provisions, and other obligations and rights.	DE (Drafting suggestions): ~~(d) that the assets to be transferred are sufficient and appropriate to cover the related liabilities, technical provisions, and other obligations and rights.~~ SE (Comments): See comments on Article 12(3). IE (Comments): IE – See above comments

PUBLIC

Commission proposal	Drafting suggestions and Comments
Where a Member State makes domestic transfers subject to the prior approval of the members and beneficiaries concerned, the approval procedure shall not be more stringent than the procedure set out in Article 12(3).'; (17) in Article 13, paragraphs 1 and 2 are replaced by the following:	BE (Comments): The EU cannot impose that the rules for domestic transfers cannot be stricter than those for cross-border transfers. The opposite would be logical in the context of free movement. NL (Comments): In NL a domestic collective transfer does not require approval from members and beneficiaries concerned to be able to proceed. However, individual members and beneficiaries have the right to object to the transfer of their individual accrued rights. If they object, their individual accrued rights will not be part of the transfer while the collective transfer does take place. Newly accrued pension rights of these members will be part of the transfer. As we understand the provision, this process does not qualify as more stringent than the procedure set out in Article 12(3). We will analyse further to make sure this is the case. DE (Drafting suggestions): ~~Where a Member State makes domestic transfers subject to the prior approval of the members and~~ beneficiaries ~~concerned, the approval procedure shall not be more stringent than the procedure set out in Article 12(3).';~~ IE (Comments): IE – See above comments FR

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): **FR:** No comments. Support in principle.
'1. The home Member State shall ensure that IORPs operating pension schemes establish at all times in respect of the total range of their occupational pension schemes and, where permitted under national law, of personal pension schemes distributed through IORPs, an adequate amount of liabilities corresponding to the financial commitments which arise out of their portfolio of existing pension contracts.	SI (Drafting suggestions): The home Member State shall ensure that IORPs operating pension schemes establish at all times in respect of the total range of their occupational pension schemes and, where permitted under national law, of personal pension schemes ~~distributed~~ **managed** through IORPs, an adequate amount of liabilities corresponding to the financial commitments which arise out of their portfolio of existing pension contracts. SI (Comments): We suggest that in the new first paragraph the term "distributed" be replaced with "managed." Individual pension schemes of a pension company not only offer them but also manage them, which includes managing assets and liabilities, administrative services related to running individual pension schemes, and other services associated with managing individual schemes.
2. The home Member State shall ensure that IORPs operating pension schemes, where they provide cover against biometric risks or guarantee either an investment performance or a given level of benefits, establish sufficient technical provisions in respect of the total range of such schemes.';	
(18) Article 14 is amended as follows:	
(a) paragraph 2 is amended as follows:	
(i) in the first subparagraph, the introductory wording is replaced by the following:	LU (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU has chosen not to make use of this MS option, taking into account that temporarily underfunding pension liabilities would not align with sound prudential principles and could risk undermining confidence in capital-based pension arrangements.
'Home Member States shall ensure that their competent authorities have the necessary powers to allow an IORP, for a limited period of time, to have insufficient assets to cover the technical provisions. In this case, the competent authorities shall require the IORP to adopt a concrete and realisable recovery plan with a timeline in order to ensure that the requirements of paragraph 1 are met again. The plan shall be subject to the following conditions:';	SE (Comments): SE has strong concerns regarding this article. The beneficiaries of pension schemes have the preferential right of the assets used to cover the technical provisions. Allowing IORPs to have insufficient assets would endanger this. Furthermore, underfunding of technical provisions (as suggested in this article) combined with IORPs increasing the risk in their investments (Article 19) can have negative effects on consumer protection. FR (Comments): **FR:** No comment at this stage of analysis. SI (Drafting suggestions): 'Home Member States ~~shall~~ **may** ensure that their competent authorities have the necessary powers to allow an IORP, for a limited period of time, to have insufficient assets to cover the technical provisions. In this case, the competent authorities shall require the IORP to adopt a concrete and realisable recovery plan with a timeline in order to ensure that the requirements of paragraph 1 are met again. The plan shall be subject to the following conditions:'; SI (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The amended second paragraph of Article 14 no longer allows Member States discretion regarding the requirement for full coverage of technical obligations with appropriate assets. Since the Republic of Slovenia did not make use of this option under the applicable directive, the proposed amendment could affect the level of member's protection.
(ii) the following subparagraph is added:	
'The limited period of time referred to in the introductory wording of the first subparagraph shall be determined by national law and shall in any case not exceed ten years.';	BE (Comments): We propose removing the 10-year limit because the duration of the recovery plan agreed with the IORP will depend heavily on the specific situation. Furthermore, we fear that specifying a period of 10 years will lead IORPs to assume that a 10-year period will be granted in any case (while recovery plans are already in most cases limited to 5 years in Belgium). GR (Drafting suggestions): The limited period of time referred to in the introductory wording of the first subparagraph shall be determined by national law and shall in any case not exceed **six months** ~~**ten years**~~ GR (Comments): **EL**: We have great concerns about this provision, since allowing underfunding for up to ten years is too permissive and may reduce incentives to restore solvency in a timely manner. A 10 year recovery period could allow vulnerabilities to persist for too long, which puts members and beneficiaries at greater risk.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We consider that 6 months is a sufficient time. For existing IORPs which do not cover their technical provisions, a grandfather clause could be considered. LT (Drafting suggestions): The limited period of time referred to in the introductory wording of the first subparagraph shall be determined by national law and shall in any case not exceed ten years. **However, in exceptional and duly justified circumstances, and following a comprehensive assessment and approval by the competent authority of a credible and realisable recovery plan, Member States may permit an extension of this period if it is demonstrated to be in the best long-term interests of members and beneficiaries.** LT (Comments): This amendment would provide Member States with the necessary flexibility to respond to unforeseen and exceptional circumstances that may affect the financial position of IORPs, while maintaining strict supervision and the requirement for robust recovery plans. AT (Comments): We recognise that the chosen period is used in several provisions. However, it could be worth to consider a shorter period of time. BG (Comments): BG: What are the reasons for allowing a 10-year period to address underfunding in Art. 14 (2)?

PUBLIC

Commission proposal	Drafting suggestions and Comments
	PT (Comments): PT would welcome further discussing the reasoning behind the COM's advanced maximum threshold of 10 years. SE (Comments): " The limited period" is very long for such critical function of consumer protection.
(b) paragraph 3 is deleted;	GR (Drafting suggestions): ~~**(b) paragraph 3 is deleted;**~~ GR (Comments): **EL**: We have great concerns about the deletion of par. 3, as it significantly weakens members' and beneficiaries' protection. Cross-border operations inherently involve additional complexity and risk, which should not be accompanied by looser financial safeguards. PT (Comments): Considering the potential for national discretion in the rules for funding of technical provisions, it shall be worth to clarify, for the cases of cross-border activities, which MS rules (home or host) must be applied. FR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	FR: The implications of such deletion, although welcomed as it was discriminatory for cross-border IORPS, are under analisis. France may come back to the PCY at a later stage on this point. SI (Comments): Deleting the existing third paragraph reduces member protection, as an IORP from another Member State with a significant shortfall of assets could attempt to cover this shortfall with the assets of Slovenian members. LU (Comments): LU : We prefer to keep paragraph 3. MT (Comments): Malta is concerned that the obligation for technical provisions to be fully funded in respect of the total range of pension schemes operated in the event of cross-border activity has been removed. Malta is of the view that the removal of this provision, whilst facilitating cross-border activity, might have a negative impact on scheme members.
(19) Article 16 is amended as follows:	MT (Comments): Malta notes the amendments to Article 16 of the IORP II Directive which requires the maintenance of an adequate available solvency margin with respect to the entire business. Malta is concerned to note that there will be no harmonisation with respect to what such solvency margin should be or how it is to be calculated, the IORP II only provides what the solvency margin shall be comprised of.
(a) paragraph 1 is replaced by the following:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'1. Member States shall require that every IORP referred to in Article 15(1) which is authorised in their territory maintains at all times an adequate available solvency margin in respect of its entire business which is at least equal to the requirements in this Directive in order to ensure long-term sustainability of occupational retirement provision, and, where permitted under national law, of personal retirement vision.';	GR (Drafting suggestions): 1. Member States shall require that every IORP referred to in Article 15(1) which is authorised in their territory maintains at all times an adequate available solvency margin in respect of its entire business which is at least equal to the requirements in this Directive in order to ensure long-term sustainability of occupational retirement provision, and, where permitted under national law, of personal retirement ~~**vision**~~ **provision**.'; GR (Comments): **EL**: We consider that the word "vision" should be replaced by word "provision". FR (Comments): **FR:** No comments. Support in principle.
(b) in paragraph 4, the second subparagraph is replaced by the following:	
'The figure referred to in point (a) of the first subparagraph shall not exceed 3,5 % of the sum of the differences between, on the one hand, the relevant capital sums of life insurance, occupational retirement provision, and where permitted under national law, personal retirement provision activities and, on the other hand, the mathematical provisions for all policies for which Zillmerising is possible. The difference shall be reduced by the amount of any undepreciated acquisition costs entered as an asset.';	SI (Comments): For consideration: we no longer have the definition of the mathematical provisions. IFRS 4 is no longer in force and IFRS 17 does not define the mathematical provision. The definition is crucial for the calculations under Article 17. MT (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The Commission has included the words "and where permitted under national law, personal retirement provision;". Primarily the first point to raise is that the term "personal retirement provision" is not defined in the amendments to the IORP II Directive. It is therefore unclear whether the personal pension being referred to is limited to the PEPP or to any other personal product manufactured and or distributed within the Member State. Furthermore, whilst including personal products in the IORP II might potentially be beneficial from an economies of scale perspective, one needs to point out that the manner in which a personal product works is different from an occupational product.
(20) in Article 17, the following paragraph 7 is added:	DE (Drafting suggestions): ~~(20) in Article 17, the following paragraph 7 is added:~~ DE (Comments): see next line SI (Comments): We suggest considering the establishment of a minimum solvency capital requirements at a level necessary for a life insurance company. The current regulation requires that IORPs have solvency capital dependent on the amount of liabilities, however no lower limit (threshold) is set, as it is the case with insurance companies or banks. Slovenia proposes that the minimum amount of solvency capital be set at the level of the minimum capital required for insurance companies providing life insurance, which would enhance consumer protection for members and pensioners. We clarify that our law already contains such a provision. However, due to the increasing cross-border activities and the need for equal consumer

PUBLIC

Commission proposal	Drafting suggestions and Comments
	protection across different member states it is important that all member states should have the minimum capital requirement set at the certain threshold.
'7. The Commission is empowered to adopt delegated acts in accordance with Article 64a to amend the numbers and percentage values referred to in this Article and in Article 18.';	SK (Comments): As a significant number of elements are deferred to L2 regulation, it is challenging at this stage to fully assess the proposal, as the specific content of the L2 measures is not yet known. **We would therefore favour setting out the core provisions and the widest possible scope of substantive requirements at L1, while keeping reliance on L2 measures to a minimum.** Pension schemes are fragmented and vary considerably across Member States. The absence of further clarity on the L2 framework is at this stage an obstacle and makes it impossible for us to assess how the proposal. BE (Comments): We do not see the need for the EC to adjust the numbers and percentages, furthermore it is not clear on what basis EC will determine these number and percentages. This goes against the principle of burden reduction as it creates additional layers of regulation. NL (Comments): We support that the proposal allows the numbers and percentages to be adjusted in a delegated act. Additionally, we believe that the most urgent adjustments, specifically the current requirements in Article 17(2b) can be implemented immediately by including this in the proposal. The 50% figure leads to unwanted situations for new IORPs. New pension funds typically

PUBLIC

Commission proposal	Drafting suggestions and Comments
	start with high risk exposures as % of technical provisions given that they have no or very limited technical provisions, while risk coverages (e.g. for survivor's pensions) are already in place. These coverages are, logically, fully reinsured. However, since the deduction for reinsurance is capped at 50%, this often leads to unrealistically high and "unworkable" required solvency margins, creating unnecessary entry barriers. We therefore recommend a minimum percentage closer to 100%. Additionally, decreasing the 0,3% listed in the article would do justice to the actual decline in mortality rates that have been observed since Directive IORP I. GR (Drafting suggestions): ~~**'7. The Commission is empowered to adopt delegated acts in accordance with Article 64a to amend the numbers and percentage values referred to in this Article and in Article 18.';**~~ GR (Comments): **EL**: We have great concers about COM's power to adopt delegated acts, as this is a matter that should be decided with level 1 legislation by the co-legislators. AT (Comments): Legislation on L1 might seem more appropriate than delegated acts. DE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
	~~'7. The Commission is empowered to adopt delegated acts in accordance with Article 64a to amend the numbers and percentage values referred to in this Article and in Article 18.';~~ DE (Comments): Minimum harmonisation: no delegated acts SE (Comments): SE opposes the mandate, should remain a level 1 mandate. Capital requirements have direct effect on the performance of IORPs. Such decisions should not be delegated below level 1. FR (Comments): **FR:** Article 17 sets out the methods for calculating the solvency margin, with a comprehensive formula based entirely on figures and percentages defined directly at Level 1. Article 18 provides for the calculation of the solvency margin specifically for supplementary insurance referred to in point (a)(iii) of Article 2(3) of Directive 2009/138/EC. No possibility of amendment or margin of interpretation is currently left for Level 2 for these two articles. However, the Commission is now proposing that the co-legislators allow it to amend these parameters at a later stage through delegated acts, on the basis that such parameters "have remained unchanged since their introduction" (Recital 23). This proposal calls for two comments:

PUBLIC

Commission proposal	Drafting suggestions and Comments
	First, on the opportunity of a delegated act, the Commission does not provide any justification for the need for this additional power and for this flexibility given at Level 2. France would therefore ask the Commission for further rationale, to analyse it with an open mind. Furthermore, on the form of the delegated act, the Commission proposes that such novel power be without constraint, without conditions nor without timeframe or proof of necessity – which could be made more conditional, at least in principle. Second, on substance, Recital 23 seems to imply that current parameters might be out of date, and that there is a need to adapt them. Indeed, Recital 23 appears relatively vague regarding the views of the Commission on whether "they remain appropriate in light of market developments and supervisory practices". However, the Commission does not explain its intentions or justify why these parameters are no longer appropriate in substance. **France therefore asks the Commission to clarify both (i) the need for this flexibility to be provided for, and (ii) the Commission's intentions in this regard.** FI (Comments): The need for delegated acts must be carefully considered. IT (Comments): The possibility to amend the numbers and percentages referred to in paragraph 7 is not consistent with the nature of these provisions. Such modifications should be addressed at the level of primary legislation, i.e., through amendments to the Directive itself, rather than by means of a delegated act of the Commission.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Drafting suggestions): '~~7. The Commission is empowered to adopt delegated acts in accordance with Article 64a to amend the numbers and percentage values referred to in this Article and in Article 18.~~'; LU (Comments): LU: The technical parameters of the required solvency risk margin seem stable and well calibrated since 2016 and have not been subject to suggested amendments. Therefore, we do not see the need for a delegated act.
(21) the following Article 18a is inserted:	DE (Drafting suggestions): (21) the following Article 18a is inserted:

PUBLIC

'Article 18a **Internal stress testing**	DE (Drafting suggestions): *'Article 18a* **Internal ~~stress testing~~ projection exercise** DE (Comments): This Article is about a 10 year projection of revenues and expenses for different scenarios. We prefer the term "projection exercise". In contrast, stress testing often refers to the impact of instantaneous shocks on the balance sheet. HR (Comments): We can accept the proposal. SI (Comments): We would like to point out that the proposed provision does not clearly indicate what the purpose and outcome of the stress testing should be. The proposed article stipulates that an IORP must make ten-year projections of financial statements. We propose that a stress test similar to the one carried out by EIOPA be required, when it checked resilience to financial shocks. It is unusual that the shocks are defined in the directive. IE (Comments): IE reserves its position on this proposed Article 18a to enable further examination of proposed provisions. IT

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): We note that the detailed specifications for internal stress tests, set out in this article, may be overly prescriptive. Different competent authorities may have diversified needs, and these needs could evolve over time. A more flexible, principle-based approach, would be preferable, allowing IORPs and competent authorities to adapt stress testing practices to specific circumstances.
1. The competent authorities of the home Member States shall require that IORPs operating pension schemes, where the IORP itself, and not the sponsoring undertaking, underwrites the liability to cover against biometric risk, or guarantees a given investment performance or a given level of benefits, carry out a stress test at least every three years to assess their ability to meet their obligations towards members and beneficiaries, including under scenarios representing adverse market and demographic developments.	NL (Comments): We support the rationale behind this article, that it is necessary for trust in the pension system to regularly assess the risks for pension funds. However, to avoid unnecessary administrative burdens we question the necessity of this article for situations where a sufficient oversight framework already exists. But we could support this article if our understanding is correct: DC-funds are defined out of scope in Article 18(1) and DB-funds with risk-based capital requirements are exempted in Article 18(5). GR (Comments): **EL**: We strongly support the introduction of internal stress testing. This is a step towards ensuring that IORPs underwritting biometric risks or offering guarantees can withstand adverse market or demographic senarios. DK (Comments): It is important with clarity regarding which IORPs are to be covered by these new requirements. Our understanding is that internal stress tests are not

PUBLIC

Commission proposal	Drafting suggestions and Comments
	required if a sponsor guarantee exists. It would be beneficial if this could be clarified. AT (Comments): There is no need for specific requirements for certain products (where IORPs cover some risks). Furthermore, EIOPA already carries out stress tests on a regular basis. DE (Drafting suggestions): ~~1.~~ The competent authorities of the home Member States shall require that IORPs operating pension schemes, where the IORP itself, and not the sponsoring undertaking, underwrites the liability to cover against biometric risk, or guarantees a given investment performance or a given level of benefits, carry out a ~~stress test~~**projection exercise** at least every three years to assess their ability to meet their obligations towards members and beneficiaries, including under scenarios representing adverse market and demographic developments. DE (Comments): We support such measures, for they provide a valuable tool to assess the financial condition, sustainability and resilience of IORPs. However, projection exercises (and stress testing) could affect management decisions in a disadvantageous way, for example, with respect to investment decisions. If a convergence plan has been prepared, it should not be realised as long as there is no indication that the respective scenario is occuring.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Against this background and having the large diversity of IORPs across Europe in mind, we are in favour of the scenarios and the conclusions from the results to be fully left to the responsibility to competent authorities. Indeed, competent authorities may consider other scenarios taking the national characteristics of IORPs into account. Therefore, we propose to omit the paragraphs 2 to 5. SE (Drafting suggestions): "The competent authorities of the home Member States shall**, when necessary,** require that IORPs [...]" SE (Comments): SE has already implemented a risk-based capital requirement which is in line with similar rules in Solvency II. Swedish IORPs should therefore be exempt from this new article. Smaller pension funds only managing DB funds should also be exempt as stress tests would serve no purpose. FR (Comments): **FR: France supports in principle the introduction of mandatory stress tests**, which is an appropriate approach to ensuring the prudent management of an IORP's activities and risks. This approach is also in line with existing practices in certain Member States, notably France, with regard to prudential requirements applicable to IORPs. This approach also appears proportionate to the specific nature of IORPs' activities. From a practical point of view, although the Commission proposes to introduce stress tests, **this article does not specify the procedures for publishing/transmitting them, particularly to the competent national**

Commission proposal	Drafting suggestions and Comments
	authorities. In France, for example, these stress tests are subject to specific reporting requirements. In order to clarify the transmission procedures, **it seems necessary for this article to include such provisions.** IE (Comments): IE – See above comments LU (Drafting suggestions): ~~1. The competent authorities of the home Member States shall require that IORPs operating pension schemes, where the IORP itself, and not the sponsoring undertaking, underwrites the liability to cover against biometric risk, or guarantees a given investment performance or a given level of benefits, carry out a stress test at least every three years to assess their ability to meet their obligations towards members and beneficiaries, including under scenarios representing adverse market and demographic developments.~~ LU (Comments): LU considers this requirement to be excessive and insufficiently proportionate, as it does not adequately reflect a risk-based approach and runs counter to the simplification agenda. In particular, LU questions the appropriateness of imposing such obligations on IORPs, especially small and mid-sized ones. Moreover, LU is not persuaded that mandating internal stress tests every three years would meaningfully enhance the protection of members and beneficiaries, particularly in a context where temporary underfunding of pension liabilities is explicitly permitted.
Notwithstanding the first subparagraph, the competent authority of the home Member State shall have the power to require an IORP to carry out the stress test exercise more frequently, at least where the results of the stress tests of	GR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
previous years identify a risk of not having sufficient and appropriate assets to cover the technical provisions within the next ten years.	**EL**: We support the COM proposal. IE (Comments): IE – See above comments LU (Drafting suggestions): ~~. Notwithstanding the first subparagraph, the competent authority of the home Member State shall have the power to require an IORP to carry out the stress test exercise more frequently, at least where the results of the stress tests of previous years identify a risk of not having sufficient and appropriate assets to cover the technical provisions within the next ten years.~~
Member States may also require the IORP to assess whether its projected available solvency margin exceeds its required solvency margin, or, where applicable, any higher level of regulatory own funds required under national law pursuant to Article 15.	GR (Comments): **EL**: We support the COM proposal. IE (Comments): IE – See above comments LU (Drafting suggestions): ~~Member States may also require the IORP to assess whether its projected available solvency margin exceeds its required solvency margin, or, where applicable, any higher level of regulatory own funds required under national law pursuant to Article 15.~~
2. For the purposes of paragraph 1, IORPs shall make projections, over the next ten financial years from the date of the most recent financial statements, of assets and liabilities under each of the following scenarios:	GR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	EL: We support the COM proposal. Nevertheless, clarifications are needed on the chosen level of percentages. AT (Drafting suggestions): "... over the next **five** financial years..." AT (Comments): Ten years might be too long; the results may become uncertain and offer no added value. DE (Drafting suggestions): ~~2. For the purposes of paragraph 1, IORPs shall make projections, over the next ten financial years from the date of the most recent financial statements, of assets and liabilities under each of the following scenarios:~~ DE (Comments): See comment on paragraph 1. SE (Comments): Should be a NCA mandate to be used when necessary. Otherwise unnecessary and burdensome for many IORPs. See previous comment. IE (Comments): IE – See above comments LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~2. For the purposes of paragraph 1, IORPs shall make projections, over the next ten financial years from the date of the most recent financial statements, of assets and liabilities under each of the following scenarios:~~
(a) a baseline scenario extending the economic conditions prevailing at the date of the most recent financial statements;	AT (Comments): The requirements are too detailed. The assumptions should be adaptable to the specific pension product and the specific capital market situation. DE (Drafting suggestions): ~~(a) a baseline scenario extending the economic conditions prevailing at the date of the most recent financial statements;~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~(a) a baseline scenario extending the economic conditions prevailing at the date of the most recent financial statements;~~
(b) an adverse scenario of permanent relative decrease in interest rates of 40 % or absolute decrease of 0,75 percentage points, whichever is more severe, without interest rates falling below 0 % or exceeding 3,5 %;	AT (Comments): The requirements are too detailed. The assumptions should be adaptable to the specific pension product and the specific capital market situation. DE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
	~~(b) an adverse scenario of permanent relative decrease in interest rates of 40 % or absolute decrease of 0,75 percentage points, whichever is more severe, without interest rates falling below 0 % or exceeding 3,5 %;~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~(b) an adverse scenario of permanent relative decrease in interest rates of 40 % or absolute decrease of 0,75 percentage points, whichever is more severe, without interest rates~~
(c) an adverse scenario of decline in investment returns on non-depreciable assets by 30 %;	AT (Comments): The requirements are too detailed. The assumptions should be adaptable to the specific pension product and the specific capital market situation. DE (Drafting suggestions): ~~(c) an adverse scenario of decline in investment returns on non-depreciable assets by 30 %;~~ IE (Comments): IE – See above comments LU (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~(c) an adverse scenario of decline in investment returns on non-depreciable assets by 30 %;~~
(d) a decrease in the mortality rates of members and beneficiaries at all ages by 10 %.	AT (Comments): The requirements are too detailed. The assumptions should be adaptable to the specific pension product and the specific capital market situation. DE (Drafting suggestions): ~~(d) a decrease in the mortality rates of members and beneficiaries at all ages by 10 %.~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~(d) a decrease in the mortality rates of members and beneficiaries at all ages by 10 %.~~
By way of derogation from the first subparagraph, Member States may require IORPs to:	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions): ~~By way of derogation from the first subparagraph, Member States may require IORPs to:~~ IE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): IE – See above comments LU (Drafting suggestions): ~~By way of derogation from the first subparagraph, Member States may require IORPs to:~~
(a) make projections over more than ten financial years;	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions): ~~(a) make projections over more than ten financial years;~~ SE (Comments): Projections over ten years are very uncertain. Could have opposite effect. IE (Comments): IE – See above comments LU (Drafting suggestions): ~~(a) make projections over more than ten financial years;~~
(b) carry out projections under adverse scenarios that are more severe than the scenarios set out in the first subparagraph, points (b), (c) or (d);	GR (Comments): **EL**: We support the COM proposal.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): ~~(b) carry out projections under adverse scenarios that are more severe than the scenarios set out in the first subparagraph, points (b), (c) or (d);~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~(b) carry out projections under adverse scenarios that are more severe than the scenarios set out in the first subparagraph, points (b), (c) or (d);~~
(c) carry out projections under additional stressed scenarios.	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions): ~~(c) carry out projections under additional stressed scenarios.~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~(c) carry out projections under additional stressed scenarios.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
3 Where the results of the stress test referred to in paragraph 1 indicate that, under any of the scenarios referred to in paragraph 2, an IORP would either have insufficient assets to cover the technical provisions or, where applicable, have an insufficient available solvency margin to meet the required solvency margin or any higher level of regulatory own funds required under national law pursuant to Article 15 for any projected year, Member States shall ensure that the competent authority requires the IORP to submit a convergence plan.	GR (Comments): **EL**: We support the COM proposal. DK (Comments): It is important that further solvency margin or risk based solvency requirements are introduced as such and not through requirements for the internal risk management of IORP. It should therefore be clear what is expected when reffering to *That convergence plan shall set out the measures that the IORP intends to take to restore, over the projection horizon, its ability to maintain sufficient assets to cover the technical provisions, or where applicable, to have an available solvency margin exceeding the required solvency margin, under all the scenarios referred to in paragraph 2*. It does not seem appropiate if this constitutes an add on. DE (Drafting suggestions): ~~3 Where the results of the stress test referred to in paragraph 1 indicate that, under any of the scenarios referred to in paragraph 2, an IORP would either have insufficient assets to cover the technical provisions or, where applicable, have an insufficient available solvency margin to meet the required solvency margin or any higher level of regulatory own funds required under national law pursuant to Article 15 for any projected year, Member States shall ensure that the competent authority requires the IORP to submit a convergence plan.~~ DE (Comments): See comment on paragraph 1.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE (Comments): IE – See above comments LU (Drafting suggestions): ~~3 Where the results of the stress test referred to in paragraph 1 indicate that, under any of the scenarios referred to in paragraph 2, an IORP would either have insufficient assets to cover the technical provisions or, where applicable, have an insufficient available solvency margin to meet the required solvency margin or any higher level of regulatory own funds required under national law pursuant to Article 15 for any projected year, Member States shall ensure that the competent authority requires the IORP to submit a convergence plan.~~
That convergence plan shall set out the measures that the IORP intends to take to restore, over the projection horizon, its ability to maintain sufficient assets to cover the technical provisions, or where applicable, to have an available solvency margin exceeding the required solvency margin, under all the scenarios referred to in paragraph 2.	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions): ~~That convergence plan shall set out the measures that the IORP intends to take to restore, over the projection horizon, its ability to maintain sufficient assets to cover the technical provisions, or where applicable, to have an available solvency margin exceeding the required solvency margin, under all the scenarios referred to in paragraph 2.~~ IE (Comments): IE – See above comments LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~That convergence plan shall set out the measures that the IORP intends to take to restore, over the projection horizon, its ability to maintain sufficient assets to cover the technical provisions, or where applicable, to have an available solvency margin exceeding the required solvency margin, under all the scenarios referred to in paragraph 2.~~
Member States shall ensure that the IORP submits the convergence plan to the competent authority within three months from the date of carrying out the stress test.	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions): ~~Member States shall ensure that the IORP submits the convergence plan to the competent authority within three months from the date of carrying out the stress test.~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~Member States shall ensure that the IORP submits the convergence plan to the competent authority within three months from the date of carrying out the stress test.~~
Where no convergence plan is submitted within three months, or where the convergence plan does not contain credible actions to address the underfunding identified or, where applicable, the insufficient level of available solvency margin in the stress test, Member States shall ensure that competent	GR (Comments): **EL**: We support the COM proposal. DE

PUBLIC

Commission proposal	Drafting suggestions and Comments
authorities have the power to require the IORP to hold a higher available solvency margin.	(Drafting suggestions): ~~Where no convergence plan is submitted within three months, or where the convergence plan does not contain credible actions to address the underfunding identified or, where applicable, the insufficient level of available solvency margin in the stress test, Member States shall ensure that competent authorities have the power to require the IORP to hold a higher available solvency margin.~~ IE (Comments): IE – See above comments LU (Drafting suggestions): ~~Where no convergence plan is submitted within three months, or where the convergence plan does not contain credible actions to address the underfunding identified or, where applicable, the insufficient level of available solvency margin in the stress test, Member States shall ensure that competent authorities have the power to require the IORP to hold a higher available solvency margin.~~
4. Paragraph 3 shall not apply where an IORP is permitted, pursuant to Article 14(2), to have insufficient assets to cover the technical provisions for a limited period of time. In that case, Member States shall ensure that the recovery plan adopted under Article 14(2) reflects the outcome of the stress test referred to in paragraph 1 of this Article and, where necessary, is updated accordingly, in particular when determining the measures and the period for restoring full funding.	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions): ~~4. Paragraph 3 shall not apply where an IORP is permitted, pursuant to Article 14(2), to have insufficient assets to cover the technical provisions for a limited period of time. In that case, Member States shall ensure that the recovery plan adopted under Article 14(2) reflects the outcome of the stress~~

Commission proposal	Drafting suggestions and Comments
	~~test referred to in paragraph 1 of this Article and, where necessary, is updated accordingly, in particular when determining the measures and the period for restoring full funding.~~ DE (Comments): See comment on paragraph 1. IE (Comments): IE – See above comments LU (Drafting suggestions): ~~4. Paragraph 3 shall not apply where an IORP is permitted, pursuant to Article 14(2), to have insufficient assets to cover the technical provisions for a limited period of time. In that case, Member States shall ensure that the recovery plan adopted under Article 14(2) reflects the outcome of the stress test referred to in paragraph 1 of this Article and, where necessary, is updated accordingly, in particular when determining the measures and the period for restoring full funding.~~
5. Member States may decide not to apply paragraphs 1 to 3 where they require IORPs located in their territory to hold regulatory own funds, in excess of the required solvency margin referred to in Article 17, provided that such regulatory own funds requirements are risk-based, at least in relation to market and longevity risks.'; GR (Drafting suggestions): 5. Member States may decide not to apply paragraphs 1 to 3 where they require IORPs located in their territory to hold regulatory own funds, in excess of the required solvency margin referred to in Article 17, provided that such regulatory own funds requirements are risk-based, at least in relation to market and longevity risks **and the related shocks are at least as severe as the ones described in para 2 of article 18a**; GR

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): **EL**: Although we support in principle the COM proposal, it should be clarified that the risk-based calculations should be at least as severe as the stress test shocks described above. DE (Drafting suggestions): ~~5. Member States may decide not to apply paragraphs 1 to 3 where they require IORPs located in their territory to hold regulatory own funds, in excess of the required solvency margin referred to in Article 17, provided that such regulatory own funds requirements are risk-based, at least in relation to market and longevity risks.';~~ DE (Comments): See ~~comment~~ on paragraph 1. SE (Comments): Important to keep FR (Comments): **FR:** The link between the requirement to conduct stress tests and a risk-based approach seems rather nuclear. France finds it difficult to understand what the concept of a risk-based approach means in this context: in the absence of a definition or framework, a risk-based approach may provide no guarantee of adequacy or prudence, justifying the non-application of stress tests. **France would therefore ask the Commission to provide additional insight on the rationale for such carveout.** IE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): IE – See above comments LU (Drafting suggestions): ~~5. Member States may decide not to apply paragraphs 1 to 3 where they require IORPs located in their territory to hold regulatory own funds, in excess of the required solvency margin referred to in Article 17, provided that such regulatory own funds requirements are risk-based, at least in relation to market and longevity risks.';~~
(22) Article 19 is amended as follows:	SE (Comments): General question – how do these new rules apply to DB pensions? Many pension funds exist solely to manage DB funds where the risk is much lower and there is not much freedom to allocate assets. Or do these articles only apply where the member carries the investment risk? IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system. However, it appears preferable to maintain the current text of the Directive.
(a) paragraph 1 is amended as follows:	
(a) the introductory wording is replaced by the following:	
'1. Member States shall require IORPs authorised in their territory to invest in accordance with the prudent person principle and in particular in accordance with the following rules:';	GR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	EL: In principle we could support the COM proposal, as it nudges IORPs towards investment policies that efficiently and effectively combine risk mitigation with long-term return objectives. However, we have strong concerns about the removal of MS option to impose quantitative investment limits, especially since the Directive's capital requirements are not fully risk-based. This potentially increases unwanted exposure to investment risks. FR (Comments): **FR: France supports in principle the shift from a rule to a principle.** LU (Comments): LU welcomes the shift from the restrictive rules based prudent person to a principle based prudent person, allowing for more flexibility for IORPs to invest in a broader investment space.
(b) point (b) is replaced by the following:	
'(b) within the prudent person principle, IORPs shall take into account sustainability risks, as defined in Article 2, point (22), of Regulation (EU) 2019/2088 of the European Parliament and of the Council* in their investment decisions and for that purpose, IORPs shall take into account the potential long-term impact of their investment strategy and decisions on sustainability factors, as defined in Article 2, point (24), of Regulation (EU) 2019/2088. That shall be done in a proportionate manner, taking into account the nature, scale and complexity of the activities of IORPs.';	SK (Comments): The introduction of this obligation would lead to an increase in administrative burden and costs for IORPs, without demonstrating the benefits of such an obligation. Mandatory consideration of sustainability factors may, in some cases, conflict with the duty to act in the best interests of clients, as the primary objective of IORPs should be to ensure long-term returns at an appropriate level of risk. The introduction of products that take sustainability risks into account should be left to the sole discretion of the relevant entities. The assessment of sustainability factors within investment decisions is also challenging due to

PUBLIC

Commission proposal	Drafting suggestions and Comments
	the existence of multiple methodologies used by different agencies and data providers, which may result in an inconsistent approach. IE (Comments): IE reserves its position.
(c) point (d) is replaced by the following:	
'(d) the assets shall be predominantly invested on regulated markets, MTFs or OTFs;';	GR (Comments): **EL**: We support the COM proposal. However, we propose maintaining the rule that "*Investment in assets which are not admitted to trading on a regulated financial market must in any event be kept to prudent levels;*" SE (Comments): Does this only apply to assets covering the technical provisions? SI (Comments): We suggest adding a requirement that non-market investments need to be maintained at a prudent level ES (Comments): We have serious concerns about the deletion of the phrase. "Investment in assets which are not admitted to trading on a regulated financial market must in any event be kept to prudent levels", since, from our point of view, assets traded in unregulated financial markets, although they may be highly profitable—and for that reason should be allowed—must, due to their higher

PUBLIC

Commission proposal	Drafting suggestions and Comments
	risk, be subject in some way to prudent limits so as not to jeopardize the interests of members and beneficiaries. IE (Comments): IE would welcome further clarification as to the definition of 'regulated markets' as per Article 6(14) to ensure consistency of interpretation vis-à-vis e.g. EIOPA-BoS-19-246.
(b) the following paragraphs 1a to 1d are inserted:	
'1a. Member States shall require that, with respect to the whole portfolio of assets, IORPs only invest in assets and instruments whose risks the IORP concerned is able to properly identify, measure, monitor, manage, control and report, and appropriately take into account in the assessment of its overall funding needs and the assessment of the risks to members and beneficiaries relating to the paying out of their retirement benefits in accordance with Article 28.	GR (Comments): **EL**: We strongly support the COM proposal. DE (Drafting suggestions): '1a. Member States shall require that, with respect to the whole portfolio of assets, IORPs only invest in assets and instruments whose risks the IORP concerned is able to properly identify, measure, monitor, manage, control and report, and appropriately take into account in ~~the assessment of its overall funding needs and~~ the assessment of the risks to members and beneficiaries relating to the paying out of their retirement benefits in accordance with Article 28. DE (Comments): Assessment of overall funding would be a clear and unnecessary bureaucratic step to risk-based solvency requirements and is therefore deleted.

PUBLIC

Commission proposal	Drafting suggestions and Comments
1b. Member States shall require that assets held to cover the technical provisions are also invested in a manner appropriate to the nature and duration of the liabilities entered into by the IORP.	GR (Comments): **EL**: We support the COM proposal.
1c. Member States shall require that investment decisions of IORPs reflect the sustainability preferences of members and beneficiaries, where IORPs are able to gauge those membership preferences and to the extent those preferences are consistent with the investment principles set out in paragraph 1.	SK (Comments): We propose to amend the wording in question so that it allows (rather than obliges) Member States to require such requirements from IORPs, as there are Member States in which it is not always possible to identify such preferences among members or to fully accommodate them. These are situations where the purchase or acquisition of investment instruments is not carried out for an individual client, but rather for the assets of a fund in which a larger number of clients have invested, whose preferences may differ significantly. The wording should therefore be adjusted so that, in pension schemes where it is not possible to obtain this information (or it would be particularly administratively and financially demanding), IORPs would not be subject to this obligation. DE (Drafting suggestions): 1c. Member States shall require that investment decisions of IORPs reflect the sustainability preferences of members and beneficiaries where IORPs are able to gauge those membership preferences and to the extent those preferences are consistent **with the foundation of the pension scheme and** with the investment principles set out in paragraph 1. **Instead of membership preferences, the IORP may apply the first sentence to the sustainability preferences of the representatives of members and beneficiaries, if available.** DE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): Rationale for the drafting suggestions: Scope: The provision applies to investment decisions of the IORP only. Separate asset pools mapping different sustainability preferences of members and beneficiaries are not required. Moreover, this provision is clearly not related to retail business. Foundation of the scheme holds: Sustainability preferences may be determined by collective bargaining. In this case, preferences of members and beneficiaries do not apply unless they are in line with the bargaining. Simplification: It could be quite elaborate to gauge the sustainability preferences of member and beneficiaries. To avoid burden, representatives of members and beneficiaries (if available) could decide on the preferences to be applied by the IORP. SE (Comments): How are the sustainability preferences of members and beneficiaries supposed to be collected and taken into account? This article goes against the purpose of lowering costs through increased economies of scale. Also burdensome for IORPs to collect, store and update the information. A more general sustainability article would be preferable. HR (Comments): We would appreciate more clarification on how the IORPs should collect the information on sustainability preferences from members and beneficiaries. EE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~1c. Member States shall require that investment decisions of IORPs reflect the sustainability preferences of members and beneficiaries, where IORPs are able to gauge those membership preferences and to the extent those preferences are consistent with the investment principles set out in paragraph 1.~~ EE (Comments): In practice, the provision is not applicable in case IORP itself or an occupational pension arrangement provided by the IORP is in the form of a collective investment fund. Every member would have a proportionate share in fund's assets, no variations in investments for different members. IE (Comments): IE - Ireland to reserve its position on this proposal to enable further examination of practicalities that may arise. LU (Comments): LU: Optimal asset allocation should be at the forefront of efficient pension schemes working in the best interest of members and beneficiaries. IORPs should be able chose an adequate investment strategy that fits best to the pension scheme characteristics independently from individual membership preferences, which could fluctuate in time, especially considering the long term nature of pension savings. In our view, individual preferences could be better catered for in personal pension products, rather than occupational pension schemes where scale can be achieved through pooling of assets.

PUBLIC

Commission proposal	Drafting suggestions and Comments
1d. For the purposes of paragraph 1c, sustainability preferences shall mean a member's, beneficiary's, or prospective member's choice as to whether and, if so, to what extent, one or more of the following financial instruments are to be integrated into his or her investment:	SE (Comments): See above LV (Comments): The proposal of sustainability preferences introduces significant behavioural and administrative implications without achieving genuine simplification. Behaviourally, the requirement for investors to articulate minimum proportions to be invested in described financial instruments imposes a level of technical understanding that most retail clients do not possess, increasing choice overload and potentially discouraging participation. Administratively, IORPs must expand suitability assessments, redesign client questionnaires, and implement complex product-matching systems, all of which increase compliance costs and operational friction. HR (Comments): We would appreciate a further explanation how this should work in practice. EE (Drafting suggestions): ~~1d. For the purposes of paragraph 1c, sustainability preferences shall mean a member's, beneficiary's, or prospective member's choice as to whether and, if so, to what extent, one or more of the following financial instruments are to be integrated into his or her investment:~~ EE (Comments): See comment for point 1c.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE (Comments): IE - Ireland to reserve its position on this proposal to enable further examination of practicalities that may arise. IT (Comments): We note that the provision is not consistent with the collective nature of IORPs investments, as it presumes individual investment choices by members or beneficiaries. The text should reflect that the IORP invests the assets collectively on behalf of all members.
(a) a financial instrument for which the customer or potential customer determines that a minimum proportion is to be invested in environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852 of the European Parliament and of the Council**;	AT (Comments): A definition of the term "customer" would be helpful. Does it refer to the employer or the members and beneficiaries? EE (Drafting suggestions): ~~(a) a financial instrument for which the customer or potential customer determines that a minimum proportion is to be invested in environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852 of the European Parliament and of the Council**;~~ EE (Comments): See comment for point 1c. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE - Ireland to reserve its position on this proposal to enable further examination of practicalities that may arise.
(b) a financial instrument for which the customer or potential customer determines that a minimum proportion shall be invested in sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088;	EE (Drafting suggestions): ~~(b) a financial instrument for which the customer or potential customer determines that a minimum proportion shall be invested in sustainable investments as defined in Article 2, point (17), of Regulation (EU) 2019/2088;~~ EE (Comments): See comment for point 1c. IE (Comments): IE - Ireland to reserve its position on this proposal to enable further examination of practicalities that may arise. LU (Comments): In accordance with SFDR 2.0, the definition of "sustainable investment" Article 2, point (17), of Regulation (EU) 2019/2088 will be removed. This section would have to be amended depending on the adoption or changes to be made to SFDR 2.0.
(c) a financial instrument that considers principal adverse impacts on sustainability factors, as defined in Article 2, point (24), of Regulation (EU) 2019/2088, where qualitative or quantitative elements demonstrating that consideration are determined by the customer or potential customer.';	EE (Drafting suggestions): ~~(c) a financial instrument that considers principal adverse impacts on sustainability factors, as defined in Article 2, point (24), of Regulation (EU) 2019/2088, where qualitative or quantitative elements demonstrating that consideration are determined by the customer or potential customer.';~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	EE (Comments): See comment for point 1c. IE (Comments): IE - Ireland to reserve its position on this proposal to enable further examination of practicalities that may arise. LU (Comments): To be noted that further to SFDR 2.0, the proposed amendment is no longer in line with the regulation, i.e. the review removed PAIs regime at entity level (i.e. IORP) hence should be at product level.
(c) paragraph 6 is replaced by the following:	
'In accordance with the provisions of paragraphs 1 to 5, Member States may empower the competent authority, for IORPs authorised in their territories, to lay down more detailed rules, provided they are prudentially justified.	GR (Drafting suggestions): 'In accordance with the provisions of paragraphs 1 to 5, Member States may ~~**empower the competent authority**~~, for IORPs authorised in their territories, to lay down more detailed rules, **including quantitative rules,** provided they are prudentially justified. GR (Comments): **EL**: We have strong concerns on deleting the ability of MSs to lay down more detailed rules, including quantitative. DE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	'In accordance with the provisions of paragraphs 1 to 5, Member States may **decide or** empower the competent authority, for IORPs authorised in their territories, to lay down more detailed rules, provided they are prudentially justified. DE (Comments): Member States should also have the power to lay down more detailed rules, in particular, by law. HR (Comments): Scrutiny reservation - could you please conforim that this provision restrict NCA to lay down more detailed rules for defined benefit IORPs? ES (Comments): We are very concerned about the removal of this phrase "including quantitative rules", since Member States should in some way be able to quantitatively limit pension funds' investment in certain riskier assets, always without undermining the possibility of profitable investments, but above all protecting the interests of members and beneficiaries, given that this is, let us not forget, a retirement product. Despite the above, we have doubts about the implications of this proposal. Does it mean a prohibition on regulating eligible investment assets? Does it imply a ban on setting diversification percentages for specific assets beyond the 70% regulated in this article? Does it imply not setting concentration limits for certain assets? In such cases, we do not agree with the deletion of the phrase. IT

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): A more in-depth analysis of this proposal is needed.
Any such rules shall be applied only where the investment risk is borne by the members and beneficiaries. However, in such cases, IORPs shall not be prevented from:	GR (Drafting suggestions): ~~**Any such rules shall be applied only where the investment risk is borne by the members and beneficiaries.**~~ However, in such cases, IORPs shall not be prevented from: GR (Comments): **EL**: We have strong concerns for the COM proposal. These rules should apply to all kind of schemes. LT (Drafting suggestions): Any such rules shall be applied primarily where the investment risk is borne by the members and beneficiaries, **but may also be applied where the investment risk is not fully borne by the members and beneficiaries, if such restrictions are duly justified by national financial stability concerns, the specific characteristics of the national IORP market, or the need to protect members and beneficiaries from systemic risks.** However, in such cases, IORPs shall not be prevented from: LT (Comments): This amendment would grant national supervisory authorities greater discretion and the ability to adapt investment restrictions to national market specificities and risks, even if the investment risk is not fully borne by members, thus ensuring greater stability and protection for members.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): ~~Any such rules shall be applied only~~**For pension schemes** where the investment risk is borne by the members and beneficiaries~~. However, in such cases,~~ such rules **shall** IORPs ~~shall~~ not ~~be prevented~~ **prevent** from: FR (Comments): **FR:** With regard to investment rules, **the Commission's proposal appears to drastically reduce the ability of Member States to establish rules at the national level. This is an important point of concern for France, which will require detailed discussion, including on the assessment of the impact of existing rules.** At first glance, the changes proposed by the Commission go too far and are not in line with the actual impact of the effective restrictions imposed by these rules. As a minimum, a detailed study of the existing rules and their impact (advantages and restrictions) is needed from the Commission before the Council can take an informed decision on this matter. In France, the limits on investments in alternative assets set out in the regulation cannot be considered "overly restrictive"-they are rather last resort safety nets that are most of the time never reached. For example, French IORPs cannot invest more than 30% of their assets in unlisted assets. In practice, this threshold is very far from being reached, and very unlikely to be, due to the risks (market risks but also liquidity risk) related to this type of investments. **Overall, it seems important that Member States, who know best their national market, keep the possibility, on top of the prudent person principles, to maintain such safety net based on prudentially justified quantitative rules.**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The removal of the possibility of establishing rules on an individual basis also appears disproportionate (paragraph 7 deletion). Could the Commission also clarify why it proposes to delete paragraph 8 - whereas this rule already made it impossible for host Member States to lay down rules on investment for cross-border activities? **In any case, France opposes the transfer of power from Member States to national competent authorities, as provided for in the amendments at the beginning of paragraph 6. This right, regardless of its scope, must remain a right of Member States under national law and not be an additional power of supervisory authorities.** ES (Comments): We believe that competent authorities should have the right to set investment rules for all pension funds, not only for DC.
(a) investing up to 70 % of the assets covering the technical provisions or of the whole portfolio for schemes in which the members bear the investment risks in shares, negotiable securities treated as shares and corporate bonds admitted to trading on regulated markets, or through MTFs or OTFs, and deciding on the relative weight of those securities in their investment portfolio;	
(b) investing up to 30 % of the assets covering technical provisions in assets denominated in currencies other than those in which the liabilities are expressed;	
(c) investing in instruments that have a long-term investment horizon and are not traded on regulated markets, MTFs or OTFs;	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(d) investing in instruments that are issued or guaranteed by the EIB provided in the framework of the European Fund for Strategic Investments, European Long-term Investment Funds, European Social Entrepreneurship Funds and European Venture Capital Funds.'; (d) paragraphs 7 and 8 are deleted;	DE (Drafting suggestions): (d) investing in instruments that are issued or guaranteed by the EIB provided in the framework of the European Fund for Strategic Investments, European Long-term Investment Funds, European Social Entrepreneurship Funds and European Venture Capital Funds. **For pension schemes with a long-term interest rate guarantee where the IORPs bear the investment risk and themselves provide for the guarantee, the point (a) of the second subparagraph applies with a percentage of 35 % instead of 70 %.**' DE (Comments): From the prudential point of view, we do not see any reason why the option for investment restrictions should be limited to DC schemes. GR (Drafting suggestions): ~~**(d) paragraphs 7 and 8 are deleted;**~~ GR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	EL: We have strong concerns about: - the deletion of the NCA ability to apply more stringent investment rules also on an individual basis - deleting the fully funding requirement for cross border border activity. PT (Comments): PT would welcome further reflection on whether the deletion of paragraph 7 is indeed adequate, considering it will reduce MS leeway in adopting adequate protective rules concerning their national specific realities.
_____	
* Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability- related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/2088/oj).;	
** Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13, ELI: http://data.europa.eu/eli/reg/2020/852/oj).	
(23) Article 21 is amended as follows:	GR (Comments): **EL**: We supopt in principle the COM's proposals regarding art. 21. HR (Comments): We can accept the proposed changes. SI

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): We would like to point out that the proposed Article 21 introduces a new compliance function, which is not listed as a key function in Article 24. We would like to know whether the Commission intended to introduce a key function or a management system function. If the intention is to introduce additional function, how the Commission understands and justifies this distinction.
(a) paragraph 1 is replaced by the following:	GR (Comments): **EL**: We support COM's proposals on para 1.
'1. Member States shall require all IORPs to have in place an effective system of governance which provides for the sound and prudent management of their activities. That system shall at least have:	FR (Comments): **FR:** No specific comments at this stage. France is currently conducting a comparative analysis of these additions with existing provisions in national law (already referring to Solvency 2 provisions), before returning to the Presidency with details on this specific point at a later stage.
(a) an adequate and transparent organisational structure with a clear allocation and appropriate segregation of responsibilities;	
(b) an effective system for ensuring the transmission of information and management of conflicts of interest.	
That system of governance shall ensure that environmental, social and governance factors related to investment assets are considered in investment decisions and shall be subject to regular internal reviews.	
Such internal reviews shall assess the adequacy of the composition, effectiveness and internal governance of the administrative, management or	

PUBLIC

Commission proposal	Drafting suggestions and Comments
supervisory body, taking into account the nature, scale and complexity of the risks inherent in the activities of the IORP.';	
(b) paragraphs 3 and 4 are replaced by the following:	
'3. Member States shall ensure that IORPs establish and apply written policies in relation to risk management, internal control, internal audit, remuneration and, where relevant, actuarial and outsourced activities, and that those policies are implemented. Those written policies shall be subject to prior approval by the management or supervisory body of the IORP and shall be reviewed at least every three years and adapted in view of any significant change in the system or area concerned.	GR (Drafting suggestions): '3. Member States shall ensure that IORPs establish and apply written policies in relation to risk management, internal control **including compliance function**, internal audit, remuneration**,** and, where relevant, actuarial and outsourced activities, and that those policies are implemented. Those written policies shall be subject to prior approval by the management or supervisory body of the IORP and shall be reviewed at least every three years and adapted in view of any significant change in the system or area concerned GR (Comments): **EL**: We support the COM proposal. We would propose to add the policy for the compliance function.
4. Member States shall ensure that IORPs have in place an effective internal control system. That system shall have administrative and accounting procedures, an internal control framework, and appropriate reporting arrangements at all levels of the IORP and a compliance function.';	GR (Drafting suggestions): 4. Member States shall ensure that IORPs have in place an effective internal control system. That system shall have administrative and accounting procedures, an internal control framework, and appropriate reporting arrangements at all levels of the IORP and a compliance function**, as a key function**. GR

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): **EL**: We support the COM proposal. In addition, it should be clarified that compliance function is a key function. This could also be clarified in art. 24. DK (Comments): It is key that new administrative burdens as the introduction of an compliance function is deemed neccessary to ensure a sound risk management of an IORP's risks. ES (Comments): Before taking a position on this issue, we would like to understand the reasons that justify the introduction of a compliance function. LU (Comments): LU acknowledges that a compliance function is part of a sound governance framework, but cautions at the same time that such a requirement might be disproportionate for some IORPs. The intended objective of building scale and bigger IORPs should not be fought out at the expense of smaller existing, mainly local orientated pension schemes.
(c) the following paragraph 4a is inserted:	
'4a. The compliance function shall include advising the administrative, management or supervisory body on compliance with the laws, regulations and administrative provisions adopted pursuant to this Directive. It shall also assess	GR (Comments): **EL**: We support the COM proposal.

PUBLIC

Commission proposal	Drafting suggestions and Comments
the possible impact of any changes in the legal environment on the operations of the IORP concerned and shall identify and assess compliance risk.'	ES (Comments): Before taking a position on this issue, we would like to understand the reasons that justify the introduction of a compliance function. LU (Comments): Notwithstanding our previous comment, it should be clarified to the extent necessary that the compliance function should have some level of independence from the other internal bodies. Also, it is still unclear how will the compliance and internal audit functions work together (i.e. reporting of findings from internal audit to compliance on a need to know basis or ongoing cooperation)?
(d) in paragraph 6, the second and third sentences are deleted;	BE (Comments): In the interests of proportionality and burden reduction, we recommend retaining the option of a single person daily management. GR (Comments): **EL**: Although in principle we support the COM proposal, we are very sceptical about the removal of the option for IORPs to be run by only one person, on the basis of the size, nature, scale and complexity of the activities of the IORP.
(e) the following paragraphs 7 to 10 are added:	
'7. Where there is potential or actual conflict of interest arising from the relationship between the IORP and a service provider of the IORP, Member	GR (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
States shall require that the persons who effectively run the IORP take independent decisions in the sole interest of members and beneficiaries.	**EL**: We support the improved identification and management of conflicts of interest. PT (Comments): PT supports foreseeing the need to ensure the absence of potential conflicts of interest between IORPs and their service providers. IE (Comments): IE suggests that an alternative approach may be to place a specific obligation on IORPs to prevent and resolve any conflict of interest where a service provider is undertaking any tasks on behalf of the IORP by text such as: "Where an IORP entrusts any activity, including key functions, to service providers operating on their behalf, IORPs shall make arrangements to prevent and resolve any conflict of interest in the course of tasks performed by a service provider and Member States shall require that the persons who effectively run the IORP take independent decisions in the sole interest of members and beneficiaries." MT (Comments): Malta notes the introduction of the new sub-paragraph 21(7) with respect to potential or actual conflict of interest. Malta is of the view that a requirement should be introduced requiring the IORP to take any necessary measures to avoid conflicts of interest.
8. Member States shall require IORPs and, where applicable, their respective nomination committees to engage a broad set of qualities and	BE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
competencies when selecting members to the management or supervisory body, ensuring a balanced representation of women and men.	Technical remark: In one sentence there is mention of "administrative body", in another there is not. The same term should be used throughout the Article. GR (Comments): **EL**: We support the introduction of diversity and inclusion elements. SE (Drafting suggestions): Member States shall require IORPs and, where applicable, their respective nomination committees to engage a broad set of qualities and competencies when selecting members to the management or supervisory body, ~~ensuring~~ **promoting** a balanced representation of women and men. SE (Comments): The board members are appointed by the owners of the IORPs and should therefore not be subject of the article. The board appoints the CEO, who constitutes the management body. Not realistic to have a balanced representation for this role (one person). EE (Drafting suggestions): 8. Member States shall require IORPs and, where applicable, their respective nomination committees to engage a broad set of qualities and competencies when selecting members to the management or supervisory body~~, ensuring a balanced representation of women and men~~. EE (Comments): We do not support additional regulation of such type.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE (Comments): IE reserves its position on this proposal to enable further examination of practicalities that may arise. IT (Comments): We note that the proposed requirement to ensure a balanced representation of women and men when selecting members of the management or supervisory body may pose practical challenges for IORPs, especially where the components of these bodies are not selected by the IORPs but by the representatives of social partners who have set up the IORP. Therefore, a more detailed analysis of the proposed amendments is needed. MT (Drafting suggestions): 8. Member States shall require IORPs and, where applicable, their respective nomination committees to engage a broad set of qualities and competencies when selecting members to the management or supervisory body, ensuring **that efforts are made to obtain** a balanced representation of women and men. MT (Comments): Malta welcomes the objective within this provision. However, it notes that at times it may be challenging to fulfil such an obligation. Hence, Malta is suggesting some drafting amendments in false-track
Member States shall require that IORPs and, where applicable, their respective nomination committees, put in place a policy that promotes diversity and inclusion in the management or supervisory body. That policy shall, where	GR (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
relevant, take into account that the administrative, management or supervisory body includes representatives of social partners, and be applied in a manner that is proportionate to the nature, scale and complexity of the activities of IORPs.	**Regarding members of the management or supervisory board that are appointed and not elected by the members of the IORP**, Member States shall require that IORPs and, where applicable, their respective nomination committees, put in place a policy that promotes diversity and inclusion in the management or supervisory body. GR (Comments): **EL**: Although we support in principle the introduction of diversity and inclusión elements, note should be taken for cases that the members of the MSB of the IORPs are not appointed or nomited, but they are selected by their members. EE (Drafting suggestions): ~~Member States shall require that IORPs and, where applicable, their respective nomination committees, put in place a policy that promotes diversity and inclusion in the management or supervisory body. That policy shall, where relevant, take into account that the administrative, management or supervisory body includes representatives of social partners, and be applied in a manner that is proportionate to the nature, scale and complexity of the activities of IORPs.~~ EE (Comments): We do not support additional regulation of such type. IE (Comments): IE reserves its position on this proposal to enable further examination of practicalities that may arise.

PUBLIC

Commission proposal	Drafting suggestions and Comments
Member States shall also require that the policy sets individual quantitative objectives related to gender-balance in a manner that is proportionate to the nature, scale and complexity of the activities of the IORPs. The target shall consider the members of the management or supervisory body that are selected by the sponsor of the IORP and shall not apply to IORPs where the number of members of the management or supervisory body that are selected by the sponsor of the IORPs is three or fewer.	GR (Drafting suggestions): **Regarding members of the management or supervisory board that are appointed and not elected by the members of the IORP**, Member States shall also require that the policy sets individual quantitative objectives related to gender-balance in a manner that is proportionate to the nature, scale and complexity of the activities of the IORPs GR (Comments): **EL**: Although we support in principle the introduction of diversity and inclusión elements, note should be taken for cases that the members of the MSB of the IORPs are not appointed or nomited, but they are selected by their members. LT (Drafting suggestions): We sugest to insert a new subparagraph: **Gender-balance requirement shall apply in accordance with the principle of proportionality, taking into account the size and internal organisation of the IORP and the availability of qualified candidates.** LT (Comments): While gender equality is an important goal, in small Member States and specialised funds it may be objectively difficult to find candidates with specific expertise. Strict quantitative requirements should not hinder the formation of a competent management body. EE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
	~~Member States shall also require that the policy sets individual quantitative objectives related to gender balance in a manner that is proportionate to the nature, scale and complexity of the activities of the IORPs. The target shall consider the members of the management or supervisory body that are selected by the sponsor of the IORP and shall not apply to IORPs where the number of members of the management or supervisory body that are selected by the sponsor of the IORPs is three or fewer.~~ EE (Comments): We do not support additional regulation of such type. IE (Comments): IE reserves its position on this proposal to enable further examination of practicalities that may arise.
9. Member States shall require IORPs to publicly disclose the target for the gender-balanced representation of the underrepresented gender in the management or supervisory body, the policy on how to increase the number of the underrepresented gender in the management or supervisory body and its implementation in the annual reports.	GR (Drafting suggestions): 9. **Regarding members of the management or supervisory board that are appointed and not elected by the members of the IORP**, Member States shall require IORPs to publicly disclose the target for the gender-balanced representation of the underrepresented gender in the management or supervisory body, the policy on how to increase the number of the underrepresented gender in the management or supervisory body and its implementation in the annual reports. GR (Comments): **EL**: Although we support in principle the introduction of diversity and inclusión elements, note should be taken for cases that the members of the

PUBLIC

Commission proposal	Drafting suggestions and Comments
	MSB of the IORPs are not appointed or nomited, but they are selected by their members. SE (Comments): Preferable to have equal opportunity and avoid all types of discrimination EE (Drafting suggestions): ~~9. Member States shall require IORPs to publicly disclose the target for the gender-balanced representation of the underrepresented gender in the management or supervisory body, the policy on how to increase the number of the underrepresented gender in the management or supervisory body and its implementation in the annual reports.~~ EE (Comments): We do not support additional regulation of such type. IE (Comments): IE reserves its position on this proposal to enable further examination of practicalities that may arise. LU (Drafting suggestions): ~~9. Member States shall require IORPs to publicly disclose the target for the gender-balanced representation of the underrepresented gender in the management or supervisory body, the policy on how to increase the number of the underrepresented gender in the management or supervisory body and its implementation in the annual reports.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Comments): LU acknowledges the importance of strong governance standards, including considerations related to diversity and gender balance. At the same time, LU considers it important that the IORP II Directive remains aligned with, and does not extend beyond, the framework established under existing financial services legislation, in particular the recent amendments introduced through the Solvency II review. From this perspective, LU would exercise caution with regard to introducing public disclosure requirements related to gender balance targets, as such measures may inadvertently place disproportionate emphasis on a single aspect of governance, rather than supporting the management board's overall prudential responsibilities.
10. Member States shall ensure that the competent authorities have appropriate means, methods and powers for verifying the system of governance of the IORPs and for evaluating emerging risks identified by those IORPs which may affect their financial soundness.	GR (Comments): **EL**: We support the COM proposal. IE (Comments): IE would welcome further discussion on this proposal. The proposed provision may more properly relate to powers/functions of competent authorities under Title V Prudential Supervision rather than general governance requirements imposed on IORPs under Article 21.
Member States shall ensure that their competent authorities have the powers necessary to require that the system of governance be improved and strengthened to ensure compliance with the requirements set out in Articles 20 to 32.'; 	GR (Comments): **EL**: We support the COM proposal. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE would welcome further discussion on this proposal. The proposed provision may more properly relate to powers/functions of competent authorities under Title V Prudential Supervision rather than general governance requirements imposed on IORPs under Article 21.
(24) Article 22 is amended as follows:	FR (Comments): **FR:** No specific comments at this stage. France is currently conducting a comparative analysis of these additions with existing provisions in national law (already referring to S2 provisions), before returning to the Presidency with details on this specific point at a later stage. HR (Comments): For now, we have no strong concerns on the proposed provisions.
(a) paragraph 1 is replaced by the following:	GR (Comments): **EL**: We support the strengthening of fit-and-proper requirements.
'1. Member States shall require IORPs to ensure that persons who effectively run the IORP, the administrative, management or supervisory bodies, persons who carry out key functions and, where applicable, persons or entities to which a key function has been outsourced in accordance with Article 31 fulfil the following requirements when carrying out their tasks:	BE (Comments): In the interests of proportionality and burden reduction, we recommend retaining the option of a collective assessment for persons belonging to a daily management committee. ES (Comments): We would like to have more information about the implications of extending the requirements to these administrative, management or supervisory

PUBLIC

Commission proposal	Drafting suggestions and Comments
	bodies. The requirements in this matter must, in any case, be collective, as acknowledged in Recital 27 and in the following paragraph (iv).
(a) the requirement to be fit:	
(i) for persons who effectively run the IORP, this means their qualifications, knowledge and experience are adequate to enable them to ensure a sound and prudent management of the IORP, which shall include the knowledge and competencies enabling them to address the different levels of risk that members and beneficiaries are exposed to, depending on the nature of the schemes they are part of;	NL (Drafting suggestions): for persons who effectively run the IORP, this means their qualifications, knowledge and experience are adequate to enable them to ensure a sound and prudent management of the IORP, which shall include the knowledge and **experience regarding the participant's perspective and communication, as well as** competencies enabling them to address the different levels of risk that members and beneficiaries are exposed to, depending on the nature of the schemes they are part of; NL (Comments): The requirement to be fit (particularly section 1(a)(i)) appears to lack consideration of the participant's perspective. NL considers it essential for the requirement to be fit that board members have knowledge and experience regarding the participant's perspective and communication. We find this essential for those board members with a specific focus on participant's communication, comparable with e.g. board members who have a focus on investments. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE is of the view that "collectively" should not be deleted as those who run the IORP should have qualifications, knowledge and experience on a collective basis rather than on an individual basis.
(ii) for persons who carry out the actuarial or internal audit key functions this means their professional qualifications, knowledge and experience are adequate to properly carry out their key functions;	
(iii) for persons who carry out other key functions this means their qualifications, knowledge and experience are adequate to properly carry out their key functions;	
(iv) for the administrative, management or supervisory bodies, this means that the qualifications, knowledge and experience of their members are collectively adequate to enable them to perform their duties;	NL (Comments): We would like further clarification on what is meant by administrative body.
(b) the requirement to be proper: they are of good repute and integrity.';	
(b) the following paragraphs 1a and 1b are inserted:	
'1a. Member States shall require that IORPs notify their competent authorities of any changes to the identity of the persons referred to in paragraph 1, along with the reasons for the changes and all information needed to assess whether the new persons appointed are fit and proper.	GR (Comments): **EL**: We support the COM proposal.
1b. Member States shall require that IORPs notify their competent authorities where any of the persons referred to in paragraph 1 no longer fulfil the requirements laid down in that paragraph or have been replaced for that reason.';	SK (Comments): Based on the comment of the NBS, we note that requiring a mandatory notification ("notify") obligation may disrupt the system of certain Member States, which is based on prior consent from NCAs. We propose considering an amendment to the provision in question and allow Member States to

PUBLIC

Commission proposal	Drafting suggestions and Comments
	require prior consent for selected persons. NBS considers the requirement for prior consent to be an important preventive supervisory tool. GR (Comments): **EL**: We support the COM proposal.
(c) paragraph 2 is replaced by the following:	
'2. Member States shall ensure that the competent authorities are able to assess whether the persons referred to in paragraph 1 the requirements laid down in paragraph 1 on an ongoing basis, and whether there are any actual or potential conflicts of interest and how these are prevented or managed.';	SK (Comments): This is related to the previous comment, as the wording formulated in this manner may affect the national regulatory framework of Member States that is based on prior consent from NCAs. We propose considering an amendment in line with the previous comment. GR (Drafting suggestions): 2. Member States shall ensure that the competent authorities are able to assess whether the persons referred to in paragraph 1 **possess** the requirements laid down in paragraph 1 on an ongoing basis, and whether there are any actual or potential conflicts of interest and how these are prevented or managed.' GR (Comments): **EL**: We support the COM proposal. PT (Drafting suggestions): "2. Member States shall ensure that the competent authorities are able to assess whether the persons referred to in paragraph 1 **fulfil** the requirements

PUBLIC

Commission proposal	Drafting suggestions and Comments
	laid down in paragraph 1 on an ongoing basis, and whether there are any actual or potential conflicts of interest and how these are prevented or managed." PT (Comments): PT suggests a minor correction. SE (Drafting suggestions): Member States shall ensure that the competent authorities are able to assess whether the persons referred to in paragraph 1 the requirements laid down in paragraph 1 ~~on an ongoing basis~~, and whether there are any actual or potential conflicts of interest and how these are prevented or managed SE (Comments): How are NCAs supposed to make the assessments on an ongoing basis? Should be up to the IORP to register any changes with the NCA. IE (Comments): IE – Is some text missing from this paragraph?
(d) the following paragraph 2a is inserted:	
'2a. Where a person who effectively runs the IORP or has other key functions does not fulfil the requirements set out in paragraph 1, the competent authorities shall have the power to require the IORP to remove such person from that position.';	GR (Comments): **EL**: We support the COM proposal.
(25) in Article 23(3), the following points (h) and (i) are added:	BE

Commission proposal	Drafting suggestions and Comments
	(Comments): We propose adding the words "if necessary" between "IORPs" and "to establish" in Article 23(1). The reason for this is that we believe that no remuneration policy should be drawn up in situations where persons effectively running the IORP and/or key functions do not receive any remuneration and the IORP does not dispose of any own staff. HR (Comments): For now, we have no strong concerns on the proposed provisions. EE (Drafting suggestions): ~~(25) in Article 23(3), the following points (h) and (i) are added:~~ EE (Comments): We do not support additional regulation of such type. Adds unnecessary administrative burden.
'(h) the remuneration policy shall specify how the IORP takes into account the integration of sustainability risks, as defined in Article 2, point (22), of Regulation (EU) 2019/2088 of the European Parliament and of the Council, in the risk management system;	BE (Comments): To be deleted as part of SFDR review. Should be deleted here also. EE (Drafting suggestions): ~~'(h) the remuneration policy shall specify how the IORP takes into account the integration of sustainability risks, as defined in Article 2, point (22), of Regulation (EU) 2019/2088 of the European Parliament and of the Council, in the risk management system;~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	EE (Comments): We do not support additional regulation of such type. Adds unnecessary administrative burden. LU (Drafting suggestions): ~~'(h) the remuneration policy shall specify how the IORP takes into account the integration of sustainability risks, as defined in Article 2, point (22), of Regulation (EU) 2019/2088 of the European Parliament and of the Council, in the risk management system;~~ LU (Comments): LU is convinced that sound and credible remuneration policies foster trust from members and beneficiaries. However, sustainability risks should be addressed through sound risk management, not through remuneration policies. We blur the lines between operational choices, accountability of board members and remuneration
(i) remuneration policies and practices shall be objective and non-discriminatory, and shall be based on the principle of equal pay for male and female employees for equal work or work of equal value for women and men.';	EE (Drafting suggestions): ~~(i) remuneration policies and practices shall be objective and non-discriminatory, and shall be based on the principle of equal pay for male and female employees for equal work or work of equal value for women and men.';~~ EE (Comments): We do not support additional regulation of such type. Adds unnecessary administrative burden.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Drafting suggestions): ~~(i) remuneration policies and practices shall be objective and non-discriminatory, and shall be based on the principle of equal pay for male and female employees for equal work or work of equal value for women and men.';~~ LU (Comments): LU: please refer to our comment made above, with regards to the publication of gender balance targets. We highlight the need for coherent frameworks in financial services legislation.
(26) in Article 25(2), the introductory wording is replaced by the following:	HR (Comments): We can accept the proposal.
'The risk-management system shall cover, in a manner that is proportionate to the nature, scale and complexity of the IORPs' activities, risks which can occur in IORPs or in undertakings to which tasks or activities of an IORP have been outsourced, at least in the following areas, where applicable:';	GR (Comments): **EL**: We support the COM proposal. FR (Comments): FR: France proposes to further develop the provisions governing risk management policy. Article 25 currently lists the risks to be considered in IORPs' risk management, including investment-related risks (Art. 25 (c)). However, the current wording may lead to misinterpretation ("in particular derivatives, securitizations, and similar commitments."). France believes this article could be clarified to ensure its application to all asset types, including unlisted assets and other comparable alternative investments.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(27) Article 26 is replaced by the following:	
'Article 26 **Internal audit function**	FR (Comments): **FR:** No specific comments at this stage. France is currently conducting a comparative analysis of these additions with existing provisions in national law, before returning to the Presidency with details on this specific point at a later stage. France will also aim to compare those additional provisions with the simplification objectives that are part of the European agenda. HR (Comments): We can accept the proposed provision.
1. Member States shall require IORPs in a manner that is proportionate to the nature, scale and complexity of their activities to provide for an effective internal audit function.	GR (Comments): **EL**: We support the COM proposal.
The internal audit function shall include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance, including, where applicable, outsourced activities.	GR (Comments): **EL**: We support the COM proposal.
2. Any findings and recommendations of the internal audit shall be reported to the administrative, management or supervisory body which shall determine what actions are to be taken with respect to each of the internal audit findings and recommendations and shall ensure that those actions are carried out.'; 	GR (Comments): **EL**: We support the COM proposal.
(28) Article 28 is amended as follows:	FR (Comments): FR: No detailed comment at this stage.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Could the Commission explain, firstly, (i) how the proposals are similar to or differ from the ORSA provided for in the Solvency II framework, and secondly, (ii) why these additions appear necessary and proportionate to the objectives sought, especially since these elements are not specified by the Commission? France plans to return at a later stage with detailed analysis on this point as well, in order to contribute to the discussion. Once again, these new obligations will need to be weighed against the objectives of simplification. HR (Comments): We can accept the proposed provision. IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system. In particular, the requirements of assessment from the perspective of members and beneficiaries.
(a) in paragraph 1, the following subparagraph is added:	
'Member States shall ensure that IORPs establish a written policy for own-risk assessment containing the processes and procedures for carrying out the assessment, the frequency of the assessment and the methods.';	GR (Comments): **EL**: We support the COM proposal. LU (Drafting suggestions): '~~Member States shall ensure that IORPs establish a written policy for own-risk assessment containing the processes and procedures for carrying out the assessment, the frequency of the assessment and the methods.';~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Comments): LU does not see the added value of a written policy procedure on a stand alone basis, but rather as is the case in paragraph 3, to insert the processes that an IORP shall have in place within the own risk assessment directly.
(b) paragraph 2 is amended as follows:	
(i) the introductory wording is replaced by the following:	
'Member States shall ensure that the risk assessment referred to in paragraph 1, having regard to the nature, scale and complexity of the IORP's activities, includes the following:';	
(ii) the following points (i), (j) and (k) are added:	LU (Comments): LU: While considering the extensive own risk assessments IORPs are currently subject to, we wonder if expanding the own risk assessment further does not run counter against the simplification agenda.
'(i) an assessment of how the risks to which the IORP is or could be exposed compare to the risk tolerance limits approved by the administrative, management or supervisory body of the IORP;	GR (Comments): **EL**: We support the COM proposal.
(j) the assessment referred to in Article 44b(2);	GR (Comments): **EL**: We support the COM proposal.
(k) an assessment of the economies of scale and efficiency options, including the participation in pooled investment structures, shared services or transfers, and of their impact on members and beneficiaries.';	GR (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~(k) an assessment of the economies of scale and efficiency options, including the participation in pooled investment structures, shared services or transfers, and of their impact on members and beneficiaries.'~~ GR (Comments): **EL**: We are very concerned about the assessment of the economies of scale, as it seems to be irrelevant with the own-risk assessment obligation. SE (Drafting suggestions): ***Where relevant, …*** SE (Comments): Not applicable to large IORPs
(iii) the following subparagraph is added:	EE (Drafting suggestions): ~~(iii) the following subparagraph is added:~~
'For the purposes of the first subparagraph, point (i), Member States shall require that where, in accordance with the conditions of the pension scheme, members and beneficiaries bear risks, the risks and risk tolerance limits from the perspective of members and beneficiaries shall be considered, taking into account their capacity to bear risk and their risk appetite.';	BE (Comments): In view of burden reduction, we propose that this information can also be obtained through the representatives of the employees concerned (representatives defined as proposed above in our comment to Article 12 (2a)). Proposed definition: "*'employee representative' means a representative of a representative employee organisation that is authorised to represent employees, such as a trade union or a works council*."

PUBLIC

Commission proposal	Drafting suggestions and Comments
	GR (Comments): **EL**: We fully support COM's proposal. EE (Drafting suggestions): ~~'For the purposes of the first subparagraph, point (i), Member States shall require that where, in accordance with the conditions of the pension scheme, members and beneficiaries bear risks, the risks and risk tolerance limits from the perspective of members and beneficiaries shall be considered, taking into account their capacity to bear risk and their risk appetite.';~~ EE (Comments): There is a slight contradiction with proposed last paragraph in Article 30. The latter refers that there might be pension schemes in which members are entitled to make investment choices. If members are not entitled to make investment choices, there is no point to apply the provision provided here. In case of an investment fund the risk is same for all members. It seams also irrelevant in respect of the own-risk assessment.
(29) in Article 30, the following paragraphs are added:	SK (Comments): Based also on the comment of the NBS, we note that Article 30 introduces more detailed rules regarding the content of the investment policy statement. From our perspective, the proposed amendment creates a duplicative regime, as investment rules are to a large extent already contained in the statutes of supplementary pension funds. We propose considering whether such a more detailed regulation is beneficial and in what form it would be implemented into the Slovak legal framework.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	FR (Comments): **FR:** No specific comments at this stage. France is currently analysing these elements and plans to return to the matter at a later date. Once again, these new obligations will need to be weighed against the objectives of simplification. HR (Comments): Scrutiny reservation – still analysing the impact of the proposal.
'Member States shall require that the statement identifies clear investment objectives for each pension scheme that are consistent with its retirement income objective, the overall performance objectives for the scheme and the means of monitoring performance. The statement shall also identify when deviations from the asset allocation strategy and performance objectives may be tolerated and to what extent. The investment policy shall also include any overarching decisions regarding tactical asset allocation, security selection and trade execution.	GR (Drafting suggestions): Member States shall require that IORPs **~~the statement~~ prepare an investment policy for each pension scheme,** that identify clear investment objectives **~~for each pension scheme~~** that are consistent with its retirement income objective, the overall performance objectives for the scheme and the means of monitoring performance. The**y ~~statement~~** shall also identify when deviations from the asset allocation strategy and performance objectives may be tolerated and to what extent. The investment policy shall also include any overarching decisions regarding tactical asset allocation, security selection and trade execution. GR (Comments): **EL**: Although we support the enhancement of the investment statement by including investment objectives for each pension scheme, we have concerns to include these in the Statement of investment Policy principles. This statement is public and should contain, as its name, only the principles. The

PUBLIC

Commission proposal	Drafting suggestions and Comments
	investment objectives per pension scheme should be available only to the members of the said pension scheme and not being public. SE (Comments): How does this apply to DB schemes? We do not think this statement should be used as a supervision tool in order to streamline the IORPs operations. The purpose of the supervision should be to safeguard financial stability and consumer protection.
The statement shall also address whether, why, to what extent and how more complex classes of assets, including alternative asset classes, will be used, and shall specify the appropriate extent of exposure to counterparty risk.	GR (Drafting suggestions): The ~~**statement**~~ **investment Policy for each pension scheme** shall also address whether, why, to what extent and how more complex classes of assets, including alternative asset classes, will be used, and shall specify the appropriate extent of exposure to counterparty risk. GR (Comments): **EL**: These should be included in the investment Policy of each pension scheme and not to the statement.
Member States shall ensure that the IORP establishes procedures and criteria for reviewing the effectiveness of the investment policy and for determining whether amendments are required to the policy, its implementation procedures or the decision-making structure.	GR (Comments): **EL**: We support the COM proposal.
The statement shall be adopted by the administrative, management or supervisory body of the IORP. Where an IORP manages different pension schemes, separate statements of investment policy shall be prepared for each.	BE (Comments): Clarification should be provided on what constitutes ‘different pension schemes’.

Commission proposal	Drafting suggestions and Comments
	We should avoid the situation that a SIP should be drafted for each single pension scheme (this could be even at the level of a self-employed person) where there is no different investment strategy. It should be possible to have a single common SIP for the same type of pension scheme where the IORP applies the same investment policy. GR (Drafting suggestions): The statement shall be adopted by the administrative, management or supervisory body of the IORP. Where an IORP manages different pension schemes, separate ~~statements of~~ investment **policies** shall be prepared for each. GR (Comments): **EL**: Although we support the COM proposal, we suggest that the wording is amended, so as to reflect more accurately the IORPs' obligation to draw and maintain one statement of investment Policy principles, but investment policies for each pension scheme.
Member States shall ensure that, for pension schemes in which members are entitled to make investment choices, the statement provides for an appropriate range of investment options, including a default option, classifies those options according to the nature and extent of the investment risk borne by members, and ensures that sufficient information is made available to enable informed investment decisions.'; GR (Drafting suggestions): Member States shall ensure that, for pension schemes in which members are entitled to make investment choices, **~~the statement~~** IORPs provide for an appropriate range of investment options, including a default option, classifies those options according to the nature and extent of the investment risk borne by members, and ensures that sufficient information is made available to enable informed investment decisions **according to article 37(2)**.'; GR

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): **EL**: We support the COM proposal. Nevertheless, the provision of Information should relate to the Union PBS of article 37(2). DE (Drafting suggestions): ~~Member States shall ensure that, for pension schemes in which members are entitled to make investment choices, the statement provides for an appropriate range of investment options, including a default option, classifies those options according to the nature and extent of the investment risk borne by members, and ensures that sufficient information is made available to enable informed investment decisions.~~'; DE (Comments): We do not consider this requirement to be part of the statement of investment policy principles. Information about options should be subject to the the information requirements of Title IV. IT (Comments): The decision on whether to require a default investment option should remain at the discretion of the Member State. It should not be imposed as mandatory by the Directive, in order to preserve flexibility and respect the diversity of national pension systems and regulatory frameworks.
(30) Article 31 is amended as follows:	HR (Comments): For now, we have no strong concerns on the proposed provisions.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(a) paragraph 1 is replaced by the following:	
'1. Member States shall permit or require IORPs authorised in their territory to entrust any activities including key functions and the management of those IORPs, in whole or in part, to service providers operating on behalf of those IORPs, provided that the outsourcing arrangements comply with paragraphs 2 to 7.';	BE (Comments): Technical remark: point 7 has been deleted. AT (Drafting suggestions): "...with paragraphs 2 to 6" AT (Comments): Paragraph 7 is deleted. PT (Comments): PT preliminarily supports removing the possibility for MS to fully restrict outsourcing arrangements. SE (Comments): SE opposes that the NCA shall *require* the IORP to outsource some of its activities. Such operational questions are surely not the responsibility of the NCA.
(b) paragraph 5 is replaced by the following:	
'5. Member States shall ensure that IORPs outsourcing key functions, the management of those IORPs, or other activities covered by this Directive enter into a legally enforceable written agreement with the service provider. Such agreement shall include a breakdown of direct and indirect costs and shall	FR (Comments): **FR:** Given the challenges posed by outsourcing across the financial sector and the dependencies that this practice places on the activities of IORPs in

PUBLIC

Commission proposal	Drafting suggestions and Comments
clearly define the rights and obligations of the IORP and the service provider. In case of a potential conflict of interest with the service provider, IORPs shall document and implement procedures to prevent or manage conflicts of interest.'; 	particular, with specific risks as a consequence, France considers that this reinforcement appears interesting at first glance, subject to further analysis and engagement with interested stakeholders. MT (Comments): Malta notes the introduction of the new sub-paragraph 31(5) with respect to potential or actual conflict of interest. Malta is of the view that a requirement should be introduced requiring the IORP to take any necessary measures to avoid conflicts of interest.
(c) paragraph 7 is deleted; 	GR (Drafting suggestions): ~~(c) paragraph 7 is deleted;~~ GR (Comments): **EL**: We have strong concerns on the deletion of this paragraph. PT (Comments): PT would question the deletion of this possibility for competent authorities, which appears to be an important mechanism to fulfil information gaps if needed. FR (Comments): **FR:** Given the challenges posed by outsourcing across the financial sector and the dependencies that this practice places on the activities of IORPs in particular, France is paying close attention to the changes made to outsourcing requirements. **The deletion of paragraph 7 therefore seems surprising on the part of the Commission, as it could prevent NCAs from**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	properly carrying out their task of monitoring and identifying risks related to outsourcing. Could the Commission explain the rationale behind this deletion and its benefits? Does it notably consider that it is now included on the scope of new paragraph 1a of Article 48? IE (Comments): IE – Ireland would welcome further clarification on why this paragraph is being deleted – is it linked to proposed new Article 50a?
(31) Article 33 is amended as follows:	FR (Comments): **FR:** No specific comment on this article. HR (Comments): We can support the proposed changes.
(a) paragraphs 1, 2 and 3 are replaced by the following:	
'1. In the case of a pension scheme where members and beneficiaries fully bear the investment risk, the competent authority of the home Member State shall require the IORP to appoint one depositary per pension scheme for the safe-keeping of assets and oversight duties in accordance with Articles 34 and 35 or, if the IORP itself keeps the assets in accordance with Article 34(2), require the IORP to have a trustee who performs the oversight duties in accordance with Article 35 and is notified to the competent authority.	BE (Comments): It is unclear what the purpose is to assign a depository per pension scheme. We should avoid the situation that a contract should be signed with the same depository for each single pension scheme (this could be even at the level of a self-employed person). NL (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	In the case of a pension scheme where members and beneficiaries fully bear the investment risk **and no element of collective risk sharing is involved**, the competent authority of the home Member State shall require the IORP to appoint one depositary per pension scheme for the safe-keeping of assets and oversight duties in accordance with Articles 34 and 35 or, **if the assets are kept** in accordance with Article 34(2), require the IORP to have a trustee who performs the oversight duties in accordance with Article 35 and is notified to the competent authority. NL (Comments): We propose changes to this article to reflect that a depositary brings most value where investment portfolios are owned by (or can directly be attributed to) individual member/beneficiaries. When there is collective investment and risk-sharing, the added value of a depositary for members/beneficiaries is quite low but the requirement would lead to significant extra costs. Many IORPs use asset managers to help them with complying with Article 34(2) (hence the second text proposal), while these asset managers often appoint a depositary. In this way protection is provided without a depositary being appointed by the IORP. An additional requirement for the IORP to appoint a depositary would add additional costs and without providing the benefits of additional protection. GR (Comments): **EL**: The role of the trustee in not clear. In addition, it is not clear in what way it differs from the depositary.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LT (Drafting suggestions): In the case of a pension scheme where members and beneficiaries fully bear the investment risk, the competent authority of the home Member State shall require the IORP to appoint one depositary per pension scheme for the safe-keeping of assets and oversight duties in accordance with Articles 34 and 35 or, if the IORP itself keeps the assets in accordance with Article 34(2), require the IORP to have a trustee who performs the oversight duties in accordance with Article 35 and is notified to the competent authority. **However, Member States may allow IORPs to implement alternative safeguarding measures that offer a comparable level of protection, proportionate to the IORP's nature, scale, and complexity, provided these measures are approved by the competent authority.** LT (Comments): This amendment would allow Member States to implement more flexible, yet equivalent, asset safeguarding measures, taking into account the size and complexity of IORPs, thereby reducing disproportionate costs and administrative burdens, especially for smaller institutions. DK (Comments): It is important not to impose uneccessary burdens by always requiring an depositary and to allow for other well functioning ways of safekeeping. AT (Drafting suggestions): Member State ~~shall~~ **may** require the IORP to appoint one depositary

PUBLIC

Commission proposal	Drafting suggestions and Comments
	AT (Comments): As there might be specialised depositaries for liquid assets and other depositaries e.g. for private markets assets, it can make sense for pension scheme assets to be held by more than one depositary for specialisation and diversification issues. PT (Comments): PT preliminarily supports mandating the appointment of a depositary or a trustee for schemes in which members and beneficiaries fully bear the investment risk. SE (Comments): The proposed requirement appears to be based on the incorrect assumption that all IORPs operate as UCITS funds or similar. Depositaries only have a role to play in cases where there is a triangular relationship including the IORP (manages assets without owning them), the depositary (holds assets and monitors the management) and the members/beneficiaries. However, Swedish occupational pension undertakings own the assets under management, and therefore there is no separation of the total assets in the way required in an UCITS fund. Since depositaries have no function in this context, a mandatory requirement is incompatible with the Swedish system and must therefore be avoided. It should be noted that there is no requirement to appoint a depositary in the Solvency II framework. We note that recital 31 states that Member States may maintain existing safe-keeping measures providing a level of protection comparable with depositaries. However, this is not reflected in Article 33. A clarification in

PUBLIC

Commission proposal	Drafting suggestions and Comments
	line with recital 31 could be a way of allowing national systems where depositaries have no function. EE (Drafting suggestions): '1. In the case of a pension scheme where members and beneficiaries fully bear the investment risk, the competent authority of the home Member State shall require the IORP to appoint one depositary per pension scheme for the safe-keeping of assets and oversight duties in accordance with Articles 34 and 35 or, if there has not been a requirement to appoint a depository in the Member State and the IORP itself keeps the assets in accordance with Article 34(2), require the IORP to have a trustee who performs the oversight duties in accordance with Article 35 and is notified to the competent authority. EE (Comments): In respect of depository requirements, it seems to be a step back here. According to IORP II Directive it is Member States' option to require the appointment of depository. And only, if the option has not been used, the Directive refers that IORPs shall make arrangements to prevent and resolve any conflict of interest in the course of tasks otherwise performed by a depositary and an asset manager. The option to have IORPs keeping assets it selves should be linked to Member States' earlier decisions pursuant to Article 33 (1) and (2) of the IORP II Directive. Thus, the IORP itself could keep the assets only, if there has been no depository requirement in the Member State. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE - Ireland to reserve its position on the proposed revisions to Article 33 in order to enable further examination of practicalities that may arise. IT (Comments): The requirement to appoint a depositary should apply to the IORP, rather than on a per-scheme basis, as IORPs may operate multiple pension schemes. Additionally, the appointment of a depositary should be required at the Member State level (and not imposed by the competent authority). MT (Comments): Malta refers to the amendments in Article 33 requiring an IORP to appoint a depositary per pension scheme for the safe-keeping of assets and oversight duties. Malta also notes the new requirement for an IORP to have a trustee to perform oversight duties where the IORP itself keeps the assets in line with Article 34(2), in this respect, it is to be noted that this requirement will add administrative and financial burdens to appoint a trustee. Clarification is sought for instances where the IORP is a trust, and whether in such a case an extra trustee would need to be appointed or not.
For the purposes of the first subparagraph, the IORP or, where applicable, the authorised entity referred to in Article 2(1), shall not act as depositary for that scheme.	
2. For pension schemes in which the members and beneficiaries do not fully bear the investment risk, the home Member State may require the IORP to appoint one depositary per pension scheme for safe-keeping of assets or for safe-keeping of assets and oversight duties in accordance with Articles 34 and 35.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
3. Unless otherwise provided for in this Chapter, for the appointment of the depositary, Chapter IV of Directive 2009/65/EC shall apply accordingly.	GR (Comments): **EL**: We support the COM proposal. BG (Comments): BG: In some cases the provisions of EU Directives prescribe that the provisions of another legal act "shall apply mutatis mutandis" whilst Art. 33 (3) (as well as other new provisions) state that the provisions of Directive 2009/65/EC "shall apply accordingly". Is there a difference in substance, or only a difference in the wording? FR (Comments): **FR:** France is currently analysing the implications of this new reference to Solvency 2 and the need for this reinforcement it would imply, in terms of its advantages and disadvantages. MT (Comments): Malta notes that sub-paragraph (3) has been amended and a depositary can only be appointed under Directive 2009/65/EC. Clarification is sought as to whether depositaries appointed under Directive 2013/36/EU, 2009/65/EC or Directive 2011/61/EU, may remain to be depositaries and if not, what action can Member States take in that situation.
Member States shall not restrict IORPs from appointing depositaries established in another Member State.';	EE (Comments): Does it mean that Chapter IV of Directive 2009/65/EC (UCITS) would still apply, e.g. a branch must be established in this case? Or should this be an exception from UCITS Directive, e.g. no subsidiary or branch is required?

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The latter is allowed by the latest AIFMD amendments now for AIFs, if Member State so decides. However, additional requirements must be met then.
(32) Article 34 is replaced by the following:	HR (Comments): We can support the proposed changes.
'Article 34 **Safekeeping of assets and depositary liability**	FR (Comments): **FR:** France is currently analysing the implications of this new reference to Solvency 2 and the need for this reinforcement it would imply, in terms of its advantages and disadvantages.
1. Unless otherwise provided for in this Chapter, for the execution of the tasks of the depositaries in relation to the safe-keeping of assets and the depositary liability, Chapter IV of Directive 2009/65/EC shall apply accordingly.	GR (Comments): **EL**: We support the COM proposal.
2. Where no depositary is appointed for the safe-keeping of assets, IORPs shall, at least be required to:	EE (Comments): The option to have IORPs keeping assets it selves should be linked to Member States' earlier decisions pursuant to Article 33 (1) and (2) of the IORP II Directive. Thus, the IORP itself could keep the assets only, if there has been no depository requirement in the Member State.
(a) ensure that financial instruments are subject to due care and protection;	
(b) keep records that enable the IORP to identify all assets at all times and without delay;	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(c) take the necessary measures to avoid conflicts of interest in relation to the safe-keeping of assets;	
(d) inform the competent authorities, upon request, about the manner in which assets are kept.’;	
(33) in Article 35, paragraph 1 is replaced by the following:	FR (Comments): **FR:** France is currently analysing the implications of this new reference to Solvency 2 and the need for this reinforcement it would imply, in terms of its advantages and disadvantages. HR (Comments): We can support the proposed changes.
‘1. Unless otherwise provided for in this Chapter, for the oversight duties of the depositary, Chapter IV of Directive 2009/65/EC shall apply accordingly.’;	GR (Comments): **EL**: We support the COM proposal.
(34) the heading of Title IV is replaced by the following:	

PUBLIC

'TITLE IV INFORMATION TO BE GIVEN TO PROSPECTIVE MEMBERS, MEMBERS AND BENEFICIARIES AND BUSINESS CONDUCT RULES';	GR (Drafting suggestions): TITLE IV INFORMATION **REQUIREMENTS** ~~TO BE GIVEN TO PROSPECTIVE MEMBERS, MEMBERS AND BENEFICIARIES~~ AND **OTHER PROTECTIVE** ~~BUSINESS CONDUCT~~ RULES' GR (Comments): **EL**: We fully suport the proposals towards enhancing the protection of IORP members. However, we propose to amend "*business conduct rules*" to "*other protective rules*" because IORPs are not an ordinary "business" or "market", especially due to their role in and their connection to the wider social and labor environment. AT (Comments): We generally support comprehensive transparency and the improvement/extension of information requirements. HR (Comments): For now, we have no strong concerns on the proposed provisions. IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The proposal provides that numerous regulatory aspects should be defined at EU level, thereby risking an override of the current minimum-harmonisation approach of the Directive — an approach that is necessary to take into account the heterogeneity of supplementary pension systems (and of the overall national pension systems) and the corresponding diversity in supervisory frameworks. The proposal provides a broad role for EIOPA in developing guidelines and technical standards, with significant implications for supervisory methodologies, which may no longer be able to properly account for the specific features of pension funds in individual Member States. In Italy, disclosure rules are central, as members are called to make numerous decisions throughout their participation. For this reason, the national regulatory framework seeks to promote comparability between IORPs and domestic individual pension products. The harmonisation of the PBS does not appear beneficial, as it risks failing to take into account elements that — due to the characteristics of the national system — would instead need to be specifically represented. On this regard it is important to take into account the limited need of comparability of the IORPs at international level as IORPs are company/sectorial domestic pension products, are not subject to an harmonized framework and passporting regime (unlike other financial products). It would be preferable to preserve the power of Member States to lay down detailed rules in this area, while allowing EU legislation to establish minimum-harmonisation criteria.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(35) Article 36 is amended as follows:	FR (Comments): **FR: France** is currently analysing this point in detail but **is generally favourable towards the proposed transmission enhancements, which will benefit consumers.**
(a) paragraph 1 is replaced by the following:	
'1. Taking into account the nature of the pension scheme established, Member States shall ensure that every IORP authorised in their territory operating occupational pension schemes provides to:	
(a) prospective members: at least the information set out in Article 41;	GR (Drafting suggestions): (a) prospective members: at least the information set out in Article**s 37(1), 37(2) and** 41***;*** GR (Comments): **EL**: Information in art. 37(1) and 37(2) is much more detailed and appropriate for a prospective member and should be provided beforehand. We also propose to merge art. 37 and 41 so as to avoid any duplications and provide for one, single, simple, concise and complete piece of information.
(b) members: at least the information set out in Article 37 to 40, 41a, 42 and 44; and	MT (Comments): Malta notes the proposed amendments in the second paragraph of paragraph 1 in relation to the information requirements on IORPs that are also authorised to provide personal pension products. In this regard, Malta is concerned to note that imposing such obligations on IORPs that provide personal pension products, would create an unlevel playing field with other entities that are

PUBLIC

Commission proposal	Drafting suggestions and Comments
	manufacturing and distributing occupational pension business and personal pension business.
(c) beneficiaries: at least the information set out in Article 37, 41a, 43 and 44.	
Where, pursuant to national law, IORPs are authorised to provide personal pension products, Member States shall ensure that every IORP authorised in their territory, which provides those products other than the pan-European Personal Pension Product as defined in Article 2, point (1), of Regulation (EU) 2019/1238, provides to prospective savers and personal pension savers and beneficiaries information that is clear, fair, not misleading, and appropriate to the nature of the product, the distribution channel and the characteristics of the saver or beneficiary. That information shall ensure a level of transparency and protection equivalent to that required under national law for the distribution of personal pension products by other entities or institutions, at least in respect of the following elements:	EE (Drafting suggestions): Where, pursuant to national law, IORPs are authorised to provide personal pension products and if Member State has chosen to apply this Directive also to personal pensions pursuant to Article 4, Member States shall ensure that every IORP authorised in their territory, which provides those products other than the pan-European Personal Pension Product as defined in Article 2, point (1), of Regulation (EU) 2019/1238, provides to prospective savers and personal pension savers and beneficiaries information that is clear, fair, not misleading, and appropriate to the nature of the product, the distribution channel and the characteristics of the saver or beneficiary. That information shall ensure a level of transparency and protection equivalent to that required under national law for the distribution of personal pension products by other entities or institutions, at least in respect of the following elements: EE (Comments): The organisation of pension systems should remain a national competence. Proposed paragraph intervenes to the provision of national pension products and contradicts the general principle mentioned above. Whether to apply this Directive to national personal pension products should be left for Member States to decide. and if Member States have chosen to apply this Directive also to personal pensions pursuant to Article 4;’

PUBLIC

Commission proposal	Drafting suggestions and Comments
(a) the identity, legal form and authorisation status of the IORP;	
(b) the main characteristics, costs and risks of the personal pension product offered;	
(c) the existence and nature of any advice or recommendation provided;	
(d) the nature of any remuneration received in relation to the product;	
(e) the procedures for complaints and redress.	
Member States may adapt those requirements to reflect the specific features of IORPs and the diversity of personal pension distribution channels.';	GR (Drafting suggestions): Member States may adapt those requirements to reflect the specific features of IORPs and the diversity of **the ~~personal pension~~** distribution channels **involved**'; GR (Comments): **EL**: We would propose to slightly amend the wording so as to avoid creating a mandatory special category of distributors.
(b) the following paragraph 4 is added:	
'4. EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the information that is to be provided in accordance with Articles 41, 42 and 43.';	SK (Comments): We propose that amendments concerning the provision of information be left within the competence of the Member States. BE (Comments):

Commission proposal	Drafting suggestions and Comments
	Given the level playing field between insurers and IORPs, EIOPA should not be given a mandate to develop this further for IORPs, as Member States need a certain degree of flexibility to ensure that the same requirements are imposed on both types of pension institutions. This should also ensure that employees, regardless of whether their pension scheme is managed by an IORP or an insurer, receive uniform and comparable information. Moreover, this goes against the principle of burden reduction, as it creates additional layers of regulation. GR (Drafting suggestions): '~~4. EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the information that is to be provided in accordance with Articles 41, 42 and 43.';~~ GR (Comments): **EL**: We do not see any merit in this provision, given that art. 41, 42 and 43 are detailed enough. DK (Comments): We do not see any need for this Level 3 mandate, which is not in the current legislation. IORPs should have some flexibility within the given limits given at levels 1 and 2. DE (Drafting suggestions): ~~'4. EIOPA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on the information that is to be provided in accordance with Articles 41, 42 and 43.';~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Comments): Minimum harmonisation: No guidelines. SE (Comments): SE questions the purpose and necessity of this article. Pensions products are national products and general guidelines risk increasing the administrative burden for IORPs and NCAs without improving consumer protection. IT (Comments): The proposal provides a broad role for EIOPA in developing guidelines and technical standards, with significant implications for supervisory methodologies, which may no longer be able to properly account for the specific features of pension funds in individual Member States. This includes the provision of this paragraph 6 on the information to be provided in accordance with Articles 41, 42 and 43. In Italy, disclosure rules are central, as members are called to make numerous decisions throughout their participation. For this reason, the national regulatory framework seeks to promote comparability between IORPs and domestic individual pension products. It would be preferable to preserve the power of Member States to lay down detailed rules in this area, while allowing EU legislation to establish minimum-harmonisation criteria, as any form of standardization in this area risks failing to take into account elements that — due to the characteristics of the national system — would instead need to be specifically represented.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(36) in Article 37(1), point (g) is replaced by the following:	MT (Comments): Malta notes that with respect to information about the respective scheme, information on past performance of investments has been extended from five years to ten years. Malta is concerned that this additional five-year information will add burden on the industry which will have to provide further information to the member who is already overloaded with information. When comparing the burden with the benefit which members may obtain from the new requirement, Malta is of the view that this additional information is not conducive to a benefit to members.
'(g) where members bear investment risk or can take investment decisions, information on the past performance of investments related to the pension scheme for a minimum of ten years, or for all the years that the scheme has been operating where this is less than ten years;';	GR (Comments): **EL**: We support the COM proposal. PT (Comments): PT supports the increased time horizon for information to be provided in this regard. DE (Drafting suggestions): '(g) where members bear investment risk or can take investment decisions, information on the past performance of investments related to the pension scheme for a minimum of ~~ten~~**five** years, or for all the years that the scheme has been operating where this is less than ~~ten~~**five** years;'; DE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The ten year horizon could suggest that the past is a reliable indicator for the future development. To prevent such a misinterpretation, we propose to replace “ten years” by “five years”. SE (Comments): SE questions the ten-year scope, too detailed with limited upside. IE (Comments): IE reserves its position.
(37) the following Article 37a is inserted:	DE (Drafting suggestions): ~~(37) the following Article 37a is inserted:~~

PUBLIC

'Article 37a **Pension tracking systems**	SK (Comments): We propose that adjustments to the pension tracking system **be left within the competence of the Member States;** therefore, we suggest that the provision be formulated as an option rather than an obligation for Member States. At our national level, a pension tracking system (PTS) is already in place, and any changes imposed as mandatory requirements could be costly and would generate additional expenses for the Member State. We do not see any added value in disrupting existing national frameworks and systems. AT (Comments): The structure and use of PTS should remain an issue for Member States. PTS should adapt to the information needs of members. DE (Drafting suggestions): ~~*'Article 37a*~~ ~~**Pension tracking systems**~~ DE (Comments): Whether a MS sets up a pension tracking system (PTS) is solely within the competence of the Member States. Subsidiarity must strictly be observed. This also applies to coverage, data transmission and monitoring of IORPs in relation to PTS. FR (Comments): **FR:** In France, the GIP Union Retraite, which manages the Info-retraite website, France's pension tracking system, already benefits from the sharing

PUBLIC

Commission proposal	Drafting suggestions and Comments
	of information by IORPs – a system that is effective, functional and does not present any difficulties a priori. **France therefore warmly welcomes this new article and supports it.** Regarding the detailed wording of the proposed article, the French authorities only plan to consult interested stakeholders, notably including the GIP Union Retraite, to verify that the provisions proposed by the Commission do not present any significant difficulties or require any adjustments. France plans to report back to the Presidency if this is the case. HR (Comments): We can accept the proposal. FI (Comments): Very difficult issue. The exact amount of the pension can only be calculated when the applicant submits application. The preceding estimates are based on incomplete data. The pension of supplementary pension funds is calculated differently from the statutory earnings-related pension. MT (Comments): Malta welcomes the introduction of a new requirement for the creation of a pension tracking system, however, is concerned about the additional financial and administrative burdens which come with the creation of such system. Malta is of the view that this article's applicability should be delayed, and that more information and advice is received from EIOPA as to how this system

PUBLIC

Commission proposal	Drafting suggestions and Comments
	should look to ensure harmonisation across the EU and ensure that members are also able to compare like with like. Article 37a of the IORP II Directive states that where pension tracking systems are in place, they cover the pension entitlements administered. Clarification is sought as to what will happen in cases where Member States do not currently have pension tracking systems. Malta is of the view that further guidance as to how this system should look like should be provided.
1. Member States shall ensure that, where pension tracking systems are in place, they cover the pension entitlements administered by IORPs.	DK (Comments): Any provision on pension tracking systems should respect already existing, well-functioning national systems and not impose additional demands. In Denmark, a comprehensive pension tracking system was set up over 25 years ago. The system called "PensionsInfo" is organized through an independent association, made up of pension funds, life insurance companies, banks, savings banks and public authorities. Each partner provides accurate and up-to-date information on pensions, providing users with an overview of their pensions on demand. Information on pensions in all pillars is provided on demand, and certain simulations can be made regarding the size of payouts at different pension ages, as well as about the size of the State Pension payouts, including levels of means testing. BG (Comments): BG: As the establishment of pension tracking system is addressed in the Commission's recommendation, we do not deem necessary to introduce such a provision in the Directive. DE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~1. Member States shall ensure that, where pension tracking systems are in place, they cover the pension entitlements administered by IORPs.~~ SE (Comments): SE proposes that this article is deleted. Our pension tracking system is owned and operated by the social partners in collaboration with national authorities. The information sharing between IORPs and the PTS is governed by the social partners, not the NCA. Furthermore, this article only affects MS with a functioning PTS while those without one are not affected. This approach seems counterproductive as the aim is increase the prevalence of PTS among MS. The article should be deleted. PTS should be dealt with within the recommendations of the pensions package. EE (Comments): We support the concept of a pension tracking system in general and the objectives. However, including pension tracking systems to this Directive represents a notable shift from guidance (COM Recommendations) to stronger intervention without a clear intervening rationale.
2. For the purposes of paragraph 1, Member States shall ensure that IORPs transmit to pension tracking systems, where such systems have been established, all information necessary to provide members and beneficiaries with a comprehensive, reliable and up-to-date overview of their occupational and personal pension entitlements, insofar as those entitlements are administered by the IORP.	SK (Comments): The provision refers exclusively to IORPs as the entities required to transmit all information to the PTS. We have noted differing approaches across the amended regulatory frameworks (IORP, PEPP and IDD). In the absence of any explicit reference to intermediaries in the PTS-related provisions of this amended Regulation, should it be understood that intermediaries other than

PUBLIC

Commission proposal	Drafting suggestions and Comments
	those falling within the scope of the IDD are not subject to an obligation to provide information to the PTS? NL (Comments): In principle, we support the inclusion of third pillar products in pension tracking systems. However, due to the heterogeneity of the third pillar market, the conditions under which such third pillar entitlements are to be included must be considered carefully. (see also comment re article 22a Directive 20216/97 LT (Drafting suggestions): Insert new paragraph: **7. Member States with existing national pension tracking systems may continue to apply national data reporting formats, provided that equivalent quality of information is ensured for members and beneficiaries.** LT (Comments): A strict requirement for an EU standardised format could force the redesign of existing national systems, which would be a significant administrative burden. Therefore, the option of maintaining existing national pension tracking systems is proposed.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	AT (Comments): An "up-to-date overview" can be misleading in terms of how up-to-date it really should be. An "up-to-date overview" should not mean that an IORP is required to provide live data. It should also be sufficient if the information reflects the current state. DE (Drafting suggestions): ~~2. For the purposes of paragraph 1, Member States shall ensure that IORPs transmit to pension tracking systems, where such systems have been established, all information necessary to provide members and beneficiaries with a comprehensive, reliable and up-to-date overview of their occupational and personal pension entitlements, insofar as those entitlements are administered by the IORP.~~
3. Member States shall ensure that the information referred to in paragraph 2 is transmitted in a standardised, machine-readable and interoperable format enabling pension tracking systems to aggregate data on accrued rights, accumulated capital and projected benefits in a coherent and comparable manner.	DE (Drafting suggestions): ~~3. Member States shall ensure that the information referred to in paragraph 2 is transmitted in a standardised, machine-readable and interoperable format enabling pension tracking systems to aggregate data on accrued rights, accumulated capital and projected benefits in a coherent and comparable manner.~~
4. Member States shall ensure that IORPs remain fully responsible for the completeness and accuracy of the data transmitted and for the fulfilment of all communication obligations provided for in this Article.	BE (Drafting suggestions): *"Member States shall ensure that IORPs remain fully responsible for the completeness and accuracy of the data transmitted.* ***Member States shall determine if IORPs, or other entities, are responsible*** ~~***and***~~ *for the fulfilment of all communication obligations provided for in this Article."*

PUBLIC

Commission proposal	Drafting suggestions and Comments
	BE (Comments): Member States should have the possibility to determine that other entities are responsible for the communication obligations, as is the case in Belgium, where the responsability lays with the pension tracking system. DE (Drafting suggestions): ~~4. Member States shall ensure that IORPs remain fully responsible for the completeness and accuracy of the data transmitted and for the fulfilment of all communication obligations provided for in this Article.~~
5. Member States shall ensure that competent authorities monitor and enforce compliance with this Article and take corrective measures where IORPs fail to provide complete, accurate or timely information.	DK (Comments): MS should not be obliged to "monitor" and it is unclear what the obligation entails in this context. DK proposes to delete. DE (Drafting suggestions): ~~5. Member States shall ensure that competent authorities monitor and enforce compliance with this Article and take corrective measures where IORPs fail to provide complete, accurate or timely information.~~ EE (Comments): We have doubts regarding such enforcement.

PUBLIC

Commission proposal	Drafting suggestions and Comments
6. The format and structure of the information to be transmitted to pension tracking systems shall be consistent with the format and structure laid down in the Delegated Regulation adopted pursuant to Article 38.’;	SK (Comments): **We wish to express concerns that, should the format and structure of the information be laid down in a Delegated Regulation, this could in the future lead to inconsistencies with the framework already established under the national legislation of our Member State, in particular with the currently applicable configuration of our PTS**. In this context, it would be appropriate for the envisaged content of the Delegated Regulation to be communicated in advance. **Preferably, the widest possible scope of information should be laid down in the Directive itself and references to L2 legislation should be kept to a minimum.** BE (Comments): Given the level playing field between insurers and IORPs, it is recommended that no strict template is imposed for the PBS, as Member States need a certain degree of flexibility to ensure that the same requirements are imposed on both types of pension institutions. This should also ensure that employees, regardless of whether their pension scheme is managed by an IORP or an insurer, receive uniform and comparable information. Moreover, this goes against the principle of burden reduction, as it creates additional layers of regulation. DE (Drafting suggestions): ~~6. The format and structure of the information to be transmitted to pension tracking systems shall be consistent with the format and structure laid down in the Delegated Regulation adopted pursuant to Article 38.’;~~ DE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Minimum harmonisation: no delegated acts. [note: In Article 38, there is no Delegated Regulation to be adopted.] EE (Comments): We have doubts regarding COM's intervention in the technical details of national pension tracking systems. Organisation of pension systems is Member States' competence. Taking into account the differences of pension systems concern arises whether one size suits all model is the best here. Establishing pension tracking systems is up to a Member State. This includes also design of the tracking system, its elements and data needed for that. As the goal is to provide information on different pension pillars, the format and structure of the system should also be consistent for all pillars. As pensions are mostly subject to national social and labour law, the design of pension tracking systems should also remain national competence.
(38) Article 38 is amended as follows:	FR (Comments): **FR: Comment for Articles 38 to 43** **France is generally favourable to the proposed amendments in principle and is currently consulting with interested stakeholders, including consumers, on this issue.** France notably supports efforts to better inform consumers on an individual basis on their pension products via the Pension benefit statement. France is currently analysing the proposals in detail, particularly with regard to the proposed benchmarks – which are unprecedented for IORPs – and the specific information to be provided to beneficiaries.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	More broadly, France is also currently analysing the links with other applicable texts: for simplicity and clarity's sake, France suggests remaining as aligned as possible with PRIIPS and IDD requirements, which already provide robust disclosure rules – especially as the RIS negotiations came to a conclusion after the publication of the Commission proposal. Detailed analysis by the Commission might prove useful in that regard, to have an informed discussion in the Council. The opportunity of using cross-reference to ensure full alignment might be studied as well, if necessary. It would also ensure consistency over time of those publication and information sharing requirements.
(a) paragraphs 1, 2 and 3 are replaced by the following:	GR (Comments): **EL**: We support in principle the COM proposal. The PBS should also include the information of art. 11a(1).
'1. Member States shall require IORPs to draw up a concise document containing key information for each member. That document shall provide information on the level of risk borne by the member and take into consideration the specific nature of national pension systems and of relevant national social, labour and tax law ('Pension Benefit Statement'). The title of the document shall contain the words 'Pension Benefit Statement'.	RO (Comments): RO (MoF) has no comments insofar as the transmission of information regarding the tax treatment applicable in each Member State where the participants are resident can be ensured NL (Comments): We would like to highlight the importance of the pension benefit statement's compliance with national social and labour law. Given the diversity of national pension systems, the plurality of pension schemes offered and the needs of scheme members, it is essential that any PBS (and therefore including any possible Union standardised format) should allow sufficient room for national elements.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	SE (Comments): Again we refer to importance of respecting national solutions. Within occupational pensions, the information submitted to members is governed by the social partners. A complete harmonisation of information requirements will increase implementation costs without providing any clear benefits for members. Sweden already has well-established pension benefit statements which are tailored to the characteristics of the Swedish pension system. The costs outweigh by far the benefits. And how does this align with the simplification agenda. Also, how does this article account for differences between DB and DC schemes?
2. The exact date and period to which the information in the Pension Benefit Statement refers to shall be stated prominently.	
3. Members States shall require that the information contained in the Pension Benefit Statement is accurate, up to date, consistent with the choices made and complete. To facilitate understanding, the information presented shall be layered and follow principles of good design. The Pension Benefit Statement shall be made available to each member free of charge on paper or through electronic means, including on a durable medium or by means of a website, at least annually, in accordance with the member's preference. Preference shall be obtained at least at the beginning of membership.';	SK (Comments): The rationale for requiring that the PBS be provided in paper form is not clear. We therefore request a more detailed justification for the mandatory use of a paper format, in particular in light of other provisions which explicitly provide for digital (electronic) means of communication, including the use of layering. Such an approach appears to be inconsistent with the overall regulatory framework. We would therefore suggest that electronic means be established as the default modality for the provision of the PBS. In

PUBLIC

Commission proposal	Drafting suggestions and Comments
	this respect, IORPs should not be required to ascertain members´ preferences ex ante, rather, the provision of the PBS in paper form should be limited to cases where this is explicitly requested by the member. NL (Comments): We support the addition of the reference to layered presentation. We wonder what the principles of good design entail that are referred to in this paragraph. DK (Comments): It is unclear what is meant by "follow principles of good design". This should either be clarified or removed. SE (Comments): Asking the member to make a decision on how often he/she wants the PBS risks contributing to information overload. Simplicity is key. An alternative solution would be to require the IORPs to supply a PBS on demand. EE (Drafting suggestions): 3. Members States shall require that the information contained in the Pension Benefit Statement is accurate, up to date, consistent with the choices made and complete. To facilitate understanding, the information presented shall be layered and follow principles of good design. The Pension Benefit Statement shall be made available to each member free of charge ~~on paper or~~ through electronic means, including on a durable medium or by means of a

PUBLIC

Commission proposal	Drafting suggestions and Comments
	website, at least annually, in accordance with the member's preference. ~~Preference shall be obtained at least at the beginning of membership.~~'; EE (Comments): The aim to reduce administrative burden should not be forgotten. Requirement to provide information on paper entitles unnecessary administrative burden nowadays. LU (Drafting suggestions): 3. Members States shall require that the information contained in the Pension Benefit Statement is accurate, up to date, consistent with the choices made and complete. **~~To facilitate understanding, the information presented shall be layered and follow principles of good design~~**. The Pension Benefit Statement shall be made available to each member free of charge on paper or through electronic means, including on a durable medium or by means of a website, at least annually, in accordance with the member's preference. Preference shall be obtained at least at the beginning of membership.'; LU (Comments): LU: The design features and how the information included in the pension benefit statement will be presented, should remain technological neutral. We struggle to understand why layering information instead of streamlining relevant information for members isn't the way forward. Neither is it clear to us what "good design" should eventually mean.
(b) the following paragraph 6 is added:	DE (Drafting suggestions): ~~(b) the following paragraph 6 is added:~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
'6. The format and structure of the Pension Benefit Statement shall be provided to members and beneficiaries using a Union standardised format, while also taking into account the characteristics of different types of pension schemes.	BE (Comments): Given the level playing field between insurers and IORPs, it is recommended that no strict template is imposed for the PBS, as Member States need a certain degree of flexibility to ensure that the same requirements are imposed on both types of pension institutions. This should also ensure that employees, regardless of whether their pension scheme is managed by an IORP or an insurer, receive uniform and comparable information. Moreover, this goes against the principle of burden reduction, as it creates additional layers of regulation. NL (Comments): Scrutiny reservation. We are hesitant with regard to a harmonised format for PBS on EU level. Firstly because we have doubts whether a harmonised format can sufficiently reflect national practices and preferences with regard to the level and presentation of information and secondly because this would lead to less flexibility to adjust the PBS according to e.g. changes in national legislation or developments and outcomes of consumer testing. GR (Comments): **EL**: We support the COM proposal for a Union standardized format of PBS. AT (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~'6. The format and structure of the Pension Benefit Statement shall be provided to members and beneficiaries using a Union standardised format, while also taking into account the characteristics of different types of pension schemes.~~ AT (Comments): Due to the heterogeneous product landscape, a union-wide standardised format is not practical and would only create unnecessary effort. Changing the format would also confuse current members and beneficiaries, especially since it offers no added value. DE (Drafting suggestions): ~~'6. The format and structure of the Pension Benefit Statement shall be provided to members and beneficiaries using a Union standardised format, while also taking into account the characteristics of different types of pension schemes.~~ DE (Comments): It may be already most challenging to develop a standardised PBS at national level, in particular, if the national market is quite heterogeneous. A standardised European PBS would be even more challenging due to different social and labour law regimes. We therefore propose to omit paragraph 6 and to look for an approach other than RTS. SE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The format and structure of the Pension Benefit Statement shall be provided to members and beneficiaries using a Union standardised format, while also taking into account the characteristics of different types of pension schemes. **The IORP shall use the standardised format unless it already uses an established format in the national market that its members are accustomed to**. SE (Comments): This practice is already well established in Sweden, and as mentioned it is governed by the social partners. Requiring a shift to a Union standardised format would be a significant burden with limited upside. ES (Comments): We are concerned about the obligation to use a new format. Would Member States be allowed to use the formats they have already been using? IE (Comments): IE - Ireland to reserve its position on this proposal to enable further examination of practicalities that may arise. IT (Comments): In Italy, disclosure rules are central, as members are called to make numerous decisions throughout their participation. For this reason, the national regulatory framework seeks to promote comparability between IORPs and domestic individual pension products. The harmonisation of the PBS does not appear beneficial, as it risks failing to take into account elements that — due to the characteristics of the national

PUBLIC

Commission proposal	Drafting suggestions and Comments
	system — would instead need to be specifically represented. On this regard it is important to take into account the limited need of comparability of the IORPs at international level as IORPs are company/sectorial domestic pension products, are not subject to an harmonized framework and passporting regime (unlike other financial products). It would be preferable to preserve the power of Member States to lay down detailed rules in this area, while allowing EU legislation to establish minimum-harmonisation criteria. LU (Drafting suggestions): ~~The format and structure of the Pension Benefit Statement shall be provided to members and beneficiaries using a Union standardised format, while also taking into account the characteristics of different types of pension schemes.~~ LU (Comments): LU: The EU occupational pension sector landscape presents too many national specificities that have guided the design of the Pension Benefit Statement so far and will continue to do so. For this reason, we do not see a relevant role her for EIOPA to develop RTS, as every MS has its own pension benefit statement in place, suited to the actual national context and in no means a standardizable document. ~~In order to minimise duplication of reporting requirements, when developing the draft regulatory standards, EIOPA shall, to the maximum extent possible, ensure alignment with Commission Delegated Regulation (EU) 2021/473*, and aim at facilitating the insert of the information of the Pension Benefit Statement into pension tracking systems and at ensuring usability for members and beneficiaries.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
EIOPA shall, after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the details of the presentation of the information referred to in Articles 38 to 40. In relation to the presentation of the information on past performance as referred to in Article 39(1), point (i), EIOPA shall take into account the characteristics of different types of schemes when drafting those regulatory technical standards, in particular if members and beneficiaries bear investment risk or where the investment strategy is age-dependent or includes duration matching.	NL (Comments): See comment article 38(6) AT (Comments): We propose not to make any changes. For members, historical comparability of information is more important than being able to compare it with that of another provider and of a different product. DE (Drafting suggestions): ~~EIOPA shall, after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the details of the presentation of the information referred to in Articles 38 to 40. In relation to the presentation of the information on past performance as referred to in Article 39(1), point (i), EIOPA shall take into account the characteristics of different types of schemes when drafting those regulatory technical standards, in particular if members and beneficiaries bear investment risk or where the investment strategy is age-dependent or includes duration matching.~~ IT (Comments): The proposal provides a broad role for EIOPA in developing guidelines and technical standards, with significant implications for supervisory methodologies, which may no longer be able to properly account for the specific features of pension funds in individual Member States. This includes the provision of this paragraph 6 on the details of the presentation of the information referred to in Articles 38 to 40.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Drafting suggestions): ~~EIOPA shall, after conducting consumer testing and industry testing, develop draft regulatory technical standards specifying the details of the presentation of the information referred to in Articles 38 to 40. In relation to the presentation of the information on past performance as referred to in Article 39(1), point (i), EIOPA shall take into account the characteristics of different types of schemes when drafting those regulatory technical standards, in particular if members and beneficiaries bear investment risk or where the investment strategy is age-dependent or includes duration matching.~~
In order to minimise duplication of reporting requirements, when developing the draft regulatory standards, EIOPA shall, to the maximum extent possible, ensure alignment with Commission Delegated Regulation (EU) 2021/473*, and aim at facilitating the insert of the information of the Pension Benefit Statement into pension tracking systems and at ensuring usability for members and beneficiaries.	NL (Comments): See comment article 38(6) AT (Comments): We propose not to make any changes. For members, historical comparability of information is more important than being able to compare it with that of another provider and of a different product. DE (Drafting suggestions): ~~In order to minimise duplication of reporting requirements, when developing the draft regulatory standards, EIOPA shall, to the maximum extent possible, ensure alignment with Commission Delegated Regulation (EU) 2021/473*, and aim at facilitating the insert of the information of the Pension Benefit~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~Statement into pension tracking systems and at ensuring usability for members and beneficiaries.~~ EE (Comments): We have doubts regarding COM's intervention in the technical details of national pension tracking systems. See also comment for Article 37a (6). LU (Drafting suggestions): ~~In order to minimise duplication of reporting requirements, when developing the draft regulatory standards, EIOPA shall, to the maximum extent possible, ensure alignment with Commission Delegated Regulation (EU) 2021/473*, and aim at facilitating the insert of the information of the Pension Benefit Statement into pension tracking systems and at ensuring usability for members and beneficiaries.~~
EIOPA shall submit those draft regulatory technical standards to the Commission by [PO = please insert date 18 months after the date of entry into force].	NL (Comments): See comment article 38(6) DE (Drafting suggestions): ~~EIOPA shall submit those draft regulatory technical standards to the Commission by [PO = please insert date 18 months after the date of entry into force].~~ LU (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~EIOPA shall submit those draft regulatory technical standards to the Commission by [PO = please insert date 18 months after the date of entry into force].~~
Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.	SK (Comments): As also indicated above in relation to the PTS, it is necessary to have prior knowledge of the content of the Regulatory Technical Standards in order to assess this provision and formulate our position. Request for keeping L2 legislation on minimum also remains. NL (Comments): See comment article 38(6) DE (Drafting suggestions): ~~Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.~~ LU (Drafting suggestions): ~~Power is delegated to the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.~~
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PUBLIC

Commission proposal	Drafting suggestions and Comments
* Commission Delegated Regulation (EU) 2021/473 of 18 December 2020 supplementing Regulation (EU) 2019/1238 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements on information documents, on the costs and fees included in the cost cap and on risk-mitigation techniques for the pan-European Personal Pension Product (OJ L 99, 22.3.2021, p. 1, ELI: http://data.europa.eu/eli/reg_del/2021/473/oj).'; (39) in Article 39, paragraph 1 is amended as follows:	DE (Drafting suggestions): ~~* Commission Delegated Regulation (EU) 2021/473 of 18 December 2020 supplementing Regulation (EU) 2019/1238 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements on information documents, on the costs and fees included in the cost cap and on risk-mitigation techniques for the pan-European Personal Pension Product (OJ L 99, 22.3.2021, p. 1, ELI: http://data.europa.eu/eli/reg_del/2021/473/oj).'~~ SK (Comments): **After preliminary review of PBS provisions, we are concerned about direction of the proposed amendments.** The additions to and amendments of the existing provisions would require the PBS to include a significantly increased volume of information and numerical data, thereby departing from the originally established nature of the document and from the initial objective of ensuring that it remains clear, concise and easily understandable for the average member. In our national legislation, in line with EIOPA recommendations, we have adopted a different approach. Since 2018, the implementing measures governing the content and template of the PBS have been progressively amended **with a view to ensuring that the PBS contains only key information and remains transparent and comprehensible.** **We would also like to underline that national pension systems can be inherently more complex and may require additional information for different member categories (for example, in our case, employees in hazardous work or members who entered pension schemes with defined**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	benefit arrangements with varying withdrawal conditions). This could lead to the PBS containing an excessive amount of data and information. These concerns are further increased by the requirement to disclose costs both in monetary terms and as a percentage of contributions, and not just for the past 12 months but also cumulatively from when the member joined the scheme. **In light of the above, we are not in a position to support the proposed changes and would prefer that the setting of the relevant documentation remains at national level.** SE (Comments): See comments on Article 38. From a consumer protection perspective, we are concerned that overly detailed information could result in 'information overload' and therefore propose that the requirements should be streamlined IE (Comments): IE to reserve its position on the proposed revisions to Article 39. IT (Comments): A more in-depth analysis of the proposed amendments is needed.
(a) the following point (ba) is inserted:	IE (Comments): IE queries why this is needed given that it is already required under Article 37(1)(a)?

PUBLIC

Commission proposal	Drafting suggestions and Comments
'(ba) the Member State in which the IORP is authorised and the names of the competent authorities of that Member State';	PT (Comments): PT believes this requirement is indeed essential to be included in the PBS.
(b) point (d) is replaced by the following:	
'(d) information on pension benefit projections based on the retirement age as specified in point (a), and a disclaimer that those projections may differ from the final value of the benefits received, including, where applicable, that the retirement benefit may be variable;';	GR (Comments): **EL**: The disclaimer should be inserted only when relevant, e.g. it is not relevant for DB schemes. SE (Comments): This is already covered by Swedish PTS.
(c) point (g) is replaced by the following:	IE (Comments): IE seeks, for proportionality reasons, for the revised (g), relating to costs since the member joined the scheme, to be introduced incrementally or prospectively.
'(g) where members bear investment risk or can take investment decisions, information on the costs imposed and their impact, including:	BE (Drafting suggestions): (g) **a breakdown of the costs deducted by the IORP at least over the last 12 months** ~~where members bear investment risk or can take investment decisions, information on the costs imposed and their impact, including~~: BE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	GR (Comments): **EL**: It should be clarified that this information will be provided when the members bear all or part of the costs. DE (Drafting suggestions): '(g) where members bear **material** investment risk ~~or can take investment decisions~~, information on the costs imposed and their impact, including: DE (Comments): Simplification: Information should be required in material cases only, i. e. if investment risk is material. This includes the case that the member can take investment decisions.
(i) a breakdown of all costs incurred, directly and indirectly, by members and beneficiaries over the previous 12 months and on compounded basis since the member joined the scheme concerned, indicating at least the costs of administration, the costs of safekeeping the assets, and the investment costs incurred in connection with the management of assets and portfolio transactions;	BE (Drafting suggestions): ~~(i) a breakdown of all costs incurred, directly and indirectly, by members and beneficiaries over the previous 12 months and on compounded basis since the member joined the scheme concerned, indicating at least the costs of administration, the costs of safekeeping the assets, and the investment costs incurred in connection with the management of assets and portfolio transactions;~~ BE (Comments): The information about costs is far too complex for consumers.This does not increase transparency, but rather kills it.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	In addition, additional cost classifications are used on the PBS (costs of administration, the costs of safekeeping, transaction costs, etc.), which makes it even more complex. Efforts must be made to simplify the cost section, with the aim of allowing consumers to see the impact of costs at a glance and compare different providers. More detailed background information can be made available in deeper layers of information (layering). Therefore, it's proposed to keep the current wording of Article 39 (1) (g). NL (Comments): We agree that transparency about costs incurred is a positive. However, the article seems to list a level of detail and specific costs that are not readily available and might require costly calculations to provide (e.g. calculating costs on a compound basis since the member joined is a tremendous effort, costs of safekeeping are probably insignificant in the broader picture). Whilst we support the push for transparency, we do think that the current proposal will lead to higher costs for members and beneficiaries and therefore works against the Commission's goal regarding cost reduction. Also, if the level of detail is such that the members receive various numbers, we are concerned that this might lead to information overload for members. AT (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	In the interest of transparency, we do welcome the breakdown of all costs incurred. DE (Drafting suggestions): (i) a breakdown of all costs incurred, directly and indirectly, by members and beneficiaries over the previous 12 months ~~and on compounded basis since the member joined the scheme concerned~~, indicating at least the costs of administration, the costs of safekeeping the assets, and the investment costs incurred in connection with the management of assets and portfolio transactions; DE (Comments): Simplification: We propose not to indicate accumulated costs for the past. This information might be not available. SE (Comments): This requirement is very complex and expensive. Could increase costs for the members rather than press them down. What is meant by direct and indirect costs? EE (Comments): Too much information. We suggest that total expense ratio (TER) and administrative fee should be included instead of indicating the costs of administration, the costs of safekeeping the assets, and the investment costs incurred in connection with the management of assets and portfolio transactions. LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): (i) ~~a breakdown of all~~ **the total amount of** costs incurred, directly and indirectly, by members and beneficiaries over the previous 12 months and on compounded basis since the member joined the scheme concerned, ~~indicating at least the costs of administration, the costs of safekeeping the assets, and the investment costs incurred in connection with the management of assets and portfolio transactions;~~ LU (Comments): LU advocates for a pragmatic approach, taking the view of the member or beneficiary who might not be an expert in Finance. A simple indicator of total costs incurred over the last 12 month, would probably be more than sufficient information to members and beneficiaries, instead of being confronted to an array of different cost information
(ii) an estimation of the impact of the costs on the final capital accumulated;’;	SK (Comments): We do not support the inclusion of this section in the PBS and would prefer that the decision be left at national level. BE (Drafting suggestions): ~~(ii) an estimation of the impact of the costs on the final capital accumulated;~~ AT (Comments): In the interest of transparency, we do welcome the estimation of the impact of costs on the final capital accumulated. PT

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): PT would question the adequacy of including in the PBS an estimation of the impact of the costs on the final capital accumulated, as, in our view, such estimations may be considerably complex to frame in explanation to members and may give rise to confusion. In addition, their added value is not evident, considering that such estimations would inevitably depend on the IORPs specific criteria, the inherent subjectivity of which undermines comparability.
(d) the following points (i) and (j) are added:	LU (Comments): LU: further to our comment made with regards to the breakdown of costs under subletter (i) , it must be ensured that members and beneficiaries are not overwhelmed by information that is of relatively little value to them. Members that bear investment risk are already made aware of the fact that their benefit projection may be variable under sub letter (d). In addition, further technical information on assumptions uses for pension benefit projections are catered for in Article 40 (1) letter c)
'(i) where members bear investment risk, information on the past performance of the pension scheme or, where applicable, the investment selection made, covering performance of a minimum of 10 years or, in cases where the scheme or the relevant investment option have been provided for less than 10 years, covering all the years for which the pension scheme or the relevant investment option have been provided;';	NL (Comments): Scrutiny reservation: we have to further assess this proposal, but want to already emphasise that similar time periods need to be used for costs and returns to increase comparability. GR (Comments): **EL**: Overlapping information with art. 37 should be checked. DE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
	'(i) where members bear investment risk, information on the past performance of the pension scheme or, where applicable, the investment selection made, covering performance of a minimum of ~~10~~**five** years or, in cases where the scheme or the relevant investment option have been provided for less than ~~10~~**five** years, covering all the years for which the pension scheme or the relevant investment option have been provided;'; DE (Comments): As a new subparagraph inserted below requires the IORP to communicate "the past performance is not indicative of future performance" to the member we prefer a five year horizon in this provision. IE (Comments): IE queries why this is required given that it is already required under Article 37(1)(a)? LU (Drafting suggestions): ~~'(i) where members bear investment risk, information on the past performance of the pension scheme or, where applicable, the investment selection made, covering performance of a minimum of 10 years or, in cases where the scheme or the relevant investment option have been provided for less than 10 years, covering all the years for which the pension scheme or the relevant investment option have been provided;';~~ MT (Comments): Malta notes that with respect to information about the respective scheme, information on past performance of investments has been extended from five years to ten years. Malta is concerned that this additional five-year

Commission proposal	Drafting suggestions and Comments
	information will add burden on the industry which will have to provide further information to the member who is already overloaded with information. When comparing the burden with the benefit which members may obtain from the new requirement, Malta is of the view that this additional information is not conducive to a benefit to members.
(j) where members bear investment risk and are able to select between investment options, a brief indication of the investment selection made, including the number of options selected, the proportion of assets invested in each option and an indication of the risk level of the selection made in summary form.’;	EE (Comments): If an asset management company acts as IORP and investment options are provided as different occupational pension funds it should not be obliged to include the information about investments to one such fund to the Pension Benefit Statements of other funds, even, if an employee is a member of two or more of those occupational pension funds. Pension Benefit Statement per fund would be presented in this case. LU (Drafting suggestions): ~~(j) where members bear investment risk and are able to select between investment options, a brief indication of the investment selection made, including the number of options selected, the proportion of assets invested in each option and an indication of the risk level of the selection made in summary form.’;~~ MT (Comments): Malta notes the introduction of the new paragraph (j). In this respect, clarification is sought as to the wording “including the number of options selected”. In the said subparagraph, reference is also made to “a brief indication of the investment selection made”. In light of this, Malta requires clarification on what would be required when mentioning “number of options selected”.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(e) the following subparagraphs are added:	
'For the purposes of point (d), where the pension benefit projections are based on economic scenarios, that information shall include at least a best estimate scenario, a favourable scenario and an unfavourable scenario. The estimated future value of retirement benefits shall be shown in real terms together with a short narrative explanation.	NL (Comments): In principle we support the addition of a third scenario but refer to our comments regarding point d (i). GR (Comments): **EL**: It should be clarified that this information will be provided when the members bear risks. It is not relevant, e.g. for DB schemes.
For the purposes of point (g)(ii), the costs shall be shown at least in monetary terms and as a percentage of contributions over the previous 12 months and since the member joined the scheme, respectively.	PT (Comments): PT questions whether these rules should be referring to point (g)(i) instead of g(ii), in accordance with similar provisions introduced in the PEPP regulation. DE (Drafting suggestions): For the purposes of point (g)(ii), the costs shall be shown at least in monetary terms and as a percentage of contributions over the previous 12 months ~~and since the member joined the scheme, respectively~~. DE (Comments): Simplification: We propose not to indicate accumulated costs for the past. This information might not be available. IE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): IE seeks, for proportionality reasons, for information in relation to costs since the member joined the scheme, to be introduced incrementally or prospectively. LU (Drafting suggestions): ~~For the purposes of point (g)(ii), the costs shall be shown at least in monetary terms and as a percentage of contributions over the previous 12 months and since the member joined the scheme, respectively.~~ LU (Comments): LU: please revert to our comment and drafting suggestion made under subletter (g), (ii)
For the purposes of point (i), information on past performance shall be accompanied by the statement 'past performance is not indicative of future performance'.';	LU (Drafting suggestions): ~~For the purposes of point (i), information on past performance shall be accompanied by the statement 'past performance is not indicative of future performance'.';~~
(40) in Article 40(1), point (c) is replaced by the following:	
'(c) information about the assumptions used for the pension benefit projections, and where applicable, information about the assumptions used for amounts expressed in annuities, in particular with respect to the annuity rate, the type of provider and the duration of the annuity;'	SE (Comments): This requirement is not meant to be directed towards DB pension schemes, correct?
(41) Article 41 is amended as follows:	SE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Same as above and Article 38.
(a) in paragraph 1, point (a) is replaced by the following:	
'(a) any relevant options available to them including investment options, and their risks;';	
(b) paragraph 2 is replaced by the following:	
'2. Prospective members as referred to in paragraphs 1 and 3 shall be provided with the following:	BE (Comments): In view of burden reduction, information about past performance should be limited to prospective members that bear an investment risk in order to be in line with the information on the PBS => Art. 39.1 (i) limits this info in the PBS to this group. Technical remark: this paragraph should come as last. GR (Comments): **EL**: According to art. 37 and 39, only members that bear investment risk receive information about past performance. Regarding prospective members no such distinction is made. How can an IORP be obliged to grant such information if i.e. it only operates DBs or the scheme provides full guarantees? HR (Comments): We fully support enhanced transparency and inclusion of information on the costs, however we would like to point out that providing a detailed breakdown of costs for each individual investment option would place a significant

Commission proposal	Drafting suggestions and Comments
	operational and administrative burden, both for occupational pension schemes and for regulatory authorities. Many investment strategies involve pooled vehicles, layered fee structures, and dynamic asset allocations, making it complex and costly to accurately attribute and continuously update costs at the level of each investment option if this should include costs of investments by each asset class. From regulatory perspective, supervision of such highly detailed cost data would significantly increase the volume and complexity of information to be reviewed, without necessarily improving member understanding or decision-making. In this context, a comprehensive overview of all costs borne by members over the previous 12 months is considered sufficient and proportionate to achieve transparency objectives. We propose that such overview should be presented in a granular manner by cost category (e.g. investment costs, transaction costs, administrative expenses), rather than per asset class. Overall, we believe that this approach would provide an appropriate balance between transparency, proportionality, and supervisory effectiveness, without imposing excessive burdens, while still ensuring meaningful cost disclosure.
(a) information on the past performance of investments related to the pension scheme for a minimum of ten years, or for all the years that the scheme has been operating where that is less than ten years;	NL (Comments): At this point we would like to emphasise that these disclosures are primarily useful in countries where individuals can freely select their pension scheme and can lead to significant administrative burden where they are not. IE (Comments): IE reserves its position re ten year period. IT (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The information on past performance should be provided at the level of each investment option.
(b) information on all direct and indirect costs that members and beneficiaries have borne over the previous 12 months, including the costs of each investment option separately, presented at least in monetary terms, and an estimation of the impact of the costs on the final capital accumulated;	NL (Comments): We are concerned that this could lead to information overload for members and a significant administrative burden for IORPs. PT (Comments): Please see our comment above about the obligation to present estimation of the impact of costs on final capital accumulated. SE (Comments): Same as above, complex and expensive to display for all members. Costs need to be broken down further for clarity, and presentation should be aggregated on some level, i.e. on product-basis rather than member-basis. LU (Drafting suggestions): **the total amount of** all direct and indirect costs that members and beneficiaries have borne over the previous 12 months, including the costs of each investment option separately, presented at least in monetary terms, and an estimation of the impact of the costs on the final capital accumulated LU (Comments): LU : we reiterate our preference for a simple way of presenting information related to costs in an aggregated total form.
(c) information on the investment options available and their risks.’;	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(c) in paragraph 3, point (a) is replaced by the following:	
'(a) any relevant options available to them including investment options, and their risks and costs;';	
(42) the following Article 41a is inserted:	DE (Drafting suggestions): (42) the following Article 41a is inserted: EE (Drafting suggestions): ~~(42) the following Article 41a is inserted:~~

PUBLIC

'Article 41a **Information to be given to members and beneficiaries in the case of underperformance**	SK (Comments): With regard to this provision, prior clarification would be necessary **as to whether the benchmark is intended to constitute a qualitative or a quantitative instrument or reference, and as to the manner in which IORPs would be expected to refer to it**. In this respect, we are concerned that the introduction of a benchmark **could lead to an increased convergence of investment strategies among IORPs, as institutions may seek to avoid deviating from the benchmark and being perceived as outliers.** Designing benchmarks as an internal supervisory tool, i.e. as a non-public instrument serving as an internal supervisory standard seems to be more appropriate. More generally, the overall objective and regulatory rationale of Article 41a are not sufficiently clear. In this context, the proposal in paragraph 5 provides that "EIOPA shall adopt guidelines", rather than an instrument of higher legal force. By way of comparison, the revision of the PEPP Regulation envisages the adoption of delegated acts, whereas the proposed amendment to the IORP framework relies solely on guidelines. It is unclear whether this approach is intended to allow sufficient flexibility to reflect the diversity of IORPs (including DB and DC schemes), different investment strategies, and different types of financial institutions. It is also not clear whether, from among the approaches set out in the guidelines, only those relevant to the specific characteristics of a given Member State's financial market would be applied (for example, approaches

PUBLIC

Commission proposal	Drafting suggestions and Comments
	limited to DC schemes, or differentiated approaches for index-based funds, bond funds or other investment strategies). Finally, the **interpretation of the term "underperformance" remains insufficiently defined.** In our understanding, the term implies a situation of significantly suboptimal performance. Its intended meaning and threshold would benefit from further clarification. At the same time, the NBS has raised the point that it is not the role of supervisory authorities to establish uniform benchmarks which could, in effect, harmonise the investment strategies of individual entities. Investment strategies and investment decision-making should remain within the exclusive responsibility of the entities concerned, with the appropriateness of a given investment strategy ultimately determined by market and competition. They support the provision of transparent information aimed at enhancing clients' financial awareness and encouraging greater responsibility in selecting an IORP that offers a sufficiently attractive product. DK (Comments): We would suggest to somehow link Articles 41a and 44b to make it clear that the benchmarking should also form part of the obligation to ensure that the pension schemes are appropriate, reviewed, etc. AT (Comments): We generally welcome the harmonised framework to inform members and beneficiaries of underperformance. The harmonised framework to inform members and beneficiaries of underperformance might help address outliers.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Still, we caution that competent authorities should not be overwhelmed with a disproportionate workload by extensive benchmarking. Furthermore, some expectation management: members cannot simply change the IORP in case they are not satisfied with the performance because they are bound by the choice of their employer/works council. DE (Drafting suggestions): *'Article 41a* **Information to be given to members and beneficiaries in the case of underperformance <u>of schemes where members bear material risks</u>** DE (Comments): <u>Simplification:</u> Schemes where members bear material risks provide more flexibility to take measures against underperformance. In contrast, the range for measures is limited for low risk schemes. For this reason, we propose to restrict the scope to schemes with members bearing material risks. HR (Comments): For now, we have no strong concerns on the proposed provisions. EE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~'Article 41a~~ ~~**Information to be given to members and beneficiaries in the case of underperformance**~~ EE (Comments): Excessive and undue administrative burden should be avoided. The VfM concept sounds good in theory but attempt to regulate the matter seams to bring more harm than use. Agreement on RIS has only been achieved and we have not yet seen any proof of its' effectiveness. Should RIS be a success, VfM concept for IORPs could be considered during the Directives later reviews. Besides that, RIS foresees different approaches for insurance products and investment funds, proposed amendments to IORP Directive somehow relies on IDDs model only, while IORPs can be different financial institutions and their provided pension arrangements use different forms, including for example insurance solutions or occupational pension funds. IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system. In general, a careful analysis should be devoted to the assessment of the IORPs' performance (in the perspective of the IORP and of the members), taking into account the (long) time horizon of the investment. In addition, the characteristics of DC IORPs with multiple investment options should be considered. This requirement might have several implications, e.g.:

PUBLIC

Commission proposal	Drafting suggestions and Comments
	- It is counterproductive for members by shifting their attention toward short-term performance assessments - The investments of IORPs may be less efficient and oriented to short term results. In general, the introduction of an obligation for pension funds to notify members of underperformance would impose a significant burden on pension funds. LU (Comments): LU issues a word of caution when it comes to benchmarking performance of IORPs. It has been a topic of much concern during the ongoing Retail investment strategy discussions on how to avoid market manipulation and achieve comparability of performance of heterogenous products. These exact same questions will have to be faced again in the context of IORPs. Considering the very heterogenous sponsors of IORPs, the very heterogenous pension schemes, be it DB, DC, hybrid and /or combined with biometric coverages, challenges at national level to detect underperformance are far from straightforward.
1. Member States shall ensure that IORPs regularly monitor their performance against benchmarks established by their competent authority in accordance with paragraph 4. Member States shall ensure that, where an IORP identifies that its performance materially deviates from the applicable benchmark, it promptly informs its competent authority and provides evidence that the costs and charges of the scheme are justified and proportionate and that the scheme is in line with the risk tolerance of its members and beneficiaries.	BE (Comments): The elements referred to in this article are intrinsically part of the usual Supervisory Review Process conducted by the NCA. Setting a priori benchmarks on performance will lead to intervention in the management of the IORP and will interfere with the IORP's own risk management. Such intervention will raise questions on the liability of the NCA.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	What are 'comparable IORPs'? IORPs are quite divers and are not investment products. NL (Drafting suggestions): Member States shall ensure that IORPs regularly ~~monitor~~ **carry out an assessment of** their performance against benchmarks ~~against benchmarks established~~ **by implementing a performance test that is verified by their competent authority in accordance with paragraph 4.** Member States shall ensure that, where an IORP identifies that its performance materially deviates from the applicable benchmark, it promptly informs its competent authority and provides evidence that the costs and charges of the scheme are justified and proportionate and that the scheme is in line with the risk tolerance of its members and beneficiaries. NL (Comments): Whilst we understand the goal this provision aims to achieve, there are significant downsides concerned. The use of benchmarks comes with the risk that the decision-making process of the IORP is guided by the benchmark rather than the interests of participants (conflicting with the prudent person principle). Moreover, by selecting the benchmark the NCA unwantedly influences the IORP's investment policy. In our view: the best approach is to require IORPs to select their benchmarks and motivate them to the supervisor. GR (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~1. Member States shall ensure that IORPs regularly monitor their performance against benchmarks established by their competent authority in accordance with paragraph 4. Member States shall ensure that, where an IORP identifies that its performance materially deviates from the applicable benchmark, it promptly informs its competent authority and provides evidence that the costs and charges of the scheme are justified and proportionate and that the scheme is in line with the risk tolerance of its members and beneficiaries.~~ GR (Comments): **EL**: We have serious concerns about IORPs' performance being monitored against benchmarks established by NCAs. It is unclear how performance assessment will apply to defined benefit schemes, where investment underperformance may not directly affect the outcomes for the members. Furthermore, the performance of IORPs should not be measured only against a benchmark, but should also depend on other qualitative elements, such as investment strategy, risk profile, liabilities, existence of guarantees, governance quality, sponsor support etc. We would propose to delete the whole art. 41a. AT (Comments): If the competent authority sets a benchmark and IORPs are required to compare themselves against it, this could mean that the supervisory authority is defining the investment objective. Given the heterogeneous product landscape, this might not be advisable. Costs and charges of a scheme should always be justified and proportionate and a scheme should always be in line with the risk tolerance of its members and beneficiaries.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): 1. **<u>For schemes where members bear material risks,</u>** Member States shall ensure that IORPs regularly monitor their performance against benchmarks established by their competent authority in accordance with paragraph 4. Member States shall ensure that, where an IORP identifies that its performance materially deviates from the applicable benchmark, it promptly informs its competent authority and provides evidence that the costs and charges of the scheme are justified and proportionate and that the scheme is in line with the risk tolerance of its members and beneficiaries. SE (Comments): Problematic to compare benchmarks between IORPs. Furthermore, the role of the social partners has to be respected. NCAs should not be in a position where social partners have to justify the occupational pensions schemes. There are major difficulties in designing relevant benchmarks that take into account different types of IORPs with different management models. There is a significant risk that benchmarks will affect investment strategies and become decisive for IORP's portfolio management, which could have undesirable effects such as herding behaviour. Furthermore, the management of occupational pension is a long-term activity, and a comparison with a benchmark on an annual basis risks leading to a more short-term focus on management, which will have a negative impact on pensions. EE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~1. Member States shall ensure that IORPs regularly monitor their performance against benchmarks established by their competent authority in accordance with paragraph 4. Member States shall ensure that, where an IORP identifies that its performance materially deviates from the applicable benchmark, it promptly informs its competent authority and provides evidence that the costs and charges of the scheme are justified and proportionate and that the scheme is in line with the risk tolerance of its members and beneficiaries.~~ EE (Comments): "and that the scheme is in line with the risk tolerance of its members and beneficiaries" – how could this even work in case of occupational pension fund for example? ES (Comments): Before expressing our position on this article, we believe it would be important to clarify the regulation on benchmarks, and thus specify, among other points, who will set them and how. The scope and applicability of the concept of "underperformance" is also not clear to us. IE (Comments): IE would welcome further clarification as to whether risk profile is intended to be at individual level (members & beneficiaries) or the scheme as a whole taking membership profile into account. IT (Comments):

Commission proposal	Drafting suggestions and Comments
	We believe that the choice of the benchmark should remain under the remit of the IORP as in Italy it plays a fundamental role in asset management; the role of the competent authority should therefore be limited to setting the criteria for the selection of the benchmark by the IORP in line with its investment strategy. In general, a more in-depth analysis of the proposed amendment of this paragraph is needed. MT (Comments): Malta notes the new requirement on competent authorities to create benchmarks with which performance of an IORP will need to be assessed. Malta also welcomes the power provided to EIOPA to make guidelines on methodologies to determine underperformance across Member States, as this will ensure harmonisation of the creation of such benchmarks.
Where the competent authority concludes that the evidence that the costs and charges of the scheme are not justified and proportionate or that the scheme is not in line with the risk tolerance of its members and beneficiaries, or where the underperformance persists for at least three years, Member States shall ensure that the IORP promptly informs its members and beneficiaries of that situation in a clear, fair and understandable manner.	NL (Comments): We would like to note that such disclosure may be useful in countries where individuals can freely select their pension scheme, but the value in countries with mandatory membership is at the best unclear. GR (Drafting suggestions): ~~Where the competent authority concludes that the evidence that the costs and charges of the scheme are not justified and proportionate or that the scheme is not in line with the risk tolerance of its members and beneficiaries, or where the underperformance persists for at least three years, Member States~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~shall ensure that the IORP promptly informs its members and beneficiaries of that situation in a clear, fair and understandable manner.~~ DK (Comments): The only consequence of underperforming seems to be an obligation to inform members, including information on corrective actions taken. NCAs should be obliged or explicitly granted the option to use other measures and powers to ensure that the products deliver value for money. PT (Comments): PT preliminarily supports this disclosure obligation, enhancing transparency for members. EE (Drafting suggestions): ~~Where the competent authority concludes that the evidence that the costs and charges of the scheme are not justified and proportionate or that the scheme is not in line with the risk tolerance of its members and beneficiaries, or where the underperformance persists for at least three years, Member States shall ensure that the IORP promptly informs its members and beneficiaries of that situation in a clear, fair and understandable manner.~~
2. Member States shall ensure that the information referred to in paragraph 1, second subparagraph, enables members and beneficiaries to understand how the scheme is performing in relation to comparable IORPs. Member States shall ensure that the information provided explains in a simple manner the reasons for the underperformance, how the costs and charges are proportionate and justified, and the actions being taken to improve results and to protect the value of members' accrued rights. Member States shall ensure	GR (Drafting suggestions): ~~2. Member States shall ensure that the information referred to in paragraph 1, second subparagraph, enables members and beneficiaries to understand how the scheme is performing in relation to comparable IORPs. Member States shall ensure that the information provided explains in a simple manner the reasons for the underperformance, how the costs and~~

Commission proposal	Drafting suggestions and Comments
that the information remains easily accessible until the IORP demonstrates sustained improvement.	~~charges are proportionate and justified, and the actions being taken to improve results and to protect the value of members' accrued rights. Member States shall ensure that the information remains easily accessible until the IORP demonstrates sustained improvement.~~ SE (Comments): Information on underperformance risks contributing to information overload. The information should be available on demand. Pensions savings are long term by nature. If the information requirements are too high, the IORPs' willingness to add risk in their portfolios can be negatively affected. EE (Drafting suggestions): ~~2. Member States shall ensure that the information referred to in paragraph 1, second subparagraph, enables members and beneficiaries to understand how the scheme is performing in relation to comparable IORPs. Member States shall ensure that the information provided explains in a simple manner the reasons for the underperformance, how the costs and charges are proportionate and justified, and the actions being taken to improve results and to protect the value of members' accrued rights. Member States shall ensure that the information remains easily accessible until the IORP demonstrates sustained improvement.~~ LU (Comments): LU: what is the member exactly supposed to be doing, once being informed of such underperformance? There is no concrete action to be taken in response by the member. What is the intention then and is such information adequate to be shared with members? In our view this might create panic

PUBLIC

Commission proposal	Drafting suggestions and Comments
	behaviours while at the same time, trust in the IORP and potentially the sponsoring employer is quickly eroded soon after the announcement.
3. Member States shall require that IORPs ensure that the information referred to in paragraph 1, second subparagraph, is made available through the same channels normally used for providing the Pension Benefit Statement and other regular communications, and that members and beneficiaries are informed of how to obtain further details if they so wish.	NL (Drafting suggestions): Member States shall ~~require that IORPs ensure that the information referred to in paragraph 1, second subparagraph, is made available through the same channels normally used for providing the Pension Benefit Statement and other regular communications, and that members and beneficiaries are informed of how to obtain further details if they so wish.~~ **ensure that the outcome of a comparable performance assessment as referred to in paragraph 1 is disclosed.** NL (Comments): See our comments at article 41a(1). GR (Drafting suggestions): ~~3. Member States shall require that IORPs ensure that the information referred to in paragraph 1, second subparagraph, is made available through the same channels normally used for providing the Pension Benefit Statement and other regular communications, and that members and beneficiaries are informed of how to obtain further details if they so wish.~~ EE (Drafting suggestions): ~~3. Member States shall require that IORPs ensure that the information referred to in paragraph 1, second subparagraph, is made available through the same channels normally used for providing the Pension Benefit Statement~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~and other regular communications, and that members and beneficiaries are informed of how to obtain further details if they so wish.~~
4. Member States shall ensure that clear, objective and transparent benchmarks are developed by their competent authority for assessing underperformance, including with respect to administrative, investment and transaction costs, gross and net investment returns and funding outcomes over specified periods.	BE (Comments): Risk that the NCA may indirectly interfere with the investment policy of IORPs by providing benchmarks. What are "funding outcomes" ? NL (Drafting suggestions): Member States shall ensure that clear, objective and transparent benchmarks are developed by their competent authority for assessing **performance of individual asset classes of pension funds, reflecting the investment policy.** ~~underperformance , including with respect to administrative, investment and transaction costs, gross and net investment returns and funding outcomes over specified periods.~~ NL (Comments): See our comments at article 41a(1). GR (Drafting suggestions): ~~4. Member States shall ensure that clear, objective and transparent benchmarks are developed by their competent authority for assessing underperformance, including with respect to administrative, investment and transaction costs, gross and net investment returns and funding outcomes over specified periods.~~ AT

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): If the competent authority sets a benchmark and IORPs are required to compare themselves against it, this could mean that the supervisory authority is defining the investment objective. Given the heterogeneous product landscape, this might not be advisable. DE (Drafting suggestions): 4. Member States shall ensure that clear, objective and transparent benchmarks are developed by their competent authority for assessing underperformance, including with respect to administrative, investment and transaction costs, gross and net investment returns and funding outcomes over specified periods**, and taking social and labour law issues into account**. DE (Comments): Social and Labour Law: The provision should consider that social partners may be involved in running the pension scheme. EE (Drafting suggestions): ~~4. Member States shall ensure that clear, objective and transparent benchmarks are developed by their competent authority for assessing underperformance, including with respect to administrative, investment and transaction costs, gross and net investment returns and funding outcomes over specified periods.~~ IT (Comments): See comment to paragraph 1.

PUBLIC

Commission proposal	Drafting suggestions and Comments
5. For the purposes of this Article, EIOPA shall adopt guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on methodologies for determining underperformance across Member States.';	BE (Comments): In the context of burden reduction it is essential to avoid additional layers of rules and regulations. This mandate for EIOPA should therefore be deleted. NL (Drafting suggestions): ~~For the purposes of this Article, EIOPA shall adopt guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on methodologies for determining underperformance across Member States.';~~ NL (Comments): We do not see the merit of EIOPA Guidelines. What is and what is not a good methodology for determining underperformance depends very much on the national context. GR (Drafting suggestions): ~~5. For the purposes of this Article, EIOPA shall adopt guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on methodologies for determining underperformance across Member States.';~~ DE (Drafting suggestions): ~~5. For the purposes of this Article, EIOPA shall adopt guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on methodologies for determining underperformance across Member States.'~~; DE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): Simplification: The benchmarks are to be established by the national competent authorities. We do not see the need for EIOPA guidelines. However, EIOPA could provide information supporting competent authorities to identify their benchmarks. LV (Comments): We support EIOPA's adoption of guidelines; however, these guidelines should explicitly incorporate risk tolerance considerations. Furthermore, the methodology should encompass robust approaches for identifying underperformance across a broad range of investment strategies, in order to ensure an adequate and comprehensive assessment of investment risks. FI (Comments): EIOPA's ability to issue guidance is problematic because EIOPA does not recognise national differences. EE (Drafting suggestions): ~~5. For the purposes of this Article, EIOPA shall adopt guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on methodologies for determining underperformance across Member States.';~~ IT (Comments): The proposal provides a broad role for EIOPA in developing guidelines and technical standards, with significant implications for supervisory methodologies, which may no longer be able to properly account for the specific features of pension funds in individual Member States.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	This includes the provision of this paragraph 5 on the methodologies for calculating underperformance. LU (Drafting suggestions): 5. For the purposes of this Article, EIOPA ~~shall~~ **may** adopt guidelines, in accordance with Article 16 of Regulation (EU) No 1094/2010, on methodologies for determining underperformance across Member States.’;
(43) Article 42 is replaced by the following:	
‘Article 42 **Information to be given to members during the pre-retirement phase**	
In addition to the Pension Benefit Statement, IORPs shall provide each member, in due time before the retirement age as specified in Article 39(1), point (a), or at the request of the member, with information about the upcoming start of the pay-out phase and the benefit pay-out options available in taking their retirement benefits, including the costs and charges associated with each option and the applicable tax treatment.	RO (Comments): RO (MoF) has no comments insofar as the transmission of information regarding the tax treatment applicable in each Member State where the participants are resident can be ensured GR (Comments): **EL**: We support the enhancement of the information provided to members during the decumulation phase. IE (Comments): IE reserves its position IT (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	We do not agree with the requirement to provide information about the upcoming start of the pay-out phase. The retirement date is not necessarily standardised or known in advance by the IORP, as it may vary depending on members individual circumstances and choices. Therefore, this information cannot be reliably provided by all IORPs.
Member States shall ensure that the information referred to in the first subparagraph is accompanied by a concise explanatory package that includes all of the following information:	BE (Comments): This goes against the level playing field between IORPs and insurers, because it would not apply to insurers. BG (Comments): BG: In our view it should be clarified that this information is contained in 1 document. The term "package" could be misleading. In the proposal for PEPP regulation the term "concise explanatory guide" being used which in our view is also not clear. LU (Drafting suggestions): Member States shall ensure that the information referred to in the first subparagraph is accompanied by a concise explanatory package, **if requested by the member** that includes all of the following information: LU (Comments): LU: We feel this new information extension package is too extensive and should be made subject to a formal request by the member if the member deems this information necessary to have, considering that according to the first subparagraph he will already be made aware of his pay out options and

PUBLIC

Commission proposal	Drafting suggestions and Comments
	the relating cost and tax treatment, which seems to be the main decision points to consider and make a decision on.
(a) the main features, implications and potential effects of each benefit pay-out option available on the member and, where applicable, on the beneficiaries;	
(b) the risks and factors that could adversely affect the level, stability or duration of retirement income;	
(c) the circumstances and criteria for members to take into account when assessing the suitability of the different benefit pay-out options for their individual situation.	
Member States shall ensure that where one of the benefit pay-out options offered by the IORP is a variable annuity, the IORP provides each member, in due time before the retirement age as specified in Article 39(1), point (a), with projections to illustrate the potential variation in the amount of the pay-out over time.’;	SK (Comments): The variable annuity only applies to insurance entitities. What time scale should be the projection made for? Will there be any corresponding RTS issued? ES (Comments): We have doubts about this reporting obligation. Would it not overlap with the prospective information already included in the PBS?
(44) Article 43 is amended as follows:	
(a) paragraph 1 is replaced by the following:	
‘1. Member States shall require IORPs to annually provide beneficiaries with information about the benefits due, the corresponding pay-out options,	BE (Drafting suggestions):

Commission proposal	Drafting suggestions and Comments
and a breakdown of all costs incurred and information on the past performance as referred to in Article 39, points (g) and (i).	*Member States shall require IORPs to annually provide beneficiaries with information **where benefits are still due,** about the benefits due and the corresponding pay-out options, and a breakdown of all costs incurred and information on the past performance as referred to in Article 39, points (g) and (i).”* BE (Comments): The reason for the proposed amendment is that it must be clear that lump sum payments are excluded, as there is no point in making these obligations applicable to such payments. GR (Comments): **EL**: We support the enhancement of the information provided to beneficiaries during the pay-out phase. AT (Comments): It might be advisable to specify “all costs incurred” - total amounts (EUR) / in percentage terms. IT (Comments): Information on past performance shall be provided only where the assets remain invested. As per the information on costs, it should be assessed how to present the costs incurred when the assets are no longer invested. LU (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	1. Member States shall require IORPs to annually provide beneficiaries with information about the benefits due, the corresponding pay-out options, and **the total amount of** costs incurred and information on the past performance as referred to in Article 39, points (g) and (i). LU (Comments): LU: please refer to our corresponding comment with regards to how costs should be presented.
The information shall also describe the main factors that could affect the level or duration of retirement income, including investment and life-expectancy risks, and shall indicate, where relevant, the right to change the pay-out option.’;	
(b) paragraph 3 is replaced by the following:	
‘3. Where beneficiaries continue to make contributions or to bear investment risk during the pay-out phase, Member States shall ensure that IORPs continue to provide the Pension Benefit Statement, which shall also contain the information referred to in paragraph 1.’;	
(45) in Title IV, the following chapter is added:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'CHAPTER 4 ***Business conduct rules***	GR (Drafting suggestions): *CHAPTER 4* **Other protective** ~~*Business conduct*~~ *rules* GR (Comments): **EL**: We support the COM proposal; as per the terminology amendment. HR (Comments): For now, we have no strong concerns on the proposed provisions. IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system.

PUBLIC

Article 44a **Duty of care**	FR (Comments): **FR:** **France welcomes the introduction of a minimal "duty of care" in the IORP Directive, as it would raise the level of consumer protection on pension products in EU markets that do not have mandatory advice.** French consumers already benefit from a more protective system. Indeed, under article L. 521-4 of the French Insurance Code, insurance distributors have a duty to advise consumers during the sale of all insurance products, including pension products. Additionally, since the entry in force of the 2023 Green industry Law, distributors have to make sure that the life insurance or pension product still corresponds to the consumer's distributors have to make sure that the life insurance or pension product still corresponds to the consumer's needs and requirements and hence that the advice provided is still pertinent, at least every 4 years (2 years of if there was a personal recommendation). As indicated in the ACPR's 2024 Recommendation on the duty to advise consumers on insurance products, distributors are supposed to be even more vigilant on pension products and specifically inform them of the restricted availability of the funds, the fiscal consequences of their choices and the lifecycle logic of pension products. **France is currently conducting a detailed analysis of the interactions between this proposed addition and the protective provisions already provided for in national law, to understand core similarities and differences. France would remain opposed in the future for these provisions to be subject to maximum harmonisation, as this would mean less protection than currently exists.**

PUBLIC

Commission proposal	Drafting suggestions and Comments
	France plans to report back to the Presidency in detail on this point in the coming weeks.
1. Member States shall, taking into account the nature of the pension scheme, ensure that every IORP authorised in their territory always acts honestly, fairly and professionally, and in accordance with the best interests of their members and beneficiaries. Those interests shall include the objective of providing adequate, risk-adjusted and cost-efficient returns over the long term, consistent with the long-term nature of pension obligations.	NL (Comments): Scrutiny reservation: we need to further assess this article. GR (Comments): **EL**: We support the COM proposal, as Article 44a helps enhance protection and ensures that pension schemes deliver outcomes that members and beneficiaries might reasonably expect, particularly in defined contribution schemes, where investment choices directly impact retirement income. PT (Comments): PT supports the clear depiction of a duty of care obligation in the IORP II Directive. DE (Drafting suggestions): 1. Member States shall, taking into account the nature of the pension scheme, ensure that every IORP authorised in their territory always acts honestly, fairly and professionally, and in accordance with the best interests of their members and beneficiaries. Those interests shall include the objective of providing adequate~~, risk-adjusted and cost-efficient~~ returns over the long term, consistent with the long-term nature of pension obligations. DE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Simplification: From our point of view, the requirement of "adequate returns" is sufficient and the key of the provision. LU (Drafting suggestions): 1. Member States shall, taking into account the nature of the pension scheme, ensure that every IORP authorised in their territory always acts honestly, fairly and professionally, and in accordance with the best interests of their members and beneficiaries. Those interests shall include the objective of providing adequate, risk-adjusted ~~**and cost-efficient**~~ returns over the long term, consistent with the long-term nature of pension obligations LU (Comments): LU: The relative nature of the term "cost-efficiency" during the RIS discussions did not find consensus what it actually refers to, as it could be interpreted as the cheapest option being categorically the best. We suggest to delete it here to avoid any confusion.
2. Member States shall ensure that IORPs put in place safeguards, including guidance to support prospective members, members and beneficiaries when they are deciding on the options available to them, and inform them about the potential consequences of their decisions.	BE (Drafting suggestions): *"Member States shall ensure that IORPs put in place safeguards, including* ***~~guidance~~ objective information*** *to support prospective members, members and beneficiaries when they are deciding on the options available to them, and inform them about the potential consequences of their decisions."* BE (Comments): We propose replacing the word "guidance" with "objective information" because it cannot be the intention that the IORP should provide financial advice to the members.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DK (Comments): While we support the objective of providing guidance on options and potential consequences, it is unclear what is meant by the general obligation on IORPs to "put in place safeguards". This wording should be specificed further, potentially in a recital, or removed. SE (Comments): The information requirements to members are to a large extent decided by the social partners.

PUBLIC

Article 44b **Appropriate structure and implementation of the pension schemes**	SK (Comments): **We suggest the deletion of this provision. The rationale and intended objective of the proposed article are not entirely clear, nor is its practical application. In its current form, the provision could potentially affect savers' freedom to choose pension products and their responsibility for the risks associated with such choices. In addition, it may lead to additional administrative and systemic burdens for IORPs.** GR (Comments): **EL**: We support in principle COM's proposal. Nevertheless, improvements should be brought into the text to deal with cases where the design is the responsibility of the social partners and not IORPs itself. In some cases, a simply wording could be more beneficial. DK (Comments): We would suggest to somehow link Articles 41a and 44b to make it clear that the benchmarking should also form part of the obligation to ensure that the pension schemes are appropriate, reviewed, etc. FR (Comments): **FR:** No comments at this stage. EE (Drafting suggestions): ~~Article 44b~~ ~~**Appropriate structure and implementation of the pension schemes**~~ EE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Unnecessary burden. Intervenes too heavily to Member States' discretion on organisation of pension systems. Does not consider the collective nature of occupational pension funds. IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system. This provision and the proposal in general appear to be designed primarily with defined-benefit pension funds in mind. Insufficient consideration appears to have been given to the functioning of DC schemes, particularly those offering multiple investment options, such as those in Italy, in which the characteristics of the membership base are less relevant because members may choose the investment option best suited to their personal situation and financial risk tolerance. LU (Comments): LU: This article should be streamlined and migrated in the own risk assessment directly instead, to avoid further detailed and additional administrative burden.
1. Without prejudice to national social and labour law on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, Member States shall require that:	BE (Comments): This provision should be deleted. This concerns SLL and it is up to the employer and, if necessary, the social partners to decide on the design and implementation of the pension scheme.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	NL (Drafting suggestions): without prejudice to national social and labour law on the organisation of pensions schemes **and the autonomy of social partners**, including compulsory membership and the outcomes of collective bargaining agreements Member States shall require that: NL (Comments): Addition to reflect the role of social partners in defining the structure, design and implementation of the pension scheme. SE (Comments): Positive that the members' needs are prioritised, but this is already the case today because of the role of social partners. Important that this is accounted for. However, important that the requirements do not have an adverse effect and lower the risk in the pension schemes. IORPs could opt for a lower-risk scheme just to stay on the safe side. EE (Drafting suggestions): ~~1. Without prejudice to national social and labour law on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements, Member States shall require that:~~
(a) IORPs ensure that the structure, design and implementation of pension schemes are appropriate in view of the identified needs, characteristics and risk profile of the members and beneficiaries, in a manner that is proportionate to the nature, scale and complexity of the scheme.	NL (Comments): In pension systems that are the result of collective bargaining, the social partners are primarily responsible for the structure, design and

PUBLIC

Commission proposal	Drafting suggestions and Comments
	implementation of the pension scheme. We wonder whether this article and particularly this paragraph sufficiently reflects this, considering art. 44b(1). BG (Comments): BG: What is meant by "structure, design and implementation of pension schemes"? Does it cover the conditions of the scheme, such as amount of contributions, benefits, risks covered, etc, or does it include also other matters? If other matters are covered, clarification and examples would be welcome. EE (Drafting suggestions): ~~(a) IORPs ensure that the structure, design and implementation of pension schemes are appropriate in view of the identified needs, characteristics and risk profile of the members and beneficiaries, in a manner that is proportionate to the nature, scale and complexity of the scheme.~~ IE (Comments): IE would welcome clarification as to whether risk profile at (a) is intended to be at individual level (members & beneficiaries) or the scheme as a whole taking membership profile into account.
(b) IORPs regularly review and, where necessary, adapt the structure, design and implementation of the pension scheme, taking into account any material developments, in order to ensure that the scheme remains appropriate and consistent with the needs, characteristics and risk profile of members and beneficiaries, in a manner that is proportionate to the nature, scale and complexity of the scheme.	NL (Drafting suggestions): IORPs regularly review and, where necessary, adapt the structure, design and implementation of the pension scheme**, in a manner that is proportionate to the nature, scale and complexity of the scheme,** taking into account any material developments, in order to ensure that the scheme remains appropriate and consistent with the needs, characteristics and risk profile of

PUBLIC

Commission proposal	Drafting suggestions and Comments
	members and beneficiaries, ~~in a manner that is proportionate to the nature, scale and complexity of the scheme.~~ NL (Comments): We refer to the comment regarding article 44b (1a). Additionally, we have concerns regarding the phrase 'in a manner that is proportionate to the nature, scale and complexity of the scheme' in Article 44b(1)(a) and (b). We propose to adjust the wording to emphasise that the appropriateness of a pension scheme should be properly ensured for all participants and not depend on the nature, scale and complexity of a scheme. EE (Drafting suggestions): ~~(b) IORPs regularly review and, where necessary, adapt the structure, design and implementation of the pension scheme, taking into account any material developments, in order to ensure that the scheme remains appropriate and consistent with the needs, characteristics and risk profile of members and beneficiaries, in a manner that is proportionate to the nature, scale and complexity of the scheme.~~
The IORP shall document the assessment of whether the structure, design and implementation of pension schemes are appropriate as referred to in the first subparagraph, point (a).	EE (Drafting suggestions): ~~The IORP shall document the assessment of whether the structure, design and implementation of pension schemes are appropriate as referred to in the first subparagraph, point (a).~~
2. Member States shall ensure that, where members bear investment risk, IORPs assess the long-term risk from the perspective of members and beneficiaries, including:	SK (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	It is not clear how, in practical terms, IORPs are expected to assess "long-term risk from the perspective of members and beneficiaries" and to determine the "risk tolerance of members and beneficiaries", nor how such assessments should subsequently be reflected in adjustments to the investment strategy. GR (Comments): **EL**: We fully support this proposal. DE (Drafting suggestions): 2. **For the purpose of paragraph 1,** Member States shall ensure that, where members bear investment risk, IORPs assess the long-term risk from the perspective of members and beneficiaries, including: DE (Comments): Social and Labour Law: Assessment of paragraph 2 is related to the requirements of paragraph 1 which are without prejudice to national social and labour law on the organisation of pension systems, including compulsory membership and the outcomes of collective bargaining agreements. EE (Drafting suggestions): ~~2. Member States shall ensure that, where members bear investment risk, IORPs assess the long-term risk from the perspective of members and beneficiaries, including:~~
(a) the determination of the risk tolerance of members and beneficiaries bearing risks;	EE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~(a) the determination of the risk tolerance of members and beneficiaries bearing risks;~~
(b) the introduction of the use of pension projections in the risk assessment from the perspective of members and beneficiaries;	SK (Comments): It is not clear what is meant in practice by the requirement set out in paragraph 2 point (b), nor how this requirement is expected to be implemented. Clarification would therefore be necessary as to the content and practical application of this provision. EE (Drafting suggestions): ~~(b) the introduction of the use of pension projections in the risk assessment from the perspective of members and beneficiaries;~~
(c) where the IORP offers multiple investment options, the periodical review of the suitability of the investment options for the members according to their risk tolerance, and where there is a default option, the review of the suitability of that default option;	GR (Comments): **EL**: Although we support the COM's proposal, it should be clarified that the review should take into account the members as a cohort and not individually. EE (Drafting suggestions): ~~(c) where the IORP offers multiple investment options, the periodical review of the suitability of the investment options for the members according to their risk tolerance, and where there is a default option, the review of the suitability of that default option;~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
(d) where IORPs do not offer multiple investment options, the periodical review of the investment strategy to consider the long-term risk assessment from the perspective of the members and beneficiaries.	SK (Comments): We consider that provisions formulated in this manner would lead to an increased administrative and operational burden for IORPs, which may ultimately be reflected in higher costs. We therefore have concerns as to whether the introduction of such provisions would produce the intended effects and whether their overall impact would be proportionate. EE (Drafting suggestions): ~~(d) where IORPs do not offer multiple investment options, the periodical review of the investment strategy to consider the long-term risk assessment from the perspective of the members and beneficiaries.~~
Article 44c **Complaints**	GR (Comments): **EL**: We support the establishment of effective complaint-handling procedures, as articulated in art. 44c, which ensures that members and beneficiaries have clear, accessible and effective channels to submit complaints regarding their rights, while promoting transparency. Moreover, it strengthens protection in cross-border cases. IE (Comments): IE reserves its position on the proposed Article 44c.
1. Member States shall require that IORPs put in place and apply effective procedures and arrangements that are appropriate for the settlement of complaints lodged by members and beneficiaries concerning their rights and obligations laid down in this Directive.	NL (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The current wording in Article 44c(1) refers to complaints 'concerning their rights and obligations laid down in this Directive.' We understand this as that the Directive allows participants to express all complaints (not only complaints regarding the rights and obligations laid down in this Directive). SE (Drafting suggestions): "Member States shall, **where necessary,** require that IORPs put in place and apply [...]" SE (Comments): This should be limited to 1) cases where no system for settlements of complaints exists and 2) IORPs that provide pension benefits in a DC scheme. We understand this to be in line with the objectives/purpose of the proposed amendment to the IORP II Directive. FR (Comments): **FR:** France supports these provisions, which strengthen consumer protection. A detailed analysis is currently underway on this aspect, which goes beyond the information to be provided on complaints as set out in the Solvency II Directive. The French delegation plans to analyse in depth consistency with other financial regulations complains provisions.
2. The procedures and arrangements referred to in paragraph 1 shall be available in the official languages of the Member State concerned, or in another language accepted by the competent authorities of that Member State, or agreed between the IORP and its members and beneficiaries.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
3. Member States shall require that IORPs reply, either electronically or on another durable medium, to the complaints of members and beneficiaries. The reply shall address all points raised within maximum 40 working days.	NL (Drafting suggestions): Member States shall require that IORPs reply, ~~either electronically or on another durable medium,~~ to the complaints of members and beneficiaries **in a manner that suits the indicated preferences of members and beneficiaries.** The reply shall address all points raised within maximum 40 working days. NL (Comments): It is important that communication by IORPs reaches members and beneficiaries via a suitable medium. For example, consideration should be given to members and beneficiaries who do not have access to or cannot understand electronic communications, for example the elderly. SE (Drafting suggestions): Member States shall require that IORPs reply, either electronically or on another durable medium, to the complaints of members and beneficiaries. The reply shall address all points raised within ***reasonable time*** ~~maximum 40 working days~~ SE (Comments): The limit of 40 days is too detailed and is not appropriate for all types of complaints. E.g. some IORPs handle biometric risks such as work-related injuries and illness. These errands are complex and require more than 40 days.

PUBLIC

Commission proposal	Drafting suggestions and Comments
4. Member States shall ensure that IORPs inform members and beneficiaries who lodge a complaint about at least one alternative dispute resolution (ADR) body which is competent to deal with disputes concerning the rights and obligations of members and beneficiaries laid down in this Directive.	GR (Comments): **EL**: We do not see merit in setting an ADR body, as pension schemes are not being sold to customers/clients. DE (Drafting suggestions): **For schemes where there is no ultimate responsibility of the employer or where the social partners are not involved in steering and administration of the scheme,** Member States shall ensure that IORPs inform members and beneficiaries who lodge a complaint about at least one alternative dispute resolution (ADR) body which is competent to deal with disputes concerning the rights and obligations of members and beneficiaries laid down in this Directive. DE (Comments): Simplification: We think that an ADR body does not provide additional value at least in case of schemes where there is an ultimate responsibility of an employer for the scheme or the social partners are involved in the scheme.
5. Member States shall ensure that the information on the procedures referred to in paragraph 1 is available free of charge to members and beneficiaries in a clear, comprehensive and easily accessible manner through electronic means, including on a durable medium or by means of a website, or on paper. That information shall specify how further information on the ADR body concerned and on the conditions for using it can be accessed.	GR (Drafting suggestions): 5. Member States shall ensure that the information on the procedures referred to in paragraph 1 is available free of charge to members and beneficiaries in a clear, comprehensive and **in electronic format** ~~easily accessible manner through electronic means~~, ~~including on a durable medium or by means of a website, or on paper~~. That information shall specify how

PUBLIC

Commission proposal	Drafting suggestions and Comments
	further information on the ADR body concerned and on the conditions for using it can be accessed. GR (Comments): **EL**: We support the COM proposal; we also recommend to adjust the "electronic means" to the RIS terminology about "electronic format", as/when it will be concluded, by introducing a corresponding definition in art. 3.
6. Member States shall ensure that the competent authorities set up procedures which allow members, beneficiaries and other interested parties, including consumer associations, to submit complaints to the competent authorities with regard to alleged infringements of this Directive by IORPs. Member States shall ensure that in all cases, complainants receive replies.	NL (Comments): We would like to ask for clarification which authorities qualify as competent authorities in the context of paragraph 6 and 7 and what is meant by complaints. Supervisory authorities (such as AFM in NL) will not handle complaints in the sense of mediating or resolving disputes. This is a matter for national courts. Supervisory authorities are neither equipped nor mandated to process complaints in this manner. Furthermore we would like to ask for a clarification on what is meant by the provision that in all cases, complainants should receive replies. The reply from the competent authority needn't always be a substantive response. It could also be an acknowledgement of receipt, possibly with the message that the complaint will be taken into account in the supervisory process. For example, if a complaint (which we refer to as a signal) triggers an investigation, this process is subject to supervisory confidentiality, and no further details can be disclosed.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): Member States shall ensure that the competent authorities set up procedures which allow members, beneficiaries and other interested parties, ~~including consumer associations,~~ to submit complaints to the competent authorities with regard to alleged infringements of this Directive by IORPs. Member States shall ensure that in all cases, complainants receive replies. DE (Comments): Occupational pensions are subject to social and labour law, and in many cases, IORPs do not operate retail business. Therefore, consumer associations should not be mentioned exclusively. IT (Comments): This provision should clarify that such complaints are processed for supervisory purposes by the relevant competent authority according to a risk-based approach. LU (Drafting suggestions): ~~6. Member States shall ensure that the competent authorities set up procedures which allow members, beneficiaries and other interested parties, including consumer associations, to submit complaints to the competent authorities with regard to alleged infringements of this Directive by IORPs. Member States shall ensure that in all cases, complainants receive replies.~~ LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): LU: existing provisions in financial services legislation stemming from the payment service regulation should not be formally extended for IORPs, in order to be able to leverage on existing national procedures in place and be able to adapt to national specificities.
7. Member States shall ensure that were a case that concerns more than one Member State, the complainant may choose to lodge his or her complaint through the competent authorities of his or her Member State of residence, regardless of where the infringement occurred.	NL (Comments): See our comments regarding Article 44c (6). GR (Drafting suggestions): 7. Member States shall ensure that**, where ~~were~~** a case **~~that~~** concerns more than one Member State**s**, the complainant may choose to lodge his or her complaint through the competent authorities of his or her Member State of residence, regardless of where the infringement occurred. GR (Comments): **EL**: We support the COM proposal; minor phrasal amendments are proposed. LU (Drafting suggestions): ~~7. Member States shall ensure that were a case that concerns more than one Member State, the complainant may choose to lodge his or her complaint through the competent authorities of his or her Member State of residence, regardless of where the infringement occurred.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
Article 44d **Out-of-court redress**	GR (Comments): **EL**: We do not see merit in setting an ADR body, as pension schemes are not being sold to customers/clients. Last, we are concerned that it poses the risk of overlapping with existing national ADR Systems. IE (Comments): IE reserves its position on the proposed Article 44d
1. Member States shall establish adequate, independent, impartial, transparent and effective ADR procedures for the settlement of disputes between IORPs and their members and beneficiaries concerning the rights and obligations laid down in this Directive. Where appropriate, those procedures shall be applied by existing competent bodies. Member States shall ensure that such ADR procedures are applicable, and the relevant ADR body's competence shall effectively extend, to IORPs against whom the procedures are initiated.	BE (Comments): It is unclear what is meant by "ADR procedures" and "ADR court". It is suggested that this could be organised through an ombudsman. NL (Drafting suggestions): **Without prejudice to national provisions allowing scheme members and beneficiaries to bring action in the courts,** Member States shall establish adequate, independent, impartial, transparent and effective ADR procedures for the settlement of disputes between IORPs and their members and beneficiaries concerning the rights and obligations laid down in this Directive. Where appropriate, those procedures shall be applied by existing competent bodies. Member States shall ensure that such ADR procedures are applicable, and the relevant ADR body's competence shall effectively extend, to IORPs against whom the procedures are initiated. NL (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	It should be clear that ADR cannot replace court redress if national law does not provide for this. GR (Drafting suggestions): 1. Member States shall establish adequate, independent, impartial, transparent and effective ADR procedures, **or ensure that existing ADR procedures can also be applied** for the settlement of disputes between IORPs and their members and beneficiaries concerning the rights and obligations laid down in this Directive. Where appropriate, those procedures shall be applied by existing competent bodies. Member States shall ensure that such ADR procedures are applicable, and the relevant ADR body's competence shall effectively extend, to IORPs against whom the procedures are initiated. GR (Comments): **EL**: Should this proposal remains, we would propose to include the posibility to use existing ADR procedures. DE (Drafting suggestions): 1. **For schemes where there is no ultimate responsibility of the employer or where the social partners are not involved in steering and administration of the scheme,** Member States shall establish adequate, independent, impartial, transparent and effective ADR procedures for the settlement of disputes between IORPs and their members and beneficiaries concerning the rights and obligations laid down in this Directive. Where appropriate, those procedures shall be applied by existing competent bodies. Member States shall ensure that such ADR procedures are applicable, and the

PUBLIC

Commission proposal	Drafting suggestions and Comments
	relevant ADR body's competence shall effectively extend, to IORPs against whom the procedures are initiated. DE (Comments): Social and Labour Law: see Article 44c (4) above.
2. The bodies referred to in paragraph 1 shall cooperate effectively for the resolution of cross-border disputes concerning rights and obligations arising under this Directive.';	
(46) the heading of Title V is replaced by the following:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
‘TITLE V SUPERVISION’	GR (Comments): **EL**: We support the COM proposal. IT (Comments): A more in-depth analysis of the proposed amendments is needed in order to assess their potential implications for the Italian pension fund system. The proposal provides that numerous regulatory aspects should be defined at EU level, thereby risking an override of the current minimum-harmonisation approach of the Directive — an approach that is necessary to take into account the heterogeneity of supplementary pension systems (and of the overall national pension systems) and the corresponding diversity in supervisory frameworks. The proposal provides a broad role for EIOPA in developing guidelines and technical standards, with significant implications for supervisory methodologies, which may no longer be able to properly account for the specific features of pension funds in individual Member States.
(47) in Title V, the heading of Chapter 1 is replaced by the following:	
‘CHAPTER 1 General rules on supervision’	GR (Comments): **EL**: We support in principle the COM proposal and the enhancement of NCAs competences.
(48) Article 45 is replaced by the following:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 45 **Powers, resources and main objective of supervision by competent authorities**	HR (Comments): We can accept the proposed provisions.
Member States shall ensure that their competent authorities possess all the necessary means and powers for the performance of their duties under this Directive, and have the relevant expertise, capacity, and mandate to achieve the main objective of supervision, namely the protection of the rights of members and beneficiaries and ensuring the stability and soundness of IORPs.';	FR (Comments): **FR:** France supports this amendment.
(49) the following Article 45a is inserted:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 45a **Competent authorities**	FR (Comments): **FR:** France supports the introduction of this new article. HR (Comments): We can accept the proposed provisions. LU (Comments): As a general comment, we are of the view that this part is going too far, too detailed. The scope and extend of the supervision should remain at the discretion of the NCA.
1. Member States shall designate the competent authorities empowered to ensure the implementation of this Directive. They shall inform the Commission thereof, indicating any division of those duties.	
2. Where there is more than one competent authority in its territory, a Member State shall ensure that those authorities collaborate closely so that they can discharge their respective duties effectively.	
3. Member States shall ensure that competent authorities have a sufficient number of qualified staff and resources that are necessary for the effective performance of their duties.';	
(50) Article 46 is amended as follows:	FR (Comments): **FR:** Support.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(a) the title is replaced by the following:	
'**Scope of supervision'**;	HR (Comments): We can accept the proposed provisions.
(b) the introductory wording is replaced by the following:	
'Member States shall ensure that IORPs are subject to prudential supervision, including the supervision of the following where applicable:';	IT (Comments): The title and the text should be aligned, as the term prudential has been removed from the title but remains in the provision. Furthermore, 'information to be provided to members and beneficiaries' does not fall within the scope of prudential supervision, so the term prudential should be removed from the text. LU (Comments): The sentence is the same as in Directive (EU) 2016/2341 (IORP II). We can't identify any changes in that sentence after comparison.
(c) the following second paragraph is added:	
'Member States shall also ensure supervision of the compliance with all other provisions of this Directive.';	
(51) Article 47 is amended as follows:	
(a) the title is replaced by the following:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'General principles of supervision'	IT (Comments): In paragraph 1 the words "home" and "prudential" should be removed, as, respectively, (i) this is not a cross-border provision, and (ii) the title of the Article and the text should be aligned.
(b) in paragraph 2, the following sentence is added:	FR (Comments): **FR :** Support.
'It shall include the verification on a continuous basis of the proper operation of the IORPs' activities and of the compliance with supervisory provisions by IORPs.';	GR (Drafting suggestions): It shall include the **monitoring,** ~~verification~~ on a continuous basis**,** of the proper operation of the IORPs' activities and of the compliance with supervisory provisions by IORPs.'; GR (Comments): **EL**: The word "verification" could lead to unwanted supervisory expectations e.g. certificates of proper operation, which must be avoided. HR (Comments): Given the broadly drafted nature of the provision, further clarification would be appreciated as to how this requirement should be applied in a manner consistent with the objectives of the Directive, including its governance, risk management, internal audit and compliance framework. In particular, we would welcome guidance should the requirement „verification on a continuous basis" be understood as necessitating continuous monitoring of all activities (in off-site and on-site supervision), or whether it may be satisfied through the establishment of different ongoing controls and mechanisms.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(c) paragraph 4 is replaced by the following:	EE (Drafting suggestions): ~~(c) paragraph 4 is replaced by the following:~~
'4. Supervisory powers shall cover the entire retirement provision business of the IORP, including, where pursuant to national law IORPs are allowed to provide personal pension products, their personal pension provision business. Member States shall ensure that those powers are applied in a manner which is timely and which is proportionate to the nature, scale and complexity of the activities of the IORP.';	GR (Drafting suggestions): 4. Supervisory powers shall cover the entire **life cycle of the IORP pension scheme** ~~**retirement provision business of the IORP**~~ , including, where pursuant to national law IORPs are allowed~~,~~ ~~to provide~~ personal pension products~~, their personal pension provision business~~. Member States shall ensure that those powers are applied in a manner which is timely and which is proportionate to the nature, scale and complexity of the activities of the IORP.'; GR (Comments): **EL**: We support the COM proposal. However, there seems to be a duplication between art. 47 (4) second sentence and art. 48 (1b). Furthemore, we would propose to avoid using the word"business" for IORPs. FR (Comments): **FR:** Support in principle HR (Comments): We can accept the proposed provisions. EE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~4. Supervisory powers shall cover the entire retirement provision business of the IORP, including, where pursuant to national law IORPs are allowed to provide personal pension products, their personal pension provision business. Member States shall ensure that those powers are applied in a manner which is timely and which is proportionate to the nature, scale and complexity of the activities of the IORP.';~~ EE (Comments): In Estonia national pension products and providers of those products are under supervision and compared to other financial services often stricter rules apply. However, this Directive should not intervene to national personal pension products.
(d) the following paragraph 6 is added:	
'6. Member States shall ensure that competent authorities monitor market developments relating to the scale of IORPs.';	GR (Drafting suggestions): ~~6. Member States shall ensure that competent authorities monitor market developments relating to the scale of IORPs.';~~ GR (Comments): **EL**: We propose the deletion of this paragraph. The pursue of scale should not be in the remit of NCAs Powers. FR (Comments): **FR:** Support in principle. LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): LU: We are unsure what the reference made to scale is meant to mean. Market consolidation should not be actively promoted by regulators.
(52) Article 48 is amended as follows:	
(a) the following paragraphs 1a and 1b are inserted:	HR (Comments): We can accept the proposed provisions.
'1a. Member States shall ensure that their competent authorities have the power to require all information necessary to conduct supervision in accordance with Article 50.	GR (Comments): **EL**: We support the COM proposal. FR (Comments): **FR:** Support in principle.
1b. Member States shall ensure that their competent authorities apply supervisory powers in a timely and proportionate manner.';	GR (Comments): **EL**: There seems to be a duplication between art. 47 (4) second sentence and art. 48 (1b).
(b) paragraph 2 is replaced by the following:	FR (Comments): FR: Support in principle.
'2. Member States shall ensure that their competent authorities have the power:	GR (Comments): **EL**: We support the COM proposal.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	HR (Comments): We can accept the proposed provisions.
(a) to take preventive and corrective measures to ensure that IORPs comply with the laws, regulations and administrative provisions with which they have to comply in each Member State;	SE (Drafting suggestions): to take preventive and corrective measures to ensure that IORPs comply with the **national provisions implementing this Directive** ~~laws, regulations and administrative provisions with which they have to comply in each Member State~~ SE (Comments): We propose that the current wording of the directive be retained. We are concerned that the suggested wording is formulated too broadly
(b) to take any necessary measures, including where appropriate, those of an administrative or financial nature, with regard to IORPs, and the members of their administrative, management or supervisory body.	NL (Comments): Clarification is needed on what is meant by administrative body.
Without prejudice to the supervisory powers of competent authorities and the right of Member States to provide for and impose criminal sanctions, Member States shall ensure that their competent authorities may impose administrative sanctions and other measures applicable to all infringements of the national provisions implementing this Directive, and shall take all measures necessary to ensure that those sanctions and other measures are implemented. Member States shall ensure that their administrative sanctions and other measures are effective, proportionate and dissuasive.'; (53) Article 49 is amended as follows:	IE (Comments): IE reserves its position. FR

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): FR: Support in principle. HR (Comments): We can accept the proposed provisions.
(a) paragraph 1 is amended as follows:	
(i) the first subparagraph is replaced by the following:	
'Member States shall ensure that competent authorities review and evaluate the strategies, processes and reporting procedures which are established by IORPs to comply with the laws, regulations and administrative provisions adopted pursuant to this Directive, taking into account the nature, scale and complexity of the activities of the IORP.';	GR (Comments): **EL**: We support the COM proposal. SE (Comments): SE finds article 49 very problematic. It is not the role of NCAs to aid the IORPs in their strategic development.
(ii) the following subparagraph is added:	
'The assessments referred to in the second subparagraph, points (b) and (c), shall take into account the risk of the IORP not having sufficient financial resources to cover its current and future operating costs.';	BE (Drafting suggestions): *"The assessments referred to in the second subparagraph, points (b) and (c), shall take into account the risk of the IORP not having sufficient financial resources to cover its current and future operating costs,* ***with due consideration of the liabilities that are underwritten or guarantees given by the IORP itself, and not the sponsoring undertaking, as referred to in Art. 15.1"***

PUBLIC

Commission proposal	Drafting suggestions and Comments
	BE (Comments): We refer to our remarks on Article 10.1.c: What does 'financial resources' mean: reserves or also future contributions to cover the expenses? We suppose this provision should be limited to IORPs that fall under Art. 15.1
(b) the following paragraphs 1a and 1b are inserted:	DE (Drafting suggestions): (b) the following ~~paragraphs~~ **paragraph** 1a ~~and 1b are~~ **is** inserted: DE (Comments): see comment on paragraph 1b below
'1a. Member States shall ensure that competent authorities in particular review and evaluate compliance with all elements referred to in Article 46.	
1b. As part of the review process, the competent authority and each IORP shall conduct, at least every three years, a regular supervisory dialogue.';	NL (Drafting suggestions): As part of the review process, the competent authority and each IORP shall conduct, **in a frequency that is appropriate considering the risk profile of the IORP,** ~~at least every three years,~~ a regular supervisory dialogue.' NL (Comments): We think a risk based approach would be more suitable here. In that respect the requirement to have a supervisory dialogue at least every 3 years and to

PUBLIC

Commission proposal	Drafting suggestions and Comments
	cover all the subjects set out in articles 46 (basically all possible prudential topics) and 49a, conflicts with such a "risk based" approach. LT (Drafting suggestions): As part of the review process, the competent authority and each IORP shall conduct, ~~at least every three years~~ **based on a risk-based approach**, a regular supervisory dialogue. LT (Comments): We believe that the proposed review process every 3 years is an excessive requirement for stable funds in a small market. DK (Comments): The minimum every three year should be deleted as it should be left for the NCA's to be risk based and not to be forced to have supervisory dialogue if not needed. Could be replaced by a requirement to interegrate supervisory dialogue in a risk based way where needed. PT (Comments): PT questions the pertinence in introducing the obligation to impose periodic supervisory dialogues. DE (Drafting suggestions): ~~1b. As part of the review process, the competent authority and each IORP shall conduct, at least every three years, a regular supervisory dialogue.';~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Comments): <u>Simplification:</u> see comment on Article 49a below SE (Comments): It should be possible to exempt IORPs not covering biometric risk from the regular supervisory dialogue. ES (Comments): We do not understand how, being a regular dialogue with the supervisor, a three-year deadline is being established. We wonder whether there is a bit of inconsistency in the phrase. IE (Comments): IE reserves its position on this proposal – linked to proposed insertion of Article 49a below. IT (Comments): This provision does not adequately take into account the number of IORPs supervised by each authority and should therefore be adjusted in line with a risk-based approach. LU (Drafting suggestions): ~~1b. As part of the review process, the competent authority and each IORP shall conduct, at least every three years, a regular supervisory dialogue~~.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Comments): LU does not support the introduction of a mandatory, regular supervisory dialogue as a standard requirement. In LU's view, supervisory engagement should be proportionate and risk-based, so as to ensure effective oversight of IORP activities while at the same time preserving sufficient flexibility to support innovation and the ongoing development of IORPs within a market-oriented framework.
(c) paragraph 2 is replaced by the following:	
'2. Member States shall ensure that IORPs have procedures in place to identify deteriorating financial conditions and immediately notify the competent authorities when such deterioration occurs.	BE (Comments): To avoid numerous notifications for each drop in the coverage ratio and/or the assets of the IORP, this notification should only be done where this deterioration would seriously impact on the members and beneficiairies pension entitlements. GR (Comments): **EL**: We support the COM proposal. SE (Drafting suggestions): 2. Member States shall ensure that IORPs have procedures in place to identify deteriorating financial conditions and immediately notify the competent authorities when such **material [/significant]** deterioration occurs. SE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	A significant or material deterioration should at least be required to trigger the reporting obligation. With the proposed wording, IORPs will be required to report any deterioration in their financial situation even if they still have a sound financial position. Such a requirement will increase the administrative burden for both IORPs and supervisory authorities without providing any practical benefit.
Member States shall ensure that competent authorities have in place appropriate monitoring tools, including stress-tests, that enable them to identify deteriorating financial conditions in an IORP and to monitor how that deterioration is remedied.'; 	
(d) the following paragraph 2a is inserted:	
'2a. The competent authorities shall assess the adequacy of the methods and practices of the IORP designed to identify possible events or future changes in economic conditions that could have adverse effects on the overall financial standing of the IORP concerned.	SK (Comments): Considering a comment raised by the NBS, the provision is drafted in very general terms, which may pose challenges for its practical application from a supervisory perspective, and the underlying intention is not entirely clear. We would therefore suggest reconsidering the provision. GR (Comments): **EL**: We support the COM proposal. IT (Comments): This provision appears to be very burdensome; it should be redrafted in line with a risk-based approach.

PUBLIC

Commission proposal	Drafting suggestions and Comments
The supervisory authorities shall assess the ability of the IORP to withstand those possible events or future changes in economic conditions.’;	
(e) paragraph 4 is replaced by the following:	
‘4. The reviews, evaluations and assessments referred to in paragraphs 1 and 1a shall be conducted regularly.	
The competent authorities shall establish the minimum frequency and the scope of the reviews, evaluations and assessments having regard to the nature, scale and complexity of the activities of the IORP concerned.’	
(54) the following Articles 49a and 49b are inserted:	EE (Comments): Proposed articles impose an overly excessive administrative burden. We propose the deletion of both Articles.

PUBLIC

'Article 49a **Regular supervisory dialogue**	GR (Comments): **EL**: We have strong concerns about the inclusion of NCAs' obligation to encourage IORPs' scaling up and consolidation. This provision equals to the adoption of an active anti-proportional position on behalf of NCAs, which goes beyond normal supervisory remit, risking to distort national occupational sectors and undermine smaller but well-structured and efficient IORPs. PT (Comments): PT is sceptic on the need to foresee these dialogues. DE (Drafting suggestions): ~~*'Article 49a*~~ ~~**Regular supervisory dialogue**~~ DE (Comments): Simplification: The reasons and the topics of a dialogue with IORPs, as well as the frequency, should be identified on a risk-based assessment done by the competent authority, rather than on a given set of parameters. This Article should be omitted. FR (Comments): FR: Support in principle. IT (Comments):

Commission proposal	Drafting suggestions and Comments
	The requirement of a regular supervisory dialogue does not adequately take into account the number of IORPs supervised by each authority and should therefore be adjusted in line with a risk-based approach. LU (Drafting suggestions): ~~*Article 49a*~~ ~~**Regular supervisory dialogue**~~ LU (Comments): LU does not support such a regular supervisory dialogue, as explained above.
1. The regular supervisory dialogue referred to in Article 49(1b) shall cover the early identification of vulnerabilities, inefficiencies and structural challenges, and to encourage strategic reflection on the long-term adequacy, efficiency and sustainability of the IORP, including the adequacy of its scale, its capacity for consolidation, cooperation or asset pooling, and the appropriateness of its organisational configuration to operate efficiently and deliver value for members and beneficiaries.	GR (Drafting suggestions): 1. The regular supervisory dialogue referred to in Article 49(1b) shall cover the early identification of vulnerabilities, inefficiencies and structural challenges, and to encourage strategic reflection on the long-term adequacy, efficiency and sustainability of the IORP~~**, including the adequacy of its scale, its capacity for consolidation, cooperation or asset pooling, and the appropriateness of its organisational configuration to operate efficiently and deliver value for members and beneficiaries.**~~ DK (Comments): It should be risk based and for the NCA's to plan when supervisory dialogue is needed. AT (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The competent authorities may be a sparring partner, but they should not foster consolidation – this should be a market driven process. Studies show that large pension funds do not necessarily invest more effectively than smaller pension funds and that asset size is not meaningfully related to investment performance. See also comment at rec 8. DE (Drafting suggestions): ~~1. The regular supervisory dialogue referred to in Article 49(1b) shall cover the early identification of vulnerabilities, inefficiencies and structural challenges, and to encourage strategic reflection on the long-term adequacy, efficiency and sustainability of the IORP, including the adequacy of its scale, its capacity for consolidation, cooperation or asset pooling, and the appropriateness of its organisational configuration to operate efficiently and deliver value for members and beneficiaries.~~ HR (Comments): Supervisory dialogue may support supervisory convergence and improve early identification of vulnerabilities, inefficiencies and structural challenges, however differences in supervisory practices and national legislation could lead to inconsistency in how the dialogue is conducted and interpreted. Therefore, it presents significant challenges which should be addressed by EIOPA in the form of guidelines or recommendations indicating early warning parameters. IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE to reserve its position on the proposed Article 49a to enable further examination of practicalities that may arise. The proposed new requirement for CAs to undertake 'regular supervisory dialogue' with each IORP every three years is additional to the existing requirement to carry out a'supervisoury review process' for which the CAs are permitted to deetermine the scope and frequency. The proposed 'regulator supervisory dialogue' is far reaching and includes, among others, the early identification of vulnerabilities, inefficiencies and structural challenges. This proposed new triennial 'regular supervisory dialogue' does not take account of the large no. of IORPS operating in Ireland (notwithstanding that there has been significant consolidation of schemes in recent years). At a minimum, IE seeks some lead-in time before this ' regular supervisory dialogue' comes into force. LU (Drafting suggestions): ~~1. The regular supervisory dialogue referred to in Article 49(1b) shall cover the early identification of vulnerabilities, inefficiencies and structural challenges, and to encourage strategic reflection on the long-term adequacy, efficiency and sustainability of the IORP, including the adequacy of its scale, its capacity for consolidation, cooperation or asset pooling, and the appropriateness of its organisational configuration to operate efficiently and deliver value for members and beneficiaries.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
2. Member States shall ensure that the regular supervisory dialogue referred to in Article 49(1b) is based on a set of early warning parameters, including at least all of the following:	SK (Comments): Based on a comment raised by the NBS, we propose that this activity and the related criteria remain within the competence of individual Member States, allowing them to tailor the approach to the specific characteristics of their respective pension markets, including the structure, size and risk profile of the sector, as well as the needs of supervision and the supervised entities concerned. GR (Drafting suggestions): ~~2. Member States shall ensure that the regular supervisory dialogue referred to in Article 49(1b) is based on a set of early warning parameters, including at least all of the following:~~ GR (Comments): **EL**: We propose to delete the whole para 2. DE (Drafting suggestions): ~~2. Member States shall ensure that the regular supervisory dialogue referred to in Article 49(1b) is based on a set of early warning parameters, including at least all of the following:~~ IT (Comments): Supervisory dialogue based on “early warning parameters” must take into account the current principle of proportionality, under which IORPs autonomously define the organisational model they consider most appropriate for the key aspects of their activity. The identification of

Commission proposal	Drafting suggestions and Comments
	quantitative parameters, aside from being difficult to implement, could overly restrict the flexibility currently granted to IORPs by the legislation, thereby resulting in a supervisory approach that differs substantially from the current one. LU (Drafting suggestions): ~~2. Member States shall ensure that the regular supervisory dialogue referred to in Article 49(1b) is based on a set of early warning parameters, including at least all of the following:~~
(a) the level and evolution of administrative, transaction and investment costs of the IORP;	GR (Drafting suggestions): ~~(a) the level and evolution of administrative, transaction and investment costs of the IORP;~~ DE (Drafting suggestions): ~~(a) the level and evolution of administrative, transaction and investment costs of the IORP;~~ LU (Drafting suggestions): ~~(a) the level and evolution of administrative, transaction and investment costs of the IORP;~~
(b) the net and risk-adjusted rate of return on assets of the IORP;	GR (Drafting suggestions): ~~(b) the net and risk-adjusted rate of return on assets of the IORP;~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): ~~(b) the net and risk-adjusted rate of return on assets of the IORP;~~ LU (Drafting suggestions): ~~(b) the net and risk-adjusted rate of return on assets of the IORP;~~
(c) any shortfall or deviation from promised or targeted benefit levels;	GR (Drafting suggestions): ~~(c) any shortfall or deviation from promised or targeted benefit levels;~~ DE (Drafting suggestions): ~~(c) any shortfall or deviation from promised or targeted benefit levels;~~ LU (Drafting suggestions): ~~(c) any shortfall or deviation from promised or targeted benefit levels;~~
(d) the number and evolution of active members and beneficiaries;	GR (Drafting suggestions): ~~(d) the number and evolution of active members and beneficiaries;~~ DE (Drafting suggestions): ~~(d) the number and evolution of active members and beneficiaries;~~ LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~(d) the number and evolution of active members and beneficiaries;~~
(e) indicators of operational efficiency, risk concentration and institutional resilience.	GR (Drafting suggestions): ~~(e) indicators of operational efficiency, risk concentration and institutional resilience.~~ DE (Drafting suggestions): ~~(e) indicators of operational efficiency, risk concentration and institutional resilience.~~ LU (Drafting suggestions): ~~(e) indicators of operational efficiency, risk concentration and institutional resilience.~~
3. Member States shall ensure that, where the outcome of the regular supervisory dialogue indicates potential weaknesses or deficiencies, their competent authorities invite the IORP concerned to consider strategic options that are appropriate at strengthen its long-term viability and the effective delivery of retirement benefits to members and beneficiaries, including measures that enhance operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements.	GR (Drafting suggestions): 3. Member States shall ensure that, where the outcome of the regular supervisory dialogue indicates potential weaknesses or deficiencies, their competent authorities invite the IORP concerned to consider strategic options that are appropriate at strengthen its long-term viability and the effective delivery of retirement benefits to members and beneficiaries~~, including measures that enhance operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements.~~ LT (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Member States shall ensure that, where the outcome of the regular supervisory dialogue indicates potential weaknesses or deficiencies, their competent authorities invites the IORP concerned to consider strategic options that are appropriate to strengthen its long-term viability and the effective delivery of retirement benefits to members and beneficiaries, including measures that enhance operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements. **Any such measures shall be pursued only if they are demonstrably in the best long-term interests of members and beneficiaries.** LT (Comments): These amendments would clearly separate scaling up and consolidation as means from the main objective of ensuring the best interests of pension scheme members and beneficiaries. This would prevent potential interpretations that consolidation is a mandatory goal in itself and would emphasize the responsibility of Member States and IORPs to ensure that any structural changes are based on concrete benefits for members. DE (Drafting suggestions): ~~3. Member States shall ensure that, where the outcome of the regular supervisory dialogue indicates potential weaknesses or deficiencies, their competent authorities invite the IORP concerned to consider strategic options that are appropriate at strengthen its long-term viability and the effective delivery of retirement benefits to members and beneficiaries, including measures that enhance operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements.~~ SE

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~Member States shall ensure that, where the outcome of the regular supervisory dialogue indicates potential weaknesses or deficiencies, their competent authorities invite the IORP concerned to consider strategic options that are appropriate at strengthen its long-term viability and the effective delivery of retirement benefits to members and beneficiaries, including measures that enhance operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements.~~ SE (Comments): The paragraph describes an ongoing supervisory activity when an IORP shows weaker figures, but adding requirements where the competent authority would be expected to be involved in the IORP's strategic work. We propose to delete the provision. Please, see also the comment on Article 49a. LU (Drafting suggestions): ~~3. Member States shall ensure that, where the outcome of the regular supervisory dialogue indicates potential weaknesses or deficiencies, their competent authorities invite the IORP concerned to consider strategic options that are appropriate at strengthen its long-term viability and the effective delivery of retirement benefits to members and beneficiaries, including measures that enhance operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements.~~
4. Member States shall ensure that the, where material deficiencies are identified, or where there is an underperformance as referred to in Article 41a(1), their competent authority shall require the IORP to draw up a plan for remedial action that sets out the measures, timelines and governance arrangements to address the identified material deficiencies or that	GR (Drafting suggestions): 4. Member States shall ensure that the, where material deficiencies are identified, ~~or where there is an underperformance as referred to in Article 41a(1),~~ their competent authority shall require the IORP to draw up a plan for

Commission proposal	Drafting suggestions and Comments
underperformance. Such a plan shall consider structural measures to improve efficiency and sound management, including, where appropriate, possible consolidation, cooperation, asset pooling or resource-sharing arrangements.	remedial action that sets out the measures, timelines and governance arrangements to address the identified material deficiencies ~~or that underperformance.~~ Such a plan shall consider structural measures to improve efficiency and sound management~~, including, where appropriate, possible consolidation, cooperation, asset pooling or resource-sharing arrangements.~~ LT (Drafting suggestions): Member States shall ensure that, where material deficiencies are identified, or where there is an underperformance as referred to in Article 41a(1), their competent authority shall require the IORP to draw up a plan for remedial action that sets out the measures, timelines and governance arrangements to address the identified material deficiencies or that underperformance. Such a plan shall consider structural measures to improve efficiency and sound management, including, where appropriate, possible consolidation, cooperation, asset pooling or resource-sharing arrangements. **The primary objective of such a plan shall be to improve outcomes for members and beneficiaries, and any consideration of enhanced operational scale, consolidation, cooperation, asset pooling or resource-sharing arrangements shall be evaluated solely based on their capacity to achieve this objective.** LT (Comments): These amendments would clearly separate scaling up and consolidation as means from the main objective of ensuring the best interests of pension scheme members and beneficiaries. This would prevent potential interpretations that consolidation is a mandatory goal in itself and would emphasize the responsibility of Member States and IORPs to ensure that any structural changes are based on concrete benefits for members.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): ~~4. Member States shall ensure that the, where material deficiencies are identified, or where there is an underperformance as referred to in Article 41a(1), their competent authority shall require the IORP to draw up a plan for remedial action that sets out the measures, timelines and governance arrangements to address the identified material deficiencies or that underperformance. Such a plan shall consider structural measures to improve efficiency and sound management, including, where appropriate, possible consolidation, cooperation, asset pooling or resource sharing arrangements.~~ SE (Comments): See comments on article 41a. HR (Comments): We are still discussing internally about this particular proposal and will comment in the later stage. LU (Drafting suggestions): ~~4. Member States shall ensure that the, where material deficiencies are identified, or where there is an underperformance as referred to in Article 41a(1), their competent authority shall require the IORP to draw up a plan for remedial action that sets out the measures, timelines and governance arrangements to address the identified material deficiencies or that underperformance. Such a plan shall consider structural measures to improve efficiency and sound management, including, where appropriate, possible consolidation, cooperation, asset pooling or resource sharing arrangements.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
Member States shall ensure that the IORP's administrative, management or supervisory body adopts the plan referred to in the first subparagraph and submits that plan to the competent authority for review and approval.	GR (Drafting suggestions): ~~Member States shall ensure that the IORP's administrative, management or supervisory body adopts the plan referred to in the first subparagraph and submits that plan to the competent authority for review and approval.~~ DE (Drafting suggestions): ~~Member States shall ensure that the IORP's administrative, management or supervisory body adopts the plan referred to in the first subparagraph and submits that plan to the competent authority for review and approval~~. LU (Drafting suggestions): ~~Member States shall ensure that the IORP's administrative, management or supervisory body adopts the plan referred to in the first subparagraph and submits that plan to the competent authority for review and approval.~~
Member States shall ensure that the IORP reports periodically on the implementation of the plan referred to in the first subparagraph and on any progress achieved in implementing that plan when requested to do so by the competent authority.	GR (Drafting suggestions): ~~Member States shall ensure that the IORP reports periodically on the implementation of the plan referred to in the first subparagraph and on any progress achieved in implementing that plan when requested to do so by the competent authority.~~ DE (Drafting suggestions): ~~Member States shall ensure that the IORP reports periodically on the implementation of the plan referred to in the first subparagraph and on any progress achieved in implementing that plan when requested to do so by the competent authority.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Drafting suggestions): ~~Member States shall ensure that the IORP reports periodically on the implementation of the plan referred to in the first subparagraph and on any progress achieved in implementing that plan when requested to do so by the competent authority.~~
5. Member States shall ensure that the competent authority:	GR (Drafting suggestions): ~~5. Member States shall ensure that the competent authority:~~ GR (Comments): **EL**: We propose to delete the whole para 5. DE (Drafting suggestions): ~~5. Member States shall ensure that the competent authority:~~ LU (Drafting suggestions): ~~5. Member States shall ensure that the competent authority:~~
(a) documents the outcome of each regular supervisory dialogue;	GR (Drafting suggestions): ~~(a) documents the outcome of each regular supervisory dialogue;~~ DE (Drafting suggestions): ~~(a) documents the outcome of each regular supervisory dialogue;~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Drafting suggestions): ~~(a) documents the outcome of each regular supervisory dialogue;~~
(b) may issue recommendations to the IORP concerned.	GR (Drafting suggestions): ~~(b) may issue recommendations to the IORP concerned.~~ DE (Drafting suggestions): ~~(b) may issue recommendations to the IORP concerned.~~ LU (Drafting suggestions): ~~(b) may issue recommendations to the IORP concerned.~~
The recommendations referred to in point (b) of the first subparagraph shall be without prejudice to the powers of the competent authority to adopt binding supervisory measures.	GR (Drafting suggestions): ~~The recommendations referred to in point (b) of the first subparagraph shall be without prejudice to the powers of the competent authority to adopt binding supervisory measures.~~ DE (Drafting suggestions): ~~The recommendations referred to in point (b) of the first subparagraph shall be without prejudice to the powers of the competent authority to adopt binding supervisory measures.~~ LU (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~The recommendations referred to in point (b) of the first subparagraph shall be without prejudice to the powers of the competent authority to adopt binding supervisory measures~~
Article 49b **Withdrawal of authorisation**	GR (Comments): **EL**: We support the COM proposal. PT (Comments): PT supports granting the possibility for NCAs to withdraw authorisation of IORPs. FR (Comments): FR: Support in principle. HR (Comments): We can accept the proposed provisions.
1. The competent authority of the home Member State may withdraw an authorisation granted to an IORP in the following cases:	
(a) the IORP concerned does not use its authorisation within 12 months, expressly renounces that authorisation or ceases to pursue activities for more than six consecutive months, unless the Member State concerned has made provision for authorisation to lapse in such cases;	ES (Drafting suggestions): (a) the IORP concerned does not use its authorisation within 12 months, expressly renounces that authorisation or ceases to pursue activities for more than ~~six~~ 12 consecutive months, unless the Member State concerned has made provision for authorisation to lapse in such cases;

PUBLIC

Commission proposal	Drafting suggestions and Comments
	ES (Comments): We believe that the six-month period for the cessation of activities in this case is too short and should also be set at 12 months.
(b) the IORP concerned no longer fulfils the conditions for authorisation;	
(c) the IORP concerned fails seriously in its obligations under the regulations to which it is subject.	
2. In the event of the withdrawal or lapse of authorisation, the competent authority of the home Member State shall notify the competent authorities of the other Member States accordingly, and those authorities shall take appropriate measures to prevent the IORP from commencing new operations within their territories.	
The competent authority of the home Member State shall, together with those authorities, take all measures necessary to safeguard the interests of members and beneficiaries and, in particular, shall restrict the free disposal of the assets of the IORP.	
3. Any decision to withdraw authorisation shall state the full reasons and shall be communicated to the IORP concerned. Every withdrawal of authorisation shall be notified to EIOPA.’;	
(55) Article 50 is amended as follows:	FR (Comments): FR: Support in principle.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	However, France is currently analysing the details of the proposals put forward to verify that they are appropriate to the needs identified and the overall objective of simplification. HR (Comments): We can agree with the proposal.
(a) the following paragraphs are inserted after the title:	
'Member States shall require IORPs to submit to the competent authorities the quantitative and qualitative information which is necessary for the purposes of supervision, taking into account the objectives of supervision laid down in Article 45, the scope of supervision laid down in Article 46, and the general principles of supervision laid down in Article 47, in particular the principle of proportionality.	GR (Comments): **EL**: We support the COM proposal. IE (Comments): IE reserves its position on this proposal to enable further examination of practicalities that may arise. Further discussion would be welcomed to consider if some of the proposed amendments are proportionate and appropriate where costs are not met by the member. As currently drafted, this will require IORPS to submit the specified information to CAs, however, should it be reframed so as to provide that IORPs shall submit the information as may be required/upon request by CA?
Member States shall ensure that the competent authorities have the following powers:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
(a) to determine the nature, the scope and the format of the information referred to in the first subparagraph, which they require IORPs to submit on a regular or ad hoc basis;	
(b) to obtain any information regarding contracts which are entered into with third parties; and	
(c) to require information from external experts, such as auditors and actuaries.’;	
(b) the third subparagraph is amended as follows:	
(i) in point (d), the following point is added:	
‘(vii) business plans referred to in Article 9;’;	
(ii) the following point (g) is added:	
‘(g) require IORPs to submit regularly quantitative templates specifying in greater detail and supplementing the information contained in the reports referred to in points (c) and (d), including information requested in accordance with Article 35 of Regulation (EU) No 1094/2010 necessary for the performance of duties entrusted to EIOPA under that Regulation and under this Directive’;	GR (Comments): **EL**: We support the COM proposal. BG (Comments): BG: Article 35 of Regulation (EU) No 1094/2010 empowers EIOPA to request information from NCAs on an ad-hoc basis or at recurring intervals. The information could be provided by using reporting formats, where possible. In this regard, it is not clear if this new provision should capture only the information which should be submitted regularly or also on an ad-hoc basis.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	LU (Drafting suggestions): ~~'(g) require IORPs to submit regularly quantitative templates specifying in greater detail and supplementing the information contained in the reports referred to in points (c) and (d), including information requested in accordance with Article 35 of Regulation (EU) No 1094/2010 necessary for the performance of duties entrusted to EIOPA under that Regulation and under this Directive';~~ LU (Comments): LU does not see a need to further inflate the submission of additional more granular reporting data which could already today be asked for under letter c) if the competent authority wishes to do so.
(iii) the following paragraphs are added:	DE (Drafting suggestions): (iii) the following paragraphs are added:
'Member States shall ensure that IORPs report on annual basis to the competent authorities information on investment returns, net of investment costs, and all costs and charges incurred in connection with their activities.	GR (Comments): **EL**: It should be clarified that this information will be provided, if relevant. It might not be relevant e.g. for DBs schemes. AT (Comments): This information might also be interesting for members and beneficiaries and should be accessible (on request). DE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): '**For schemes, where members and beneficiaries bear material risks,** Member States shall ensure that IORPs report on annual basis to the competent authorities information on investment returns, net of investment costs, and all costs and charges incurred in connection with their activities. DE (Comments): Simplification: A comprehensive cost reporting, including a look-through approach and the identification of all costs incurred, would cause a lot of work for the IORPs and represent a huge additional bureaucratic burden. The identification of costs can be costly itself. In particular, this applies to the identification of costs in investment funds, including fund of funds. Contrary to what is assumed in the EIOPA opinion on costs and charges, certain investment funds are not subject to MIFID II directive and therefore not obliged to disclose detailed cost information to their clients. German IORPs invest a large part of their investments in such investment funds. Furthermore, the identification of implicit costs, in particular implicit transactions costs included in the spread, can cause a considerable effort. On the other hand, the benefits of such a cost reporting are questionable. In case of already low existing costs, as is the case in the German IORP market, the potential for cost reductions, as a result of more transparency achieved by such a reporting, is also low. Most German IORPs are closely linked to their sponsors and already have a high motivation to keep costs down. Especially in defined benefit schemes, where premiums are fixed and benefits are guaranteed, it is particularly difficult to demonstrate a net benefit of a comprehensive cost reporting for members. If at all, a cost reporting should only be introduced for IORPs, where members bear material risks.

PUBLIC

Commission proposal	Drafting suggestions and Comments
Member States shall ensure that competent authorities require IORPs to apply a look-through approach, ensuring that all costs and charges incurred at the level of investment funds, asset managers and transactions are included, and that the no-netting principle is applied.	SE (Comments): The proposed requirement for IORPs to apply a full look-through approach, including all costs and charges at the level of investment funds, asset managers and transactions, presents significant practical challenges. Contractual arrangements between IORPs and asset managers are subject to confidentiality provisions, which introduces legal and practical limitations to disclose the required information. Additionally, the products in a pension scheme are complex and differ between MS. Demonstrating the costs of products in a detailed way is very difficult and has low additional value.
In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards on the procedures, formats and templates, which shall, where applicable, distinguish between occupational and personal pensions.	BE (Comments): In the context of burden reduction it is essential to avoid additional layers of rules and regulations. This mandate for EIOPA should therefore be deleted. NL (Drafting suggestions): ~~In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards on the procedures, formats and templates, which shall, where applicable, distinguish between occupational and personal pensions.~~ NL (Comments): We support the requirement to provide NCA's with this information. In NL, DNB already has insight in IORP costs and investment returns. These NL

PUBLIC

Commission proposal	Drafting suggestions and Comments
	standards have been consulted with the NL pension sector. Tasking EIOPA with the implementing of technical standards would result in changing these broadly accepted standards and thus lead to IORPs incurring costs that can be avoided. Allowing NCA's to set their own technical standards will avoid this. DE (Drafting suggestions): ~~In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards on the procedures, formats and templates, which shall, where applicable, distinguish between occupational and personal pensions.~~ DE (Comments): Minimum harmonisation: deleted because compentent authorities should be able to take into account the specifities of national markets, in line with the minimum harmonisation approach of the IORP II Directive EE (Drafting suggestions): In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards on the procedures, formats and templates~~, which shall, where applicable, distinguish between occupational and personal pensions~~. EE (Comments): Supervision over personal pensions is organised nationally. This Directive should not intervene to the matter.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IT (Comments): A more in-depth analysis of the proposed amendments is needed. Furthermore, the content and scope of EIOPA mandate to develop technical standards is not clear and should be better clarified. LU (Drafting suggestions): ~~In order to ensure uniform conditions of application of this Article, EIOPA shall develop draft implementing technical standards on the procedures, formats and templates, which shall, where applicable, distinguish between occupational and personal pensions.~~ LU (Comments): LU: we do not see any need for further EIOPA ITS, competent authorities are sufficiently empowered.
Power is conferred to the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) 1094/2010.’;	NL (Drafting suggestions): ~~Power is conferred to the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) 1094/2010.’;~~ NL (Comments): As we propose to delete the previous paragraph, this paragraph becomes obsolete.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	DE (Drafting suggestions): ~~Power is conferred to the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) 1094/2010.';~~ DE (Comments): Minimum harmonisation: deleted because competent authorities should be able to take into account the specifities of national markets, in line with the minimum harmonisation approach of the IORP II Directive LU (Drafting suggestions): ~~Power is conferred to the Commission to adopt the implementing technical standards referred to in the fourth subparagraph in accordance with Article 15 of Regulation (EU) 1094/2010.';~~
(56) the following Article 50a is inserted:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
Article 50a **Supervision of outsourced functions and activities**	GR (Comments): **EL**: We support in principle the COM proposal. FR (Comments): FR: **Strong support for the approach and reinforcement of supervision of outsourced functions.** It should be recalled that outsourcing asset management does not exempt the IORP of its responsibilities, in particular relating to its duty to understand and control its risks and to manage investments in the best interest of the beneficiaries and members (strong focus should be put on the usual outsourcing requirements: retaining a fully-fledged ALM strategy and risk analysis, signing a clear mandate setting out detailed objectives, KPIs and KRIs, sufficiently frequent reportings and touchpoints, control points, possibility for auditing the asset manager, etc.) In this regard, we support EIOPA's recommendations made in its 2023 technical advice on this matter, as well as on the management of direct and indirect costs related to the outsourcing of certain services.
1. Member States shall ensure that IORPs which outsource a function or an activity take the necessary steps to ensure that the following conditions are satisfied:	HR (Comments): Maybe we could consider defining the elements of the agreement on outsourcing, similar to other EU legislation (UCITS, SII, AIFMD).
(a) the service provider cooperates with the supervisory authorities of the IORP to ensure supervision of the outsourced function or activity;	IE (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	IE would welcome clarification that this provision is not intended to oblige competent authorities to directly supervise the service provider, rather the competent authority's supervision of the IORPs oversight of the service provider.
(b) the IORP, its auditors and the competent authorities have effective access to data related to the outsourced functions or activities, including the power to request information from IORPs and from service providers about outsourced key functions or any other activities at any time;	
(c) the competent authorities have effective access to the business premises of the service provider and must be able to exercise those rights of access.	IE (Comments): IE - Should this be reframed to empower NCAs to acces the business premises of a service provider for the purposes of supervising any activity or key function outsourced to that service provider.
2. The Member State where the service provider is located shall permit the competent authorities of the IORP to carry out themselves, or through the intermediary of persons they appoint for that purpose, on-site inspections at the premises of the service provider. The competent authorities of the IORP shall inform the appropriate authority of the Member State of the service provider prior to conducting the on-site inspection. In the case of a non-supervised entity the appropriate authority shall be the competent authority.	
The competent authorities of the Member State of the IORP may delegate such on-site inspections to the competent authorities of the Member State where the service provider is located.	
3. Where a competent authority has informed the appropriate authority of the Member State of the service provider that it intends to carry out an on-site inspection in accordance with this paragraph, or where it carries out an on-site inspection in accordance with the first subparagraph where that competent	HR (Comments): We are still taking our position on expanding EIOPA's powers.

PUBLIC

Commission proposal	Drafting suggestions and Comments
authority is unable in practice to exercise its right to carry out that on-site inspection, the competent authority may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. In that case, EIOPA may act in accordance with the powers conferred on it by that Article.	
In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA shall be entitled to participate in on-site examination where they are carried out jointly by two or more supervisory authorities.'; (57) Article 51 is amended as follows:	ES (Comments): With the information provided, we do not understand the need to empower EIOPA as stated. We have serious concerns about granting EIOPA powers to participate in on-site inspections. LU (Drafting suggestions): ~~In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA shall be entitled to participate in on-site examination where they are carried out jointly by two or more supervisory authorities.';~~ LU (Comments): LU: Considering that Article 21 of Regulation (EU) No 1094/2010 allows EIOPA to be entitled to participate in on-site examinations, we deem this wording to be unnecessary HR (Comments): We can accept the proposed provision. With respect to "personal pension products" where applicable, we refer you to our comments on Article 4. and the definition of IORP in Article 6.

PUBLIC

Commission proposal	Drafting suggestions and Comments
(a) paragraph 2 is amended as follows:	
(a) points (a) and (b) are replaced by the following:	
'(a) the texts of laws, regulations, administrative rules and general guidance in the field of occupational pension schemes, and, where applicable, personal pension products, and information about whether the Member State chooses to apply this Directive in accordance with Articles 4 and 5;'	EE (Drafting suggestions): '(a) the texts of laws, regulations, administrative rules and general guidance in the field of occupational pension schemes, and, where applicable based on Article 4, personal pension products, and information about whether the Member State chooses to apply this Directive in accordance with Articles 4 and 5;' EE (Comments): It should be clear, that the texts of laws, regulations, administrative rules etc. should only be included if Member State has decided to apply this Directive to national personal pension products.
(b) the general criteria and methods used in the supervisory review process as set out in Article 49, including, in particular, an overview of their risk assessment framework.';	
(b) point (d) is replaced by the following:	
'(d) the main objective of supervision, information on the main functions and an annual report on the activities of their competent authorities;';	
(c) the following subparagraphs are added:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'The disclosure provided for in the first subparagraph shall be sufficient to enable a comparison of the supervisory approaches adopted by the competent authorities of the different Member States.	IT (Comments): Given the heterogeneity of second-pillar systems across Member States, the corresponding supervisory frameworks are also necessarily diversified. For this reason, we should be cautious when referring to the possibility of comparing supervisory approaches, as such comparisons may not be feasible or appropriate. LU (Drafting suggestions): ~~The disclosure provided for in the first subparagraph shall be sufficient to enable a comparison of the supervisory approaches adopted by the competent authorities of the different Member States.~~ LU (Comments): LU urges to abstain from such unclear and confusing wording. We doubt that such an obligation brings more clarity to members and beneficiaries. Furthermore, the data that most concerns members and beneficiaries for sound pension saving is already covered by the newly introduced paragraph 4. We see no further need to disperse data in different places. In addition, it has to be kept in mind that Pillar II are only for dedicated members and not designed for public distribution and that therefore information shall not be disclosed to the public.
The information referred to in the first subparagraph, points (a) to (e), shall be accessible at a single electronic location in each Member State.';	PT (Comments): PT questions whether this requisite is indeed necessary, considering the concerned information shall already be publicly disclosed by each IORP. LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): ~~The information referred to in the first subparagraph, points (a) to (e), shall be accessible at a single electronic location in each Member State.';~~
(b) in paragraph 3, the following subparagraph is added:	
'The members of the governing and managing bodies of the competent authorities shall have the qualifications, experience and skills required to perform their duties and exercise their powers and shall not be dismissed for reasons related to the proper performance of their duties or to the proper exercise of their powers. They may be dismissed only if they no longer fulfil the conditions required for the performance of their duties or if they have been found guilty of serious misconduct under national law. The conditions required for the performance of their duties, and what constitutes serious misconduct, shall be laid down in advance in national law.';	GR (Comments): **EL**: We consider this para unecessary, as they are regularly assessed by ESAs for this purpose. SE (Comments): SE opposes this article. The government appoints the members of the NCAs board and should continue to do so independently of requirements set out in this article. EE (Drafting suggestions): 'The members of the governing and managing bodies of the competent authorities shall have the qualifications, experience and skills required to perform their duties and exercise their powers ~~and shall not be dismissed for reasons related to the proper performance of their duties or to the proper exercise of their powers. They may be dismissed only if they no longer fulfil the conditions required for the performance of their duties or if they have been found guilty of serious misconduct under national law. The conditions required for the performance of their duties, and what constitutes serious misconduct, shall be laid down in advance in national law~~.'; EE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): No need to regulate such details.
(c) the following paragraph 4 is added:	
'4. Member States shall ensure that competent authorities publish, on a single public website, clear, comparable and easily accessible information on the total annual costs, past performance and risk profile for all pension schemes operated by IORPs.	BE (Comments): This obligation does not apply to insurers and is therefore contrary to the level playing field between IORPs and insurers. It should therefore be deleted. NL (Comments): We are concerned that such a website would lead to misunderstandings/dissatisfaction without offering real value to members/ beneficiaries in those systems where members have no choice between schemes. Dutch pension funds are required by law to attune their investment policy to the risk attitude of members/beneficiaries. Every age cohort has a different return-risk profile. A website gives the false impression that a high performance fund is always better than one with low performance, whereas the performance difference may just be the reflection of differences in the willingness and ability to bear risks of the respective member/beneficiaries. GR (Drafting suggestions): ~~'4. Member States shall ensure that competent authorities publish, on a single public website, clear, comparable and easily accessible information on the total annual costs, past performance and risk profile for all pension schemes operated by IORPs.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	GR (Comments): **EL**: It is not clear what is expected by the NCAs to publish. E.g. it not clear what will be published regarding the risk profile of the pension schemes. We propose the deletion of the whole paragraph 4. PT (Comments): Following from our comment above, we are sceptic on the value added of imposing this requirement. SE (Comments): The social partners decide what information is to be provided, by whom, and in which format. In addition, the Swedish PTS (minPension) — together with the Swedish Consumers' Insurance Bureau — already provide comprehensive comparison tables covering fees, past performance and other relevant information. As a result, the single public website required would be redundant in the Swedish context, where well-functioning and widely used comparison mechanisms are already in place. FR (Comments): FR: As expressed in general comments, new requirements need to be weighed against the need for simplification, which is part of the European agenda. This principle also applies to NCAs obligation.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The Commission proposal in paragraph 4 would represent a very significant burden on NCAs, all the more important as NCAs would be tasked to verify the accuracy and timeliness of the information, and ensure its publication without delays once such verification has been completed. France would therefore ask the Commission to clarify its intention and have better understanding of its views related to additional burden for NCAs. EE (Drafting suggestions): '4. Member States shall ensure that competent authorities publish, on a single public website, clear, comparable and easily accessible information on the total annual costs, past performance and risk profile for all occupational pension schemes operated by IORPs. EE (Comments): We support the concept of a pension dashboard in general and the objectives. However, including pension dashboard to this Directive represents a notable shift from guidance (COM Recommendations) to stronger intervention without a clear intervening rationale. This Directive should not intervene to national private pensions, if not decided by Member State to use an option in Article 4. IE (Comments): IE reserves its position on this proposed paragraph 4. IE would welcome clarification on whether it is intended to produce a common methodology or that this will be down to individual member states to specify.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	The publication of such data should be limited to IORPs that are open to the public. LU (Comments): LU: As stated in previous comments, indeed total annual cost is an easy-to-understand metric for members and beneficiaries which we support. We would like to see this approach to be aligned within the Pension Benefit Statement as well. However, will competent authorities be made responsible of the published data ? Responsibility should always lie at the originator of the information.
For each pension scheme and, where applicable investment option, the published information shall include at least:	GR (Drafting suggestions): ~~For each pension scheme and, where applicable investment option, the published information shall include at least:~~ EE (Drafting suggestions): For each occupational pension scheme and, where applicable investment option, the published information shall include at least:
(a) the classification of the scheme by risk profile;	GR (Drafting suggestions): ~~(a) the classification of the scheme by risk profile;~~
(b) total costs and charges reported to national competent authorities in accordance with Article 50(7), expressed as a single annual percentage of total contributions of the previous twelve months; and	GR (Drafting suggestions): ~~(b) total costs and charges reported to national competent authorities in accordance with Article 50(7), expressed as a single annual percentage of total contributions of the previous twelve months; and~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	AT (Comments): Is Article 50(7) the correct reference? IT (Comments): A more in-depth analysis of the proposed amendments is needed.
(c) past performance for completed financial years, including the most recent year.	GR (Drafting suggestions): ~~(c) past performance for completed financial years, including the most recent year.~~
The information referred to in the second subparagraph, points (b) and (c), shall be provided for at least the previous 10 years or, in cases where the scheme has been provided for less than 10 years, covering all years for which the scheme has been provided.	GR (Drafting suggestions): ~~The information referred to in the second subparagraph, points (b) and (c), shall be provided for at least the previous 10 years or, in cases where the scheme has been provided for less than 10 years, covering all years for which the scheme has been provided.~~ IE (Comments): IE seeks an incremental build for the proposed 10 years data requirement.
Competent authorities shall verify the accuracy and timeliness of the information, and ensure its publication without delays once such verification has been completed.	GR (Drafting suggestions): ~~Competent authorities shall verify the accuracy and timeliness of the information, and ensure its publication without delays once such verification has been completed.~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
(58) the following Article 55a is inserted:	
'Article 55a **Collaboration platforms**	HR (Comments): For now, we have no strong concerns regarding the proposed provisions. MT (Comments): Malta notes the introduction of collaboration platforms and requires clarification on what cases would fall under "justified concerns about negative effects on members and beneficiaries".
1. EIOPA may, in the case of justified concerns about negative effects on members and beneficiaries, on its own initiative or at the request of one or more of the relevant competent authorities, set up and coordinate a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant competent authorities where an IORP carries out, or intends to carry out, cross-border activities, where such activities are of relevance with respect to the host Member State's market.	GR (Comments): **EL**: We do not have major concerns on this article. FR (Comments): FR: France supports the introduction of a collaborative platform concept, which should enable the competent national authorities to coordinate their efforts with the assistance of EIOPA. **However, France questions the need to allow EIOPA to take action on its own initiative, rather than solely at the request of an NCA, which would be a new development.** This is particularly relevant given that EIOPA is not responsible for supervising IORPs. This is an element that the Council needs to consider carefully. To begin with, France would like to hear from the Commission the rationale behind this proposal and why it deemed such powers necessary. LU (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	1. EIOPA may, in the case of justified **serious** concerns about negative effects on members and beneficiaries, ~~**on its own initiative or**~~ at the request **of at least two** ~~**one or more**~~ of the relevant competent authorities, set up and coordinate a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant competent authorities where an IORP carries out, or intends to carry out, cross-border activities, where such activities are of relevance with respect to the host Member State's market **and where such a platform is necessary for the exchange of information between relevant competent authorities.** LU (Comments): LU: We suggest to stick to the wording similar to the one present in the Council's general approach on the RIS and delete the EIOPA own initiative to set up collaboration platforms. We also consider, that it should be better defined when the platforms can be set up. They should only be set up if such a platform is really necessary for the exchange of information between relevant NCAs Finally, we consider that there should be at least two or more competent authorities that consider there to be justified serious concerns about negative effects on members and beneficiaries. One single NCA should not be able to request the setting up of a collaboration platform. We believe said platforms have great merits but need to be weighed against their impact and actual need. One single host Member State may not justify the collaboration platform and, in case where only one NCA sees issues in their Member State, any issues could be handled bilaterally with the Home NCA. This would avoid creating collaboration platforms for almost all instances of provision of

PUBLIC

Commission proposal	Drafting suggestions and Comments
	cross-border services, which we believe should not be the aim of the framework.
2. Paragraph 1 shall be without prejudice to the right of the relevant competent authorities to set up a collaboration platform where they all agree to do so.	
3. The setting up of a collaboration platform pursuant to paragraphs 1 and 2 is without prejudice to the supervisory mandate of the competent authorities of the home Member State and host Member State provided for in this Directive.	
4. Without prejudice to Article 35 of Regulation (EU) No 1094/2010, at the request of EIOPA, the relevant competent authorities shall provide all necessary information in a timely manner.	
5. Where two or more competent authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, EIOPA may, at the request of any relevant competent authority or on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.	FR (Comments): FR: Similarly, France questions the need to allow EIOPA to take action on its own initiative, rather than solely at the request of an NCA, which would be a new development. This is particularly relevant given that EIOPA is not responsible for supervising IORPs. This is an element that the Council needs to consider carefully. To begin with, France would like to hear from the Commission the rationale behind this proposal and why it deemed such powers necessary.
6. In the event of disagreement within the platform and where there are serious concerns about negative effects on members and beneficiaries or about the content of an action or inaction to be taken in relation to an IORP, EIOPA may call for the competent authority of the home Member State to launch an	FR (Comments): FR: France questions the need to allow EIOPA to take action on its own initiative, rather than solely at the request of an NCA, which would be a new

PUBLIC

Commission proposal	Drafting suggestions and Comments
on-site inspection of the IORP. The competent authority of the home Member State shall launch the on-site inspection without delay and shall invite EIOPA and other competent authorities concerned to participate in it.’;	development. Again, France would like to hear from the Commission the rationale behind this proposal. For the obligation for EIOPA to be invited to on-site inspection, France would prefer a reference to Regulation (EU) N°1094/2010, as provided for in the Solvency 2 framework : “In accordance with Article 21 of Regulation (EU) No 1094/2010, EIOPA may participate in on-site examinations where they are carried out jointly by two or more supervisory authorities.” (Articles 38 and 255 of the Solvency 2 directive) ES (Comments): With the information provided, we do not understand the need to empower EIOPA as stated. We have serious concerns about granting EIOPA powers to participate in or decide about on-site inspections.
(59) Article 59 is replaced by the following:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 59 **Publication of national rules**	FR (Comments): FR: At first glance, France supports the proposals in this article, in that it will make it clear to all IORPs, particularly those operating cross-border, and other interested stakeholders what rules apply. **However, France has serious concerns about the role of EIOPA provided for in paragraph 4 with regard to reviewing these rules and analysing their impact on the functioning of the Directive and the market. Could the Commission clarify its intentions in this regard and the reason for entrusting this role to EIOPA?** Entrusting EIOPA, a European ESA, with the task of reviewing the requirements of social and labour law enshrined in national law, on which Member States have power, seems surprising and unprecedented at first glance. HR (Comments): For now, we have no strong concerns regarding the proposed provisions.
1. Member States shall ensure appropriate publication by their competent authorities of requirements of social and labour law relevant to the field of occupational pension schemes under which a pension scheme sponsored by an undertaking in the host Member State must be operated which shall apply to cross-border activities of IORPs as referred to in Article 11(1).	LU (Drafting suggestions): 1. Member States shall ensure appropriate publication ~~**by their competent authorities**~~ of requirements of social and labour law relevant to the field of occupational pension schemes under which a pension scheme sponsored by an undertaking in the host Member State must be operated which shall apply to cross-border activities of IORPs as referred to in Article 11(1). LU (Comments):

Commission proposal	Drafting suggestions and Comments
	LU: publication of national rules, in particular in relation to social and labour rules might not necessarily been published by the competent authorities that licensed the IORP. More flexibility should be granted to accommodate MS
2. EIOPA shall include on its website the hyperlinks to the websites of competent authorities where information on such rules is published. Such information shall be up-to-date and EIOPA shall make the information available on its website, with all such rules categorised into different relevant areas of law.	BG (Comments): BG: Given that all rules published pursuant to Art. 59 (1) fall in the category "Social and labour law" what kind of breakdown "into different relevant areas of law" could be done as prescribed by par. 2?
3. Member States shall establish a single point of contact responsible for providing information on the requirements of social and labour law relevant to the field of occupational pension schemes under which the pension scheme sponsored by an undertaking in the host Member State must be operated which shall apply to cross-border activities of IORPs in their respective Member State. Such a point of contact should be an appropriate competent authority.	LU (Drafting suggestions): 3. Member States shall establish a single point of contact responsible for providing information on the requirements of social and labour law relevant to the field of occupational pension schemes under which the pension scheme sponsored by an undertaking in the host Member State must be operated which shall apply to cross-border activities of IORPs in their respective Member State. Such a point of contact should be an appropriate ~~competent~~ authority. LU (Comments): LU: refer to our comment of paragraph 1
4. EIOPA shall examine in a report, and inform the Commission about the rules published by Member States as referred to in this Article in the context of the proper functioning of this Directive and of the internal market before [PO = *please insert 6 months after the application date of this directive]*.;	BE (Comments): The rules referred to are the prerogative of the Member States. EIOPA does not have competences in this matter and should therefore not be asked to examine these rules. This paragraph 4 should therefore be deleted.
(60) Articles 61 and 62 are replaced by the following:	

PUBLIC

Commission proposal	Drafting suggestions and Comments
'Article 61 **Processing of personal data**	FR (Comments): FR: No comments. HR (Comments): We can accept the proposed provision.
With regard to the processing of personal data within the framework of this Directive, IORPs and competent authorities shall carry out their tasks in accordance with Regulation (EU) 2016/679. With regard to the processing of personal data by EIOPA within the framework of this Directive, EIOPA shall comply with Regulation (EU) 2018/1725.	
Article 62 **Evaluation**	HR (Comments): We can accept the proposed provision.
By [PO please insert date = four years after the date of application of this Directive], EIOPA shall submit a report to the Commission, the European Parliament and the Council on the implementation of this Directive, in particular regarding the following aspects:	
(a) the extent to which this Directive contributes to the integration, efficiency and scale-up of occupational retirement provision within the internal market, including trends in consolidation and cooperation between IORPs;	DE (Drafting suggestions): (a) the extent to which this Directive contributes to the integration, efficiency and scale-up of occupational retirement provision within the internal market, including trends in ~~consolidation and cooperation between~~ **the IORPs sector**; DE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): The wording should be neutral. We do not think that a legal act should cause consolidation on purpose. LU (Drafting suggestions): (a) the extent to which this Directive contributes to the integration, efficiency and scaleup of occupational retirement provision within the internal market, ~~**including trends in consolidation and cooperation between IORPs**~~; LU (Comments): LU: We reiterate our position with regards to the role of prudential supervision, not being adequate to set incentives to drive consolidation in a free market.
(b) the experience acquired in applying this Directive, including its impact on the size, cost-efficiency, consolidation and professionalisation of IORPs, and its role in fostering trust, transparency and sound risk management in the interests of members and beneficiaries;	DE (Drafting suggestions): (b) the experience acquired in applying this Directive, including its impact on the ~~size,~~ **size and** cost-efficiency **of schemes where members bear material risks**~~, consolidation~~ and **the** professionalisation of IORPs, and its role in fostering trust, transparency and sound risk management in the interests of members and beneficiaries; DE (Comments): Simplification: Since this Directive focuses on schemes where members bear (at least) material risks, we would consider precisely those schemes in the evaluation. LU

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Drafting suggestions): (b) the experience acquired in applying this Directive, including its impact on the size, costefficiency, ~~consolidation and professionalisation of IORPs~~, and ~~its~~ **role of IORPs** in fostering trust, transparency and sound risk management in the interests of members and beneficiaries;
(c) the optional extension of the scope of application of this Directive in accordance with Article 4, and its effect on the market for supplementary pensions.’;	
(61) the following Article 64a is inserted:	
‘Article 64a **Exercise of delegation**	
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	FR (Comments): **FR: See comments in Article 17.**
2. The power to adopt delegated acts referred to in Articles 17(7) and 38(6) shall be conferred on the Commission for an indeterminate period of time from [PO = please insert date of entry into force].	
3. The delegation of powers referred to in Articles 17(7) and 38(6) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
5. A delegated act adopted pursuant to Articles 17(7) and 38(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.'.	NL (Drafting suggestions): .
Article 2 **Amendments to Directive (EU) 2016/97**	
Directive (EU) 2016/97 is amended as follows:	
(1) in Article 2(1), the following points 19 and 20 are added:	DE (Drafting suggestions): (1) in Article 2(1), the following ~~points~~**point** 19 ~~and 20 are~~ **is** added:
'(19) 'personal pension product' means a personal pension product as defined in point 1 of Article 2 of Regulation (EU) 2019/1238 of the European Parliament and of the Council*.'	GR (Comments): **EL**: We support the COM proposal.
(20) 'pension tracking system' means a digital tool, typically a secure web portal or mobile application, that provides individuals with an overview of their individual accrued pension entitlements, and projections of future benefits, across the pension schemes of which the individual is a member or beneficiary.	GR (Comments): **EL**: We support the COM proposal. DE (Drafting suggestions):

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~(20) 'pension tracking system' means a digital tool, typically a secure web portal or mobile application, that provides individuals with an overview of their individual accrued pension entitlements, and projections of future benefits, across the pension schemes of which the individual is a member or beneficiary.~~ DE (Comments): No further need for this definition. EE (Comments): Please see comment on Article 22a. Should Member State not follow the COM Recommendation how could this provision then be implemented?
_____	
* Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/1238/oj).';	
(2) Article 22 is amended as follows:	
(a) in paragraph 5, the word 'mandatory' is deleted;	
(b) the following paragraph is added:	
'6. Member States shall ensure that, where the insurance distributor is responsible for the provision of occupational pension arrangements, prospective members, members and beneficiaries of such arrangements	DK (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
receive, at least, the information referred to in Articles 36 to 44 of Directive (EU) 2016/2341.’;	It is unclear whether this new obligation on insurance distributors under IDD only pertains to instances where an insurance distributor manages a (ring-fenced) IORP or whether the obligation pertains to all occupational pension arrangements in general, including those under Solvency II. This should be clarified. DK generally welcomes a level playing field with regards to information requirements across similiar products. PT (Comments): PT supports harmonizing information requirements between providers of occupational pension schemes.
(3) the following Article 22a is inserted:	DE (Drafting suggestions): (3) the following Article 22a is inserted:

PUBLIC

'Article 22a **Pension tracking systems**	SK (Comments): As indicated above, we propose that adjustments to the pension tracking system **be left within the competence of the Member States;** therefore, we suggest that the provision be formulated as an option rather than an obligation for Member States. At our national level, a pension tracking system (PTS) is already in place, and any changes imposed as mandatory requirements could be costly and would generate additional expenses for the Member State. We do not see any added value in disrupting existing national frameworks and systems. DE (Drafting suggestions): *'Article 22a* **Pension tracking systems** DE (Comments): Whether a MS sets up a pension tracking system (PTS) is solely within the competence of the Member States. Subsidiarity must strictly be observed. This also applies to coverage, data transmission and monitoring of insurance undertakings an insurance intermediaries in relation to PTS. FR (Comments): FR: See comments in Article 37[a] In France, the GIP Union Retraite, which manages the Info-retraite website, France's pension tracking system, already benefits from the sharing of information by IORPs – a system that is effective, functional and does not

PUBLIC

Commission proposal	Drafting suggestions and Comments
	present any difficulties a priori. **France therefore warmly welcomes this new article and supports it.** Regarding the detailed wording of the proposed article, the French authorities only plan to consult interested stakeholders, notably including the GIP Union Retraite, to verify that the provisions proposed by the Commission do not present any significant difficulties or require any adjustments. France plans to report back to the Presidency if this is the case. EE (Comments): We support the concept of a pension tracking system in general and the objectives. However, including pension tracking system to the IDD represents a notable shift from guidance (COM Recommendations) to stronger intervention without a clear intervening rationale. This Directive should not intervene to national private pensions, if not decided by Member State to use an option in Article 4.
1. Member States shall ensure that, where pension tracking systems are in place, they cover the pension entitlements administered by insurance undertakings and insurance intermediaries.	SK (Comments): We would request clarification as to the precise scope of the term "*pension entitlements*" in this context. In particular, it is unclear whether this concept is intended to be limited to entitlements arising under IORPs and PEPPs, or whether it also means to encompass other arrangements that may be presented as pension or retirement-related products. We note that insurance undertakings and insurance intermediaries may offer products that are marketed as providing retirement or pension benefits but which do not qualify, from a legal perspective, as pension schemes or pension provision within the meaning of the relevant Union or national legislation. In the absence of further clarification, the current wording may

Commission proposal	Drafting suggestions and Comments
	result in an overly broad interpretation of the regulatory perimeter, potentially requiring the inclusion in the national PTS not only of IORPs and PEPPs, but also of insurance products merely labelled as "pension" products, notwithstanding their lack of legal qualification as pension entitlements. Clarification would therefore be necessary in order to ensure legal certainty and a consistent application of the provision across Member States. GR (Comments): **EL**: It is not clear which insurance products fall under the scope of this article. In addition, it is not clear why insurance intermediaries are included. DE (Drafting suggestions): ~~1. Member States shall ensure that, where pension tracking systems are in place, they cover the pension entitlements administered by insurance undertakings and insurance intermediaries.~~
2. For the purposes of paragraph 1, Member States shall ensure that insurance undertakings and insurance intermediaries transmit to pension tracking systems, where such system have been established, all information necessary to provide customers with a comprehensive, reliable and up-to-date overview of their personal and occupational entitlements, insofar as those entitlements arise from occupational pension arrangements or personal pension products provided or distributed by insurance undertakings or insurance intermediaries.	SK (Comments): We propose to include the wording "where relevant, under national law" in the provision. DE (Drafting suggestions): ~~2. For the purposes of paragraph 1, Member States shall ensure that insurance undertakings and insurance intermediaries transmit to pension tracking systems, where such system have been established, all information necessary to provide customers with a comprehensive, reliable and up-to-date overview~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~of their personal and occupational entitlements, insofar as those entitlements arise from occupational pension arrangements or personal pension products provided or distributed by insurance undertakings or insurance intermediaries.~~ HR (Drafting suggestions): 2. For the purposes of paragraph 1, Member States shall ensure that insurance undertakings and insurance intermediaries representing the customer transmit to pension tracking systems, where such system have been established, all information necessary to provide customers with a comprehensive, reliable and up-to-date overview of their personal and occupational entitlements, insofar as those entitlements arise from occupational pension arrangements or personal pension products provided or distributed by insurance undertakings or insurance intermediaries representing the customer. HR (Comments): We would suggest to add the words “representing the customesrs” after the insurance intermediaries. EE (Drafting suggestions): 2. For the purposes of paragraph 1, Member States shall ensure that insurance undertakings and insurance intermediaries transmit to pension tracking systems, where such system have been established, all information necessary to provide customers with a comprehensive, reliable and up-to-date overview of their ~~personal and~~ occupational entitlements, insofar as those entitlements arise from occupational pension arrangements ~~or personal pension products~~ provided or distributed by insurance undertakings or insurance intermediaries. EE

PUBLIC

Commission proposal	Drafting suggestions and Comments
	(Comments): The provision goes too far in respect of personal pension products. It is even not about IORPs here. It is quite common that insurance undertakings provide personal pension products. IDD should not intervene to national pension products.
3. Member States shall ensure that the information referred to in paragraph 2 is transmitted in standardised and interoperable format enabling pension tracking systems to aggregate data on accumulated value, accrued rights and projected benefits in a coherent and comparable manner.	DE (Drafting suggestions): ~~3. Member States shall ensure that the information referred to in paragraph 2 is transmitted in standardised and interoperable format enabling pension tracking systems to aggregate data on accumulated value, accrued rights and projected benefits in a coherent and comparable manner.~~
4. Member States shall ensure that insurance undertakings and insurance intermediaries remain fully responsible for the completeness and accuracy of the data transmitted and for the fulfilment of all communication obligations provided for in this Article.	DE (Drafting suggestions): ~~4. Member States shall ensure that insurance undertakings and insurance intermediaries remain fully responsible for the completeness and accuracy of the data transmitted and for the fulfilment of all communication obligations provided for in this Article.~~
5. Member States shall ensure that competent authorities monitor and enforce compliance with this Article and take corrective measures where insurance undertakings or insurance intermediaries fail to provide complete, accurate or timely information.	DK (Comments): MS should not be obliged to "monitor" and it is unclear what the obligation entails in this context. DK proposes to delete. DE (Drafting suggestions): ~~5. Member States shall ensure that competent authorities monitor and enforce compliance with this Article and take corrective measures where~~

PUBLIC

Commission proposal	Drafting suggestions and Comments
	~~insurance undertakings or insurance intermediaries fail to provide complete, accurate or timely information.~~ EE (Comments): We have doubts regarding such enforcement.
6. The format and structure of the information to be transmitted to pension tracking systems shall be consistent with Article 29.'.	DE (Drafting suggestions): ~~6. The format and structure of the information to be transmitted to pension tracking systems shall be consistent with Article 29.'.~~ EE (Comments): We have doubts regarding COM's intervention in the technical details of national pension tracking systems. Organisation of pension systems is Member States' competence. Taking into account the differences of pension systems concern arises whether one size suits all model is the best here. Establishing pension tracking systems is up to a Member State. This includes also design of the tracking system, its elements and data needed for that. As the goal is to provide information on different pension pillars, the format and structure of the system should also be consistent for all pillars. As pensions are mostly subject to national social and labour law, the design of pension tracking systems should also remain national competence.
Article 3 **Grandfathering**	FR (Comments): **FR: France strongly supports this article.**
IORPs which were registered or authorised under Directive (EU) 2016/2341 before [PO = please insert 1 day before application date of this Directive] are	BG (Comments):

PUBLIC

Commission proposal	Drafting suggestions and Comments
automatically recognised as IORPs authorised under national provisions transposing this Directive.	BG: Registration does not entail the same prior prudential assessment as an authorization procedure, so typically in case of introduction of mandatory authorization there is a transitional period where the respective entities have to undergo authorization and if they fail to, they are wound-up. We would like to receive clarification with regards to the justification of the proposal to allow IORPs that have only been registered to receive an automatic authorization as this could lead to unlevel playing field between authorized IORPs and ones that have been automatically authorized, including in case of establishment/provision of services in another MS.
Article 4 **Transposition**	FR (Comments): FR: Support.
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [PO = 2 years after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	NL (Drafting suggestions): Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [PO = ~~2~~ **3** years after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions. **Notwithstanding paragraph 1 Member States shall ensure that the obligations laid down in article 22a of Directive 2016/97 are fulfilled by 5 years after entry into force at the latest.** NL (Comments): Depending on the result of the negotiation, NL expects that this will lead to extensive changes in existing legislation. We estimate that this will take 3 years.

PUBLIC

Commission proposal	Drafting suggestions and Comments
	Regarding the obligation to include information on personal pension products offered by insurers, a longer implementation period is needed because the inclusion of these products is complicated due to the very different characteristics of the products and has to be carried out carefully. PT (Comments): PT believes the suggested 2 years for the transposition period of this directive is the minimal timeframe acceptable to allow for sufficient leeway for MS to adequately adjust national legislation in accordance. It should be noted certain national regimes preview Parliament concurrence for revisions such as this one, which may result in a lengthier process. LU (Drafting suggestions): 1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [PO = ~~2 years~~ **36 months** after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions. LU (Comments): LU: Given the complexity linked to of national specific supervisory structures, a longer transposition date is warranted.
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	

PUBLIC

Commission proposal	Drafting suggestions and Comments
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
Article 5 ***Entry into force***	
This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.	
Article 6 **Addressees**	
This Directive is addressed to the Member States.	
Done at Brussels,	
For the European Parliament *For the Council*	
The President *The President*	