Council of the European Union
General Secretariat

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Interinstitutional files:
2025/0362 (COD)

Brussels, 18 May 2026

WK 6919/2026 INIT

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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services and Banking Union (IORP) Financial Services Attachés
Subject:	Consolidated replies by 21 MS: PCY questionnaire on Presidency discussion paper on amendments to IORP II Directive - CWP of 30 April - ddl 07.05.26

PCY questionnaire on Presidency discussion paper on amendments to IORP II Directive, after CWP of 30 April Deadline: *7 May 2026*
From: AT, BE, BG, CZ, DE, DK, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, NL, PL, PT, SE, SK **Updated: 18/05/2026 10:44**

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Thank you for your cooperation!

PCY note	Comments
Presidency discussion paper on amendments to IORP II Directive (WK 05852 2026)	SK (Comments): **All comments on amendments to the IORP II Directive and answers to the questions should be considered as preliminary and subject to possible changes as the proposal is still under scrutiny reservation.**
Scope, application, definition, and activities (Art. 2 - 7)	DK (Comments): As a general remark: A national election has recently been held in Denmark. At present, a new government has not yet been formed. Due to this, Denmark maintains a

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	political scrutiny reservation, and our comments made today should be considered preliminary. Furthermore, given the complexity and breadth of the topics and materials covered in the comprehensive note, we would like to take a reservation for further examination. We appreciate the thorough work and contributions, but we need additional time to review and assess all relevant aspects IT (Comments): As a preliminary remark, we would like to reiterate that the IORP Directive should remain a minimum-harmonisation instrument and that issues related to PPPs should continue to be addressed at national level. LV (Comments): We are sympathetic to Bulgarian proposals that the IORP application to personal pension products should be on a voluntary basis. NL (Comments): General remark: The Netherlands appreciate the comprehensive work of the Cypriot Presidency in structuring the discussions documents and advancing on

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	this complex and important file. The questions helpfully address the key elements of the proposal. As a general remark, we note that the main issues are treated as largely separate components. In our view, it is important to assess the proposal more holistically, as changes to individual elements may have implications for the overall balance and coherence of the framework. We would therefore welcome the opportunity to engage in a more holistic discussion at a future CWG, building on the exchanges in the previous meeting as well as the written comments submitted.
Article 2	LU (Comments): LU has no comments with regards to this article.
Q1: Do Member States agree with above proposal?	BE (Comments): We agree to keep the COM proposal as is, but request that a recital be included clarifying that the cross-border requirements (Articles 11, 11a and 12) of the IORP Directive take precedence over sectoral requirements applicable to the authorised entity (such as those in SII, Mifid, …), if any. It would be helpful to receive explanations on Home-Host competences in such cases, as promised by COM at the first CWP.

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	BG (Comments): BG: We agree with the PCY proposal to keep the text of Article 2, par. 1 as proposed by COM. CZ (Comments): CZ: Q1 and Q2: We support clarifying the wording of the entire Article 2, including all four points, or providing interpretive clarifications in the preamble to the directive, and we call for further negotiations with the Commission to strengthen legal certainty and unequivocally confirm that the directive does not interfere with the regulation of pension products that do not fall within the scope of occupational pension schemes. DE (Comments): We agree. EL (Comments): EL: We support Presidency's proposal. ES (Comments): We agree FI (Comments):

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	Yes, we agree. FR (Comments): France agrees with the changes to article 2 proposed by the Commission without having a strong stance. As such France supports the Presidency's proposals for questions 1,2 and 3 HR (Comments): Yes, we agree with the proposal as explained by the PCY. HU (Comments): Yes, we agree. IT (Comments): We could agree, but only provided that the requests referred to in Q3, Q4, Q9 and Q14 are granted. We share the proposed approach as clarified by the PCY, whereby entities authorised to operate an IORP, including those already subject to sector-specific EU prudential frameworks, should apply the IORP provisions to the extent that they are not duplicative. Nevertheless, the wording of the provision does not seem to be in line with the above mentioned clarification. LT (Comments): Agree

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PCY note	Comments
	LV (Comments): We have a clarifying question: Do we understand correctly that the "entity operating the IORP" refers to the entity which organizes and manages the day-to-day operations of the IORP, carries out administration and management, ensures key functions (e.g. investment management, accounting, risk management, benefit payments, etc.), and acts on behalf of the IORP (including where activities are delegated to another entity)? And, in a supervisory context, that "operating an IORP" does not refer to ownership, but rather to the actual execution of its activities and functions, whether performed by the IORP itself or by an external authorized entity (e.g. a management company)? NL (Comments): Yes, we agree with the proposal provided that these provisions only apply to Member States that explicitly allow authorised entities to operate an IORP. PL (Comments): PL: We do not agree with the COM proposal; agreement only with assurances that the IORP II Directive will not cover other pension products. Polish IORPs

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PCY note	Comments
	operate under national law. It is important to ensure that the amendment to the IORP II Directive does not cover other pension sector entities. PT (Comments): PT can accept the introduced clarifications in Article 2(1). SE (Comments): Sweden can agree with the Presidency's proposal SK (Comments): **Yes,** we can agree with the PCY´s proposal.
Q2: Do Member States agree with above proposal?	BE (Comments): We agree with the proposal. BG (Comments): BG: We agree with the PCY proposal to keep the text regarding authorised entities as proposed by COM. DE (Comments): We agree. EL (Comments):

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	EL: We support Presidency's proposal. ES (Comments): We agree FI (Comments): Yes, we agree. FR (Comments): France agrees with the changes to article 2 proposed by the Commission without having a strong stance. As such France supports the Presidency's proposals for questions 1,2 and 3 HR (Comments): Yes, we agree with the proposal as explained by the PCY. HU (Comments): Yes, we agree. IT (Comments): We could agree, but only provided that the requests referred to in Q3, Q4, Q9 and Q14 are granted LT

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PCY note	Comments
	(Comments): Agree LV (Comments): Ok. NL (Comments): Yes, we agree with the proposal provided that these provisions only apply to Member States that explicitly allow authorised entities to operate an IORP. PL (Comments): PL: We do not agree with the COM proposal; agreement only with assurances that the IORP II Directive will not cover other pension products. Polish IORPs operate under national law. It is important to ensure that the amendment to the IORP II Directive does not cover other pension sector entities. PT (Comments): PT agrees with the PRES CY understanding on the lack of incompatibilities to be addressed. SE (Comments): Sweden can agree with the Presidency's proposal

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PCY note	Comments
	SK (Comments): **Yes,** we can agree with the PCY´s proposal.
Q3: Do Member States agree with above proposal?	BE (Comments): We agree with the proposal. BG (Comments): BG: We could support the proposal but would propose to include in a recital the clarifications provided in the PCY non-paper that such entities (insurers, investment firms, etc.) would still need to comply with any specific national rules in the host MS in which they will manage/operate an IORP, provided they are non-discriminatory and are justified on grounds of general good as per settled case law of the Court of Justice of the EU. DE (Comments): We agree. EL (Comments): EL: We could support Presidency's proposal. However, we suggest the following wording amendment to par. 3, to address practical implications of this provision, in cases where a managing entity of par 2(b) operates (and acts on behalf of) a cross-border IORP in a Member State in which such entities are not permitted to operate IORPs:

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	"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. 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. **By way of derogation from paragraph 2, where authorized entities referred to in paragraph 2 point (b) intend to operate IORPs on a cross-border basis, articles 11 and 11a of this directive shall apply**." ES (Comments): As the second paragraph of the new paragraph 3 of Article 2 refers exclusively to the authorised entities mentioned in the second paragraph (b), and although its purpose is to ensure non-discrimination for those entities, there is a risk of discrimination in the opposite direction against management entities authorised at national level under the IORP framework (which is the case of Spain). As rightly noted in the first paragraph, this Directive would apply to them, but they are not expressly granted, unlike the others, the right to carry out their activities in another Member State once authorised in their home State. We believe that all such entities should enjoy the same right. Therefore,

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	the IORP Directive should also be explicitly mentioned in order to make this clear. As regards the possibility for entities from other Member States authorized under Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, and 2014/65/EU to carry out pension fund management activities in Spain, it should be specified that they would have to comply with any additional requirements established by national legislation for such entities in order to operate as pension fund managers (in Spain, in the case of insurance companies, this is set out in Article 80 of the RPFP). We propose to add in Article 2,paragraph 3, second subparagraph a sentence in this sense like: "*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. Nor may the exercise of those activities be restricted to those entities which, under the national transposition of the IORP II Directive, are authorized in a Member State to manage pension funds."* As regards the possibility for entities from other Member States authorized under Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, and 2014/65/EU to carry out pension fund management activities in Spain, it should be specified that they would have to comply with any additional requirements established by national legislation for such entities in order to

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PCY note	Comments
	operate as pension fund managers (in Spain, in the case of insurance companies, this is set out in Article 80 of the RPFP). FI (Comments): Yes, we agree. FR (Comments): France agrees with the changes to article 2 proposed by the Commission without having a strong stance. As such France supports the Presidency's proposals for questions 1,2 and 3 HR (Comments): Yes, we agree with the proposal as explained by the PCY. HU (Comments): Yes, we agree. IT (Comments): No. The second subparagraph of paragraph 3 should be deleted, considering that each MS should have the right to decide which authorized entities could be responsible for operating a national IORP. The authorized entities referred to in paragraph 2, point *b*) don't have, according to the EU law mentioned there, a

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	general right to operate an IORP. Such additional competence could be introduced only at national level, and at this level the MS should have the right not to admit authorised entities established in another MS to operate a national IORP. Since the IORP Directive is a minimum harmonization Directive, we are not in favour of the introduction of a sort of passport for those entities operating in another MS. IORPs are not the same product across Europe and MS should retain the right to decide which entities are able to operate their national IORPs. LT (Comments): Agree LV (Comments): ok NL (Comments): Yes, we agree with the proposal PL (Comments): PL: We do not agree with the COM proposal; agreement only with assurances that the IORP II Directive will not cover other pension products. Polish IORPs

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PCY note	Comments
	operate under national law. It is important to ensure that the amendment to the IORP II Directive does not cover other pension sector entities. PT (Comments): PT can support maintaining Article 2(3) as proposed by the COM. SE (Comments): Sweden can agree with the Presidency's proposal SK (Comments): **Yes,** we can agree with the PCY´s proposal.
Q4: Which one of the options presented above do Member States prefer?	BE (Comments): We prefer option 1. BG (Comments): BG: We prefer Option 1 as the term "legal separation" is currently used in IORP Directive in Article 8. We do not see a need for further clarifications. DE (Comments): No preference for any of the options. DK (Comments):

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	Denmark has a preference for option 2, as we believe this will help ensure clarity and a common understanding among Member States. EL (Comments): EL: We would prefer Option 2, namely the addition of a clarification in recitals. ES (Comments): We prefer option 2 FI (Comments): We prefer option 2. Legal separation should not mean two separate institutions. We would prefer ring-fencing also in this proposal. FR (Comments): France supports option 1 maintaining the term “legally separate” as proposed by the Commission without further precision on the recital. HR (Comments): We would prefer Option 2. HU

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PCY note	Comments
	(Comments): We prefer Option 2. IT (Comments): We could maintain the wording of paragraph 3, first subparagraph only if we clarify in a recital that the notion of "legal separation" simply refers to the need to ensure that the assets of the IORPs are not mixed with the assets of the authorised entity which is responsible for operating the IORPs. In Italy we have this principle in place, but it is not imposed that the IORP and the authorised entity must be two different legal entities. An IORP can be established within a single company through the creation, with a specific resolution, of a separate and autonomous dedicated asset within the same company, which cannot be diverted from the purpose for which it is intended and cannot be the object of enforcement by the creditors of the company. Indeed, we are not in favour of the clarification provided by the COM on the notion of legal separation, imposing the creation of two different legal entities. If this is the view, the wording of paragraph 3 should be changed to avoid disruptive effects on our system, or, as said before, it should be clarified in a recital that this is not the right interpretation. The COM interpretation is not appropriate and is not in line with the OECD Implementing Guidelines for the Core Principles on Private Pension Regulation,

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	in which there is not the principle to constitute two separate entities. Those Guidelines simply declare that "*the Pension fund assets should be legally separate from the assets of any other legal entity, including those involved in managing the pension plan assets. In the case of occupational pension plans, the pension fund or pension entity should be legally separate from the sponsor (or at least such separation should be irrevocably guaranteed through appropriate mechanisms). The ownership of any financial institution or other entity managing pension plans or plan assets should be clear and transparent*". As explained in the document "*An autonomous pension fund can be set up as an independent pension entity. Alternatively, the pension assets may constitute a legally separate account or pool of assets managed by a financial institution or a dedicated provider, which would be considered the pension entity*." LT (Comments): Option 2 LV (Comments): We support option 2 with additional explanations. NL (Comments):

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	Option 2 PL (Comments): PL: We prefer option 2. If there are MS that have doubts about whether the legal separation of fund assets from the management entity is sufficiently defined, this should be clarified. Polish legal regulations provide for a clear separation of pension fund assets from the management entity. PT (Comments): PT would be open to consider Option 2 and a resultant clarification to be introduced in the recitals but can also accept keeping the COM proposal as is. SE (Comments): Sweden does not have a strong position on this issue and can therefore be flexible, while **preferring Option 2.** SK (Comments): **We would prefer the option 2 (OECD IG), however, clarification in drafting is still needed.** Clarification in recital on the notion of "*legal separation*" is still needed to ensure that the intention is **to not mix the assets of the IORPs with the assets of the authorised entity which is responsible for operating the IORPs and not creation of two totally separate legal entities**.

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	We are not in favour of the clarification provided in the discussion paper imposing the creation of two different legal entities as the pension funds in Slovakia do not have legal personality (the assets are totally separated from the authorised entity with legal personality that is managing the pension funds). The OECD Implementing Guidelines for the Core Principles on Private Pension Regulation state (CP2) state that "*Pension fund assets should be legally separate from the assets of any other legal entity, including those involved in managing the pension plan assets. In the case of occupational pension plans, the pension fund or pension entity should be legally separate from the sponsor (or at least such separation should be irrevocably guaranteed through appropriate mechanisms).*". Or, as explained in the introduction underneath "*An autonomous pension fund can be set up as an independent pension entity. Alternatively, the pension assets may constitute a legally separate account or pool of assets managed by a financial institution or a dedicated provider, which would be considered the pension entity*.".
Article 3	LU (Comments): LU has no comments with regards to this article.
Q5: Do Member States agree with above proposal?	BE (Comments): We agree with the proposal. BG (Comments): BG: **We cannot support the proposed amendment of Article 3** as in our understanding it would lead to an obligation for Pension management companies in Bulgaria, which could manage both IORP schemes and voluntary personal pension funds, to apply the IORP Directive to the provision of voluntary personal pension funds which intervenes to the provision of national

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	pension products and contradicts the general principle of pensions being under Member States' competence. In our opinion a workable solution would be to retain the proposals aimed at ensuring financial stability and redraft Article 3 to ensure that it applies only to the occupational business (to reintroduce the term "occupational") and redraft Article 4 in order not to oblige but to allow Member States to apply some or all provisions of the Directive to the provision of personal pension products by IORP. We would like to underline, that other provisions in We understand the priority of the Pension package and in general we share the objectives to encourage further retirement savings. However, IORP directive should respect the different national models of pension systems and not to disrupt their functioning. National pension systems differ significantly in the different Member States and each Member State has its own regulatory requirements which take into account the design of the pension system and its integration within the national social and labour law, the demographic and economic context in which pension system operate, as well as the stage of its development. **The design of pension systems is under the competence of the Member States and IORP Directive should retain its minimum harmonization character and its application should not extend to personal pension products regulated at national level.** Therefore, we are not in a position to support the proposal regarding the scope. Regarding financial stability, we share COM views expressed in recital 13 that "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." The pension management companies in Bulgaria are subject to sound governance, effective supervision and strict prudential requirements at national level.

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	We would like to underline, that other provisions in the proposal which refer to personal pensions (Art. 6(5), 13, 16, 36, 47 (4), 50, 51(2)(a)) should also be respectively clarified in the sense that their application is optional or deleted. DE (Comments): no opinion EL (Comments): EL: We support Presidency's proposal. ES (Comments): No comments FI (Comments): Yes, we agree. FR (Comments): As mentioned during the Working Party, France would like to reiteraite its support of remarks by Bulgaria, Croatia, Slovakia, Malta, Estonia, Latvia, as well as Poland. We are reserved on the modifications of Article 3. France thanks the Presidency and Commission for the rationale provided for the change but as the directive remains a minimum harmonisation directive on occupational pensions France does not think the case of social security schemes handling PPP shall be explicitly covered and constrained by the directive.

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	HR (Comments): Yes, we agree with the proposal as explained by the PCY. HU (Comments): Yes, we agree. IT (Comments): We can be open but only provided that the requests referred to in Q3, Q4, Q9 and Q14 are granted. LT (Comments): We support Member States that oppose the application of the provisions of the IORP2 Directive to national personal pension products. NL (Comments): Yes, we agree with the proposal PL (Comments): PL: There is a need to ensure that Polish OFEs are not covered by the IORP Directive. PT

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PCY note	Comments
	(Comments): PT supports maintaining the COM proposal as is, including in scope of the Directive IORPs operating social security schemes. SE (Comments): Sweden can support the Presidency's proposal. SK (Comments): According to discussion paper and COM clarifications the objective of amendments to Article 3 are due to alignment with Regulation (EC) No 883/2004 and (EC) 987/2009 and there is no intention to cover institutions operating social security schemes defined as 1bis and already covered by the respective regulations. There are though still certain statements unclear from the discussion paper: - "*where **IORPs** are engaged in both **social security activities** covered by these Regulations, and **other retirement provision activities** which are not covered, the Directive **should apply to the latter**, and thus Article 3 ensures consistency with the exclusion laid down in Article 2(2)(a)*" - *"On this basis, it is the Presidency's understanding that there is no reason to exclude these activities cannot be excluded from the scope of the Directive, unless the **1bis schemes are such, that they are covered as an integral part of social security schemes** by the provisions of regulations (EC) No 883/2004 and (EC) No 987/2009.* In Slovakia there are 1bis schemes operating under regulation (EC) No 883/2004 – they are engaged in social security activities, **but also provide**

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	other retirement provision activities (less than 1 %). The latter activities are closely linked to the social security (only savers with 1st pillar pension insurance and contract concluded with authorised 1bis entity can use also extra/voluntary/personal pension contributions – supplementary to the mandatory contributions). These 1bis entities are not operating/are not authorised as an IORP, although they have prudential regulation comparable with other EU legislation (UCITS/IORP). If our understanding is correct and **such 1bis entities are excluded from the scope of the directive (because they are not IORPs and described retirement provision activities are closely linked to social security of the saver) than we could agree with the proposal**. **Otherwise, we demand exclusion of such schemes from the scope of the directive or (alternatively) reinstating the concept of "occupational activities" that should be covered by this directive if provided by an IORP together with 1st pillar (social security operations).**
Q6: Do Member States agree with above proposal?	BE (Comments): We agree with the proposal. BG (Comments): BG: As stated in our response to Q5 we do not support the removal of the term "occupational" and we propose the following drafting suggestion for Article 3 and Article 4 as they are closely connected: *'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 **occupational**

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	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.' Article 4, first subparagraph: 'Member States may apply some or all of the provisions of this Directive to: **(a)** institutions, irrespective of their legal form, operating on a funded basis for the purpose of providing retirement benefits: **(i)** ~~(a)~~ that are excluded from the scope of this Directive pursuant to Article 2(2), points (a) and (d); or **(ii)** ~~(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. **(b) IORPs in respect of their non-occupational retirement provision business when pursuant to national law they are authorised to provide personal pension products;** ~~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.' We would like to underline, that other provisions in the proposal which refer to personal pensions (Art. 6(5), 13, 16, 36, 47 (4), 50, 51(2)(a)) should also be respectively clarified in the sense that their application is optional or deleted. DE (Comments): no opinion DK (Comments):

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	We are unclear about the extent to which the Directive allows IORPs to administer personal pensions (PPP), and whether this includes national special schemes or more commercial solutions. Could the Commission or Presidency clarify how these activities are covered and regulated under the Directive? EL (Comments): EL: We support Presidency's proposal. ES (Comments): No comments FI (Comments): Yes, we agree. FR (Comments): France on the same ground as in Q5 would see logic in going back to the previous version of article 3. HR (Comments):

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	As stated in our previous comments, we do not support extending the scope of IORP II Directive to management of national PPPs. Therefore, we would strongly suggest explicitly including the word "occupational" in the text of Article 3 so that it reads:" 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 **occupational** 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." HU (Comments): Yes, we agree. IT (Comments): We can be open but only provided that the requests referred to in Q3, Q4, Q9 and Q14 are granted LT (Comments): We believe that the term "occupational" should not be removed from Article 3.

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	NL (Comments): Yes, we agree with the proposal PL (Comments): PL: There is a need to ensure that Polish OFEs are not covered by the IORP Directive. PT (Comments): PT supports maintaining the COM proposal as is, to encompass the retirement business segment covered by the Directive beyond occupational activities. SE (Comments): Sweden can support the Presidency's proposal. SK (Comments): **We don't agree with the PCY´s proposal.** Extending the application of the IORP II Directive and introducing specific requirements for personal pension products that do not fall directly under the IORP II Directive may result in disproportionate requirements for IORPs in the Slovak Republic (supplementary pension scheme). The supplementary pension scheme is based on the Act No 650/2004 Coll. **into which IORP (I and later II) directive was implemented.**

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	These IORPs are authorised entities collecting contributions from various employees and their employers on voluntary basis (the scheme is compulsory only for employers of employees working in specific hazardous conditions) in pension funds legally separated from the assets and liabilities (etc.) of the authorised entity. For the purposes of the law (or the scheme itself), it is **not important whether a member is an employee, self-employed, or whether he or she has a job at all – entry is free for any natural person over 18 years of age – and for the absolute majority of them (and their employers) is voluntary in every aspect**. However, employers can conclude a contract with an IORP, in which they can stipulate the amount of contributions (and certain other terms and conditions). But if the employee choses other IORP than the IORP with which the employer already has contract, the employer also must sign contract with the IORP chosen by the employee. There is also no auto-enrolment. Scheme members can choose to invest in one or more accumulation pension funds managed by their selected SPMC/IORP, in order to generate extra income after reaching conditions set up by the law or stated in their pension plan (only for pension contracts signed before 2014, these contracts are slowly being terminated and account for just under 50% of contracts). **As a result the nature of this scheme, which falls under the IORP II Directive in the Slovak Republic, may change during the member's participation – sometimes it represents pure occupational pension savings with employer contributions (resulting, for example, from a collective bargaining), at another stage it may be only personal pension contributions coming to the member´s account.** There is nothing like special permission or licence granted by the NCA (National bank of Slovakia) **to offer personal pension product by our IORPs**. These companies were granted permission to operate on the market under the Act No 650/2004 Coll. and activities under this Act are the only ones that can be carried out.

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	The scheme's setup and features are rather hybrid – it is partly occupational and partly personal pension scheme as we described it above. From the perspective of the member of the scheme it is considered to be a personal pension product (as he or she is the one who decides on joining/leaving/switching the IORP and paying contributions). The assets resulting from the contributions of an employer and employee and the respective returns are ring-fenced to the effect that it is possible to accurately quantify and determine their corresponding volume at any time (the contributions of an employer have different regimes for pay-out). It is an indisputable fact that a relatively large proportion of members are in the scheme only thanks to employer contributions (they pay contributions only if the employee pays certain amount – except for the workers in hazardous jobs). However, employers do not have to pay contributions if their economic situation does not allow it or they decide to change their approach in employee benefits etc. Occupational and personal notion of the scheme (or hybrid nature) is a specific feature of the system in principle from the beginning (1996 / 2004 after transformation from DB to DC). Participation is compulsory only for people working in certain hazardous occupations classified by a decision of the government health authority – only after the participant's agreement with selected SPMC is concluded by the employee will the mandatory contributions be paid by the employer (payment of contributions by the employee himself remains voluntary). This supplementary pension scheme is not covered by Regulations (EC) 883/2004 and 987/2009. IORPs do not cover biometric risks – annuity products can be purchased from insurance company willing to offer such product. In this case, savings will be transferred from SPMC to the life insurance company (under Solvency II), which will assume the longevity biometric risk. Up to now no beneficiary

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	opted out for such a product – they chose lump sum or drawndown payments from IORP. **There is no legal (general) definition of a personal pension product in Slovakia (except for the PEPP and corresponding regulation) – other institutions can offer products under the respective licence (as insurance companies, banks, securities trading companies and asset management companies) but they are not official recognized as personal pension products and there is no specific unifying regulation – most of them are more of a medium to long-term products (not usually recognised as retirement business).** Other institutions, which are not IORPs – and except for the 1bis pension scheme – other products, that could be recognised as personal pension products, are covered by Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/65/EU. **In order to increase the coverage of the population with voluntary/supplementary pension schemes and increase the level of savings in Slovakia, it is necessary for European legislation to be sufficiently flexible, especially when it comes to organising pension systems, where it should be guaranteed to Member States to create them at their own discretion – taking into account the development of the market, the robustness and sustainability of the 1st pillar and the 1bis scheme, as well as other specificities of the domestic financial and labour market.** **Minimum harmonisation and the right of the Member State to organise pension schemes must be maintained in order to make more fundamental changes possible, for example, towards the strengthening of occupational character or separation of the personal pension part.**

PCY note	Comments
	Regulatory requirements for personal pension (retirement) products only if provided by IORPs, while other personal pension products will not be harmonised at EU level in any way and will be subject to national regulation, **will create an unjustified dual regulatory regime and result in un-level playing field across individual Member States.** Like other Member States (BG, MT, EE, LV, PL, HR, CZ), we are of the opinion that the occupational pension schemes and the personal pension schemes should have their own separate legal framework, which would take into account the appropriate requirements and different principles for these separate pension schemes.
Article 4	LU (Comments): LU has no comments with regards to this article.
Q7: Which one of the options presented above do Member States prefer?	BE (Comments): We prefer option 2. BG (Comments): BG: We could support Option 2. As stated in our response to Q6 we propose the following drafting suggestion Article 4: 'Member States may apply some or all of the provisions of this Directive to: **(a)** institutions, irrespective of their legal form, operating on a funded basis for the purpose of providing retirement benefits: **(i)** ~~(a)~~ that are excluded from the scope of this Directive pursuant to Article 2(2), points (a) and (d); or **(ii)** ~~(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.

PCY note	Comments
	(b) IORPs in respect of their non-occupational retirement provision business when pursuant to national law they are authorised to provide personal pension products; ~~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.' DE (Comments): No preference for any of the options. However, we would like to make a drafting suggestion. Drafting suggestion for option 2: 'In the case of institutions referred to in Article 2(2), point (a), the application ~~of the provisions~~ of this Directive **in whole or in part** *shall be without prejudice to the obligations arising from* Regulations (EC) No 883/2004 and (EC) No 987/2009.' [italics: PCY drafting] Accordingly, first paragraph of Article 4: 'Member States may **decide to** apply ~~some or all of the provisions of~~ this Directive **in whole or in part** to institutions …' Rationale: It is our understanding that the notification requirement of Article 4 only applies if the MS actually intends for the respective institutions to apply the Directive (in whole or in part), that is, including the European supervisory component. In contrast, if a MS just copies text from provisions of the Directive to design national law, we do not consider it to be a notification case.

PCY note	Comments
	The proposed wording is in line with Recital 13 and Article 2 of the Directive ('This Directive shall apply to IORPs'). EL (Comments): EL: We prefer option 2 as the previous wording (option 1) raises uncertainty about a possible incompatibility between the Directive and the Regulations. We would also like to note that the clarifications on paragraph 1 of article 4, which are included in the Presidency's note (*In relation to article 4, clarification was provided that paragraph 1 relates to IORPs providing schemes where the members and beneficiaries bear the investment risk, and not schemes where the benefits are guaranteed by a public authority*), are not ensured by the provisions of the said article. Finally, we would like to propose the following amendment of par.4: *Member States may decide to apply Articles 11 and 11a, only if all the provisions of this Directive apply, excluding Institutions referred to in Article 2 (2) point (a) to which these articles are not applied.* OR *Member States may decide to apply Articles 11 and 11a only to entities of subparagraph (b) of the first paragraph of this article, to the institutions referred to in Article 2(2), point (d) and to institutions that are not covered by this Directive or by Directives 2009/65/EC, 2009/138/EC, 2011/61/EU,*

PCY note	Comments
	2013/36/EU and 2014/65/EU, provided that all the provisions of this Directive apply. ES (Comments): No comments FI (Comments): We still see a "problem of compatibility" if a MS wishes to make a policy, so that the pension fund covered by the coordination regulation is IORP. We understand that this addition (option 2) only means that the new regulation would not replace the obligations arising from the social security regulations. We don't think that might be a cure to this problem. FR (Comments): France supports the optionality that is provided by the directive. We welcome option 2 as it clarifies that optional application of IORP2 provisions shall not supersede social security regulations. HR (Comments): We would prefer the Option 2, but we would suggest to slightly modify the text (combination of COMM and PCY proposal): "*In the case of institutions referred to in Article 2(2), point (a), Member States may decide on the application of the*

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PCY note	Comments
	provisions of this Directive which shall be without prejudice to the obligations arising from Regulations (EC) No 883/2004 and (EC) No 987/2009." In addition, we strongly advocate for the optional application of the IORP II Directive to IORPs managing national PPPs and therefore suggest amending Article 4(1) to read as follows: "Article 4 **Optional application** Member States may apply some or all of the provisions of this Directive to: (a) institutions, irrespective of their legal form, operating on a funded basis for the purpose of providing retirement benefits: (i) that are excluded from the scope of this Directive pursuant to Article 2(2), points (a) and (d); or (ii) 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. **(b) IORPs in respect of their non-occupational retirement provision business when pursuant to national law they are authorised to provide personal pension products;".** HU (Comments): We prefer Option 2. IT

PCY note	Comments
	(Comments): Option 2 LT (Comments): Option 2 LV (Comments): We support option 2. NL (Comments): Neutral PL (Comments): PL: We prefer option 2, which is to clarify the provision that it is the national legislator who decides on the scope of the IORP Directive. PT (Comments): PT believes Option 1 can be pursued as it is not identified the need to further specify the wording of Article 4(2), which clearly determines the optional application of the Directive depends on the absence of any incompatibilities with provisions included in the mentioned Regulations. SE

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PCY note	Comments
	(Comments): Sweden can be flexible. SK (Comments): **Option 2**
Article 5 and size criterion	
Q8: Which of the options presented above do Member States prefer?	BE (Comments): We prefer option 2. However, if "size" would be removed after all, we propose to ensure proportionality through 1) increase the thresholds for small IORPs in terms of number of members; 2) introduce exemption criteria based on annual contributions and total technical provisions, similar to the exemption criteria in SII; 3) introduce a category of "small and non-complex IORPs", similar as to what has been introduced as part of the Solvency II-review. Such IORPs would automatically benefit from identified proportionality measures on reporting, disclosure, governance, written policies, own-risk assessment, recovery plans, …. Where supervisory authorities have serious concerns in relation to the risk profile of such an IORP, they should have the power to require the IORP concerned to refrain from using one or several proportionality measures. DE (Comments): We prefer option 2.

PCY note	Comments
	In addition, we advocate for a more consistent wording of the proportionality criteria in the case of option 2. Drafting suggestion for the proportionality criteria: 'the nature, scale and complexity of the activities of the IORP and the size of the IORP'. Rationale: We recall that the criteria of proportionality apply jointly. That is, IORPs always have to take into account the nature, scale and complexity of activities. Obviously, large IORPs have the means for a deeper analysis and for more ambitious solutions. In this sense, size is relevant for proportional application as well. It is our understanding that scale is an intrinsic criterion. For instance, if complex activities make up a large part of the IORP's business, this requires more attention than in the case of simple activities. In contrast, we think that size is an outer feature which refers to the size of the IORP rather than activities and reflects, among other things, the relevance of an IORP for the respective market. DK (Comments): Denmark supports option 2 and would like to emphasize that proportionality is highly important for us. We think it makes sense to keep the current size thresholds in Article 5, as they allow many small company pension funds to be exempt from several requirements. Size can be relevant, but it doesn't need to be included in the supervision rules—risk-based supervision should be the main focus. We are open to removing the

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PCY note	Comments
	size criterion from supervision provisions, since size and complexity aren't always linked EL (Comments): EL: We would like to thank Presidency for the explanation provided in the discussion paper [size criterion], based on which we could accept Option 1. ES (Comments): None of them. We prefer not to remove the size criterion. The review introduces new prudential and reporting requirements without adequately considering the size of occupational pension funds, potentially placing disproportionate burdens on smaller funds. While improving governance and transparency is important, regulation should apply the principle of proportionality, ensuring that requirements are risk-based and adapted to the scale and complexity of each entity. Proportionality measures should not lead to market segmentation or rigid size-based classifications that could distort national systems or favor certain business models. Although economies of scale can be beneficial, fund size alone is not a reliable indicator of quality or performance, and market consolidation should not become an implicit supervisory goal. A balanced

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PCY note	Comments
	approach that respects diversity and promotes competition is key to protecting members and maintaining a sustainable pension system FI (Comments): We prefer option 2 or leave as it is. This is very important in Finland, whereas it has enabled national legislation to exclude small IORPs from certain heavier administrative rules. FR (Comments): Strongly supports the proposed deletion of the size criterion in the Commission's text and is in favour of option 1 proposed by the Presidency. As was clarified by the Commission during the working party, this doesn't hinder the size limits for small IORPs in article 5 (which might be reflected on) and doesn't limit the ability of member states to choose the intensity of supervision. The mention of nature, scale and complexity allows the full range of "screening rules" already put in place by competent authorities. HR (Comments): Between presented options, we would prefer Option 2. HU (Comments): We prefer Option 2. IT

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PCY note	Comments
	(Comments): Option 2. We consider that the size is still a criteria that MS could apply in relation to the proportionality principle. Furthermore, this proposal allows NCA to better implement a risk based approach. LT (Comments): Option 2 LU (Comments): We have raised concerns regarding the role of size on several occasions in the past. Preserving an appropriate degree of proportionality within the IORP Directive for smaller IORPs remains a key priority for us. While we acknowledge that size, when considered in isolation, is not a fully reliable risk-based metric, and that smaller IORPs are not necessarily less risky than larger ones, there is, in our view, no clear and convincing evidence that the current text of the Directive creates misleading incentives for NCAs to deviate from applying a risk-based supervisory approach. In practice, the size of an IORP has not led NCAs to disregard a risk-based approach when size is considered alongside the nature and complexity of the business. Nor has size been shown to have resulted in concrete supervisory or

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PCY note	Comments
	prudential issues. Discussions during the working party have illustrated that size is not the decisive parameter and therefore should not be discarded entirely. Against this background, we would prefer to retain references to size throughout the text for the sake of coherence. However, should a choice be required, we would be open to considering option 2 as a potential compromise solution. LV (Comments): As a compromise we support option 2. NL (Comments): Option 1. As we have stated before, in our experience size is not a good indicator for risk. All members and participants should be able to count on the same safeguards to the extent that that is necessary considering the risk profile of the IORP. NL does not support raising the threshold in Article 5. PL (Comments):

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PCY note	Comments
	PL: We still maintain our position that the term "size" should not be deleted from the IORP II Directive. Of the two proposed options, we are inclined to opt for option 2. PT (Comments): PT can support Option 1 on the removal of all references to "size" from the text, in line with other sectoral files and considering that such a concept may not provide a reliable picture of the risk profile of IORPs. Nevertheless, we believe that the review of this Directive should take into account the increasing calls for simplification and the proportional application of regulatory requirements in the EU, in order to avoid undue administrative burdens and excessive constraints on smaller and emerging market stakeholders. In the context of the reinforced requirements envisaged in this proposal, we consider that the most straightforward way to enhance proportionality is through the expansion of the thresholds set out in Article 5. As previously noted, this expansion was explicitly recommended by EIOPA, which highlighted significant discrepancies between the thresholds in Article 5 and those applied in other sectoral frameworks, such as Solvency II (where exemptions are granted to undertakings with technical provisions not exceeding EUR 50 million).

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PCY note	Comments
	According to EIOPA, increasing the Article 5 threshold from 100 to 1000 members, together with the introduction of a criterion based on AuM below EUR 25 million, has the potential to allow for a meaningful reduction in compliance costs for smaller entities with limited resources, as well as in supervisory costs for NCAs. These benefits would ultimately accrue to members of such schemes and are expected to outweigh the associated risks. Moreover, reducing these costs may encourage the entry of new stakeholders into the occupational pensions sector, thereby broadening scheme coverage. Estimations highlight these increased thresholds are likely to cover less than 1% of IORPs when expressed as a % of AuM or total members/beneficiaries. Finally, although based on size-related criteria, the exemption for small IORPs can still be considered a risk-based tool, as MS retain the discretion to grant such exemptions. This assessment can therefore be tailored to the specific risk profile of each national market. SE (Comments): Sweden has previously expressed opposition to removing the size criterion. This is based on concerns that the principle of proportionality would be weakened. Removing the criterion only from certain provisions while retaining it in others risks creating uncertainty in application, particularly since some consideration of size would still apply. Sweden therefore continues to oppose

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PCY note	Comments
	the removal of the size criterion. However, if the criterion were to be removed, Sweden would prefer Option 1. SK (Comments): **We are flexible in the options offered.**
Article 6 – New Definition of IORP	
Q9: Do Member States agree with above proposal?	BE (Comments): We agree with the proposal. BG (Comments): BG: The design of pension systems is under the competence of the Member States and IORP Directive should retain its minimum harmonization character and its application should not extend to personal pension products regulated at national level. We could support only optional application of the IORP directive to the provision of personal pension products by IORPs. We do not see a need to amend IORPs definition by including that under national law IORPs could be permitted to provide personal pensions. This is not something which defines the IORP as such. In addition, regarding Article 6 the reference to personal pensions the definition of "member" in Article 6(5) should be deleted or at least clarified in the sense that its application is optional to personal pension business operated by the IORP. DE (Comments): We agree.

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PCY note	Comments
	DK (Comments): Denmark would appreciate further clarification on whether the revised definition of an IORP allows institutions to provide purely personal pensions, not linked to an occupational arrangement, or if it is only intended to cover national schemes where IORP requirements are extended. It is unclear to us how the definition in Article 6 applies to personal pensions, and we would welcome more guidance on this point. EL (Comments): EL: We do not have a specific view on this. ES (Comments): By changing the definition in Article 6.1(b), in order to clarify the possibility for IORPs to also carry out personal retirement provision business, provided this is permitted by National Law and by introducing a definition of personal pension in the proposal, referring to the definition in the PEPP Regulation, we still see a risk of blurring the boundaries between the second and third pillars. On the other hand, we would like you to confirm that, in the event that management companies manage both personal and occupational pension funds, they would or would not be obliged to apply the IORP II framework to the personal pension plans business, in order to better understand this provision.

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PCY note	Comments
	FI (Comments): Yes, we agree, even though the inclusion of PPPs ti the directive has risks. FR (Comments): France agrees with the proposal. France in principle supports the recognition of the possibility for IORP to provide personal retirement products, if allowed under national law. This recognition has no effect on the bans that certain Member States wish to maintain under national law. HR (Comments): As expressed in our earlier comments, we oppose to the application of the IORP II Directive on national PPP, **unless a Member State has opted to apply the IORP II Directive in full to these products, in line with Article 4 of the IORP II Directive.** This should be clearly reflected in the definition of an IORP and therefore, we would strongly advocate maintaining the current definition of an IORP unchanged and instead introducing a new provision reading as follows: "In addition to occupational pension activities, Member States may allow IORPs to engage in personal pension activities." Furthermore, it should be clearly stipulated that, in such cases, Member States are not obliged to extend the application of Directive IORP II to personal pension products, and that IORPs

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PCY note	Comments
	should be subject to the national law governing the establishment and operation of personal pension products, or to Regulation (EU) 2019/1238 where they manage a PEPP. HU (Comments): Yes, we agree. IT (Comments): First of all, we disagree with the ring-fencing of PPP assets, provided in Article 7 (see question 10). In addition, we consider it of utmost importance to clarify that the cross-border activity of Article 11 is limited to IORPs occupational activity, with the express exclusion of PPP activity. Should the above amendments not be introduced, we see the need to leave it to the MS to recognize the IORPs possibility to carry out PPP activity and to regulate it entirely, deleting all references to PPP from this Directive. LT (Comments): Agree LU (Comments):

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PCY note	Comments
	LU agrees LV (Comments): Ok. NL (Comments): Yes, we agree with the proposal PL (Comments): PL: In our opinion personal pension products should not be included in the IORP II Directive. PT (Comments): PT does not oppose in principle the new definition for IORPs, foreseeing the application of the Directive to the provision of personal pension products, when these entities are allowed to do so under national law. Nevertheless, recognizing this issue is of extreme relevance for certain MS, we would be willing to accept the optional application of the Directive to the PPP business, reinstating the current definition of IORP to remain solely based on the occupational retirement business. If the obligatory application of the Directive to the PPP business of IORPs ends up being overruled, then Article 3 needs to be adjusted in accordance so

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PCY note	Comments
	as not to create an unlevel playing field with IORPs that offer social security schemes (whose PPP business will be covered by the Directive pursuant to the COM proposal for Article 3). SE (Comments): Sweden can support the Presidency's proposal. SK (Comments): **We don't agree with the PCY´s proposal.** According to COM clarifications Articles 7, 13, 16, 36, 47, 50 of IORP Directive (as the minimum requirements) should be taken into consideration in national laws also for the personal pension business. **As stated above, it is essential to keep the minimum harmonisation of the legislative act. Therefore we suggest deletion of "personal pension provisions" from the definition.** **IORP directive should regulate occupational pension schemes only and its scope should not be extended to personal pension products which are regulated at national level. Proposed definition of IORP (member, etc.) automatically subsumes "personal pensions" the scope of IORP directive.** As an alternative we can accept that definitions will apply only when MS expand the application of the IORP Directive to personal retirement products.
Article 7	
Q10: Which one of the three options presented above do Member States prefer?	AT (Comments):

PCY note	Comments
	We prefer option 3. BE (Comments): We prefer option 1. BG (Comments): BG: We support Option 3. We could not support Option 2 as the term "ring-fenced" is used in IORP directive currently in Articles 3 and 4. In order to ensure consistency of the legal acts, the same term has been used also in the PEPP Regulation - Article 6(1)(c). We do not see a need to introduce further explanations regarding "ring-fencing" or "legal separation". DE (Comments): We prefer option 3. DK (Comments): Denmark supports leaving the ring-fencing requirements to Member States, as this allows for flexibility and caters for national differences. Therefore, we support option 3. EL (Comments): EL: We prefer Option 1, namely, to maintain COM proposal on ring-fencing.

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PCY note	Comments
	ES (Comments): We prefer option 3. We do agree with ring fencing, provided that it refers exclusively to the assets, as can be inferred from the new second paragraph of the proposal. However, the document does not reflect the concern previously raised by Spain in the meetings and written comments, regarding the worries about ring-fencing if it were to refer to management. In this regard, Spanish management companies may manage both occupational and personal pension funds, albeit with a separation of assets as proposed here. We would therefore request that this clarification also be included in the recitals. FI (Comments): We prefer option 3. FR (Comments): France thanks the Presidency for the consideration given to this topic and the clarifications provided. **France strongly supports option 3:** - Firstly this measure would lead to less portfolio diversification and therefore ultimately to lower returns for policyholders as a whole. We do not believe pooling at asset manager level to be the adequate level of diversification particularly when asset managers are not responsible and

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PCY note	Comments
	do not have resources for the asset-liability management contrary to IORPS. - Secondly, ring-fencing could prove equally difficult in practice, as it would requirex differentiating between all contracts, notably in situations where the professional or personal nature of the contract is not immediately apparent, for example for self-employed persons. - Thirdly, there is no such restriction for insurers subject to S2, which could lead to a form of distortion of competition between IORPs and insurers. HR (Comments): We would prefer Option 3. HU (Comments): We prefer Option 1. IT (Comments): Option 3. This option is the one that effectively pursues the objective. We have no ring-fencing at national level for occupational and personal schemes, which are DC schemes, and the system functions effectively. The requirement to ring-fence the assets and liabilities corresponding to an IORP's "personal pension provision business" does not fit for DC schemes with

PCY note	Comments
	individual accounts. The choice of whether to opt in and introduce the ring-fencing of the assets and liabilities corresponding to an IORP's "personal pension provision business" should be left to the Member States or limited to DB occupational schemes. LT (Comments): Option 3 LU (Comments): LU favours option 1. We consider segregating pillar 2 from pillar 3 assets and liabilities to be an important safeguard. Pillar 3 products are individual pension products, where the underlying assets belong to the individual and these should be properly safeguarded at all times. The wording of the proposal is a prudent way forward. LV (Comments): We support option 3. NL (Comments): Option 1: ringfencing is important when PPP are offered next to occupational schemes.

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PCY note	Comments
	PL (Comments): PL: We prefer option 1 with the proposed explanation of the term "ring-fencing". PT (Comments): PT can support moving forward with Option 1, believing no additional amendments beyond the suggested clarification regarding asset pooling are warranted. Nevertheless, we would favour the removal of the explicit reference in Article 7 barring the possibility of transfers between retirement provision businesses, since it is common in PT to transfer a member of an occupational scheme, when ceasing the relationship with its employer, to a personal scheme within the same IORP. As the current drafting of Article 7 does not impede that practice and considering that it is always applied the ring-fencing requisite for the IORP in question, we believe there is no need to be as prescriptive in imposing such ban with associated consequences in national established frameworks. Please consider the following suggestions: *"Article 7* *(...)*

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PCY note	Comments
	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~~. *(...)"* SE (Comments): Sweden prefers Option 3. SK (Comments): **Option 1 or 3** We have strong objections to option 2 since, in our opinion, the text evokes the need for absolute separation of assets (in any sense of the word).
Authorization and operating requirements (art. 9,9a,10) **Authorization - article 9** **Overview of the discussions**	
Q11: Which of the three options presented above do Member States prefer?	BE (Comments): We prefer option 3. We do, however, have a comment regarding the requirements for submitting a business plan. We believe that goes against the principle of burden reduction, as it leads to additional work for both the IORPs and the NCAs.

PCY note	Comments
	Therefore, it is recommended that the obligation to submit such a business plan is limited to so-called "commercial" IORPs and does not apply to "traditional" IORPs, i.e. IORPs established by an employer (or a group of employers with links to each other) to manage the pension plans of its staff. Drafting suggestion Art. 9.1 §4: "***Multi-sponsor*** *IORPs seeking authorisation shall prepare and submit to the competent authority a business plan for all their planned activities ...".* BG (Comments): BG: We support the deletion of EIOPA guidelines in Article 10. From the options presented we prefer Option 2 which goes into the right direction, with the following fine-tuning: "scheme of operations ***or similar documents***". In Bulgaria the ability of IORPs to operate on an ongoing basis is demonstrated by specific documents such as document with information on the human resources of the company, documents on the IT system, business plan, etc. DE (Comments): We prefer option 3. We would like to highlight that the IORP II framework does not require EIOPA guidelines and, therefore, even the entire Article 10 (3) must be deleted. DK (Comments): Denmark supports option 3, as it provides the greatest flexibility in the authorisation process while still ensuring basic requirements are covered.

PCY note	Comments
	EL (Comments): EL: We support Option 2. We could also consider Option 3, under the condition that the following wording amendments are made: 1) in the last subparagraph of article 9: "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** ';" 2) in the second subparagraph of the proposed by the Presidency paragraph 1b: "For that purpose, the competent authority shall ~~**assess whether**~~ **be satisfied that**: (a) the IORP has presented a credible and comprehensive scheme of operations covering its intended activities;" ES (Comments):

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PCY note	Comments
	We prefer option 3. FI (Comments): We prefer option 3 or 1. FR (Comments): France supports the harmonisation of authorisation procedures in the level 1 text. We call for alignment as much as possible with the wording in the Solvency 2 directive (article 18) and any material deviation be understood with a clear rationale. As such we are closer to option 3 but we would propose changes in the wording of proposed paragraph 1b: - Either it could be converted to the same phrasing as article 18 of Solvency 2 : "The home Member State shall require every IORP for which authorisation is sought :" ; followed by the rephrased provisions. - Or one could maintain the current idea of "the competent authority shall assess" but reinforce both the mínimum harmonisation nature of the directive as well as the resposabilities of the IORPS in demanding authorisation. We therefore suggest the following : *"Without prejudice to other conditions of general application laid down by national law, Member States shall ensure that the competent authority grants authorisation only where it is satisfied that the IORP is capable of operating in a sound and prudent manner, taking into account the nature, scale and complexity of its activities.* *For that purpose, the home Member State shall ensure that the competent authority at least ~~shall~~ assesses whether:*

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PCY note	Comments
	(a) the IORP has submitted ~~presented~~ a credible and comprehensive scheme of operations covering its intended activities; *(b) the IORP has shown evidence that it will be in position ~~is able to~~ comply on an ongoing basis with the requirements of this Directive;* *(c) the IORP has shown evidence that it will be in position to comply with ~~has in place~~ a sound and effective system of governance;* *(d) the IORP has shown evidence that the persons who will effectively run the IORP and those responsible for key functions are fit and proper;* *(e) the IORP has shown evidence that it will be in position to hold ~~has~~ adequate financial resources to support its operations and meet its obligations; and* *(f) the IORP has shown evidence that the rules of the pension schemes to be operated are duly established and, where the sponsoring undertaking guarantees the payment of retirement benefits, supported by appropriate financing arrangements. "* HR (Comments): Between presented options, we would prefer Option 2. HU (Comments): We prefer option 2. IT (Comments): Option 2 as it clarifies better the authorization procedure while maintaining NCA flexibility. We are also open to option 3. LT

PCY note	Comments
	(Comments): Option 3 LU (Comments): LU welcomes a harmonized authorisation procedure for IORPs, preferring to stick to the initial wording. Based on our analysis, this wording is best suited to the minimum-harmonisation character of the IORP II Directive and the diversity of the IORP landscape. LV (Comments): Option 3 is preferable, as it focuses on substance rather than functioning as a "checklist." Under Option 2, there is a risk that supervision becomes a "tick-the-box" exercise, whereas under Option 3 the supervisor assesses whether the IORP is genuinely safe and sustainable. NL (Comments):

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PCY note	Comments
	Option 3. This option provides the best fit by setting out the general principles that all MS must take into account, whilst leaving room for MS and NCAs to apply those principles in line with the national context. PL (Comments): PL: We prefer option 2, which introduces fundamental principles of prudential assessment, specifies the conditions for granting authorisations by the competent authority without prejudice to other general conditions laid down in national law, removes EIOPA's mandate to issue guidelines on prudential assessment, clarifies the date from which the six-month period starts, and clarifies the last paragraph of Article 9 to ensure prudential supervision of pension institutions wishing to accept sponsorship from multiple sponsoring entities. PT (Comments): PT would prefer to go forward with Option 3 but believes the proposed draft warrants various adjustments for enhanced precision and clarity. Firstly, besides never referencing directly the prudential assessment mentioned in Article 9(1), paragraph 1b introduces a reference to a “scheme of operations”, which might be interpreted as a distinct additional standalone document, in parallel to the business plan, rather than the necessary

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PCY note	Comments
	information solicited by the CA to support the prudential assessment. Even though the concept of "scheme of operations" is used in other sectoral files, such as Solvency II, the lack of definition and additional specification under the current Directive may generate undue confusion. Moreover, the proposed draft also appears to include aspects that may overlap with the contents of the business plan (Article 9(1b)(a)), going beyond elements typically associated with a prudential or financial soundness assessment. Please consider the following suggestions: *"Article 9* *1. (...)* *An IORP seeking authorization to extend its activities, including, where applicable, to accept sponsorship from multiple sponsoring undertakings,* ***may be subject to the prudential assessment referred in the second subparagraph*** ~~*shall be required to submit a scheme of operations covering those planned activities*~~*.* *The subsequent acceptance of one or more sponsoring undertakings shall not require the IORP to undergo a new authorisation procedure where its authorisation covers the acceptance of sponsorship from multiple sponsoring undertakings.* *(...)*

PCY note	Comments
	*1b. Without prejudice to other conditions of general application laid down by national Law**, and for the purposes of the prudential assessment referred to in paragraph 1**, Member States shall ensure that the competent authority grants authorisation only where it is satisfied**, on the basis of the information submitted by the IORP**, that the IORP is capable of operating in a sound and prudent manner, taking into account the nature, scale and complexity of its activities.* ***In particular**~~For that purpose~~, the competent authority shall assess whether:* *~~(a) the IORP has presented a credible and comprehensive scheme of operations covering its intended activities;~~* *(**a**~~b~~) the IORP is able to comply on an ongoing basis with the requirements of this Directive;* *(**b**~~c~~) the IORP has in place a sound and effective system of governance;* *(**c**~~d~~) the persons who effectively run the IORP and those responsible for key functions are fit and proper;* *(**d**~~e~~) the IORP has adequate financial resources to support its operations and meet its current **and reasonably foreseeable** obligations; and* *(**e**~~f~~) the rules of the pension schemes to be operated are duly established and, where the sponsoring undertaking guarantees the payment of retirement benefits, supported by appropriate financing arrangements."* SE

PCY note	Comments
	(Comments): Sweden already applies an authorisation process for most IORPs. In order to keep the process simple and no more detailed than necessary, Sweden can support Option 3. SK (Comments): **We prefer option 2.** We can also relate to option 3, if this approach would be the only way forward that would help to close the matter.
Multi sponsor IORPs - article 9a	
Overview of the discussions	
Q12: Which of the two options presented above do Member States prefer?	BE (Comments): We prefer option 1. BG (Comments): BG: From the discussions in the working party it appears that there are different interpretations of this provision. We would prefer not to regulate this issue in IORP directive in order not to interfere with the design of pension systems in MS. Allowing multisponsor IORPs to accept sponsorship from multiple sponsoring undertakings within the same pension scheme as well as the management of schemes with different investment policies should be a MS option. It is currently optional as it is not regulated in the directive with the objective to take into account the different design and business model of IORPs. The operation of occupational schemes with different investment policies within the same IORP would raise the costs. The small scale could not justify the

PCY note	Comments
	provision of different investment policies for each scheme and could further disincentivize providers to establish IORPs. In Bulgaria IORPs could operate different pension schemes, however, they are operated in one pension fund for occupational schemes with a single investment policy. In that respect we propose the following drafting suggestion: 'Article 9a Multi-sponsor IORPs Member States ~~shall~~ **may** 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. 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.' In this regard we support the proposed amendment **in Article 30** in order to clarify that separate statements of investment policy shall be prepared only where IORPs operating different pension schemes with different investment policies. DE (Comments): No preference for any of the options. DK (Comments): Denmark would just like to state, that we appreciate the efforts to clarify the regulation of multi-sponsor entities. We fully support the approach that gives Member States flexibility to decide how these entities should be regulated. It is valuable that Member

PCY note	Comments
	States can decide on any limitations regarding the number of sponsors in an entity under the IORP framework. This ensures that national needs and preferences are respected. EL (Comments): EL: Although in principle we could support Option 2, we strongly propose deleting from article 9a the phrase "**within the same pension scheme**", given that allowing many different sponsors to contribute to the same pension scheme raises significant issues, as already expressed in our previous comments. As a second-best option we suggest the following wording amendment in article 9a in this regard: "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**, according to national legislation,** the same pension scheme. 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): In principle, we have no preference for either option. FI

PCY note	Comments
	(Comments): We prefer option 2. FR (Comments): France has no strong view on this matter and favors option 2 which seems preferable to take into account national specificities HR (Comments): We would prefer Option 2. HU (Comments): We prefer option 2. IT (Comments): We have concerns regarding the whole Article 9a. Multiemployer IORPs are already well established in Italy, in particular those organized at national level as economic sector IORPs, some of which have reached a significant size also at European level. But from our point of view, Art. 9a does not seem to improve the regulation in any way. On the contrary, it limits MS capability to decide how to structure their IORPs systems.

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PCY note	Comments
	Therefore, we prefer to delete this Article and to allow Member States to structure their IORP system (single or multiemployer, or as a DB or DC) according to their characteristics and nature. If the article is retained, we suggest the following remarks. As regards the first subparagraph, we see the need to clarify that this provision is regarding only the IORPs authorized after the entry into force of the IORP II revision, considering that, for certain types of the IORPs already in place, some limitation could exist at national level. As regards the second subparagraph of Article 9a, we have concerns on how this provision could impact cross-border activity. If in MS (A) there is this provision, is it possible for an IORP of MS (B) which has not this nature to carry out cross-border activity in MS (A)? LT (Comments): Can be open for Option 1 and Option 2 LU (Comments): Although Luxembourg law does not restrict multi-sponsoring IORPs, such structures have not emerged in our market. If this article merely codifies existing practice in certain Member States, we question whether such a provision is necessary in light of the minimum-harmonisation nature of this

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PCY note	Comments
	Directive. National legislation is a better fit to regulate such multisponsoring IORPs, especially considering the practical implications in case of insolvency of one of the sponsoring undertakings within the same scheme. LV (Comments): We support Option 2, as it allows for flexibility, accommodates multiple schemes and multiple sponsors, while at the same time maintaining control mechanisms. NL (Comments): We prefer option 2. As we have stated previously, in the Dutch situation, when an IORP wishes to consolidate or scale up it can do so. However, in the case of a company pension fund it has to either transfer the assets or change the articles of association to convert into a general fund. For us, it is important that this practice is covered by the article. We therefore strongly support the addition in the recital proposed by the Presidency. However, we would like to make a few drafting suggestions to even better reflect the current Dutch system: “The possibility to operate different pension schemes and to accept sponsorship from multiple undertakings within the same scheme should be

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PCY note	Comments
	without prejudice to compliance with the requirements laid down in the laws of a Member State for the operation of **multiple** schemes **or schemes** with multiple sponsoring undertakings. Where those laws require a certain legal form for the operation of such schemes **or allow only a certain type of IORP to operate such schemes**, any IORP should be able to adapt its legal form **or convert into that type of IORP** in accordance with those laws. This should also be without prejudice to the option for Member States to require that schemes with multiple sponsoring undertakings be operated under Directive 2009/138/EC." PL (Comments): PL: We prefer option 2. PT (Comments): PT can support either option as both underscore the optionality to operate schemes with multiple sponsoring undertakings under Solvency 2. To accommodate the concerns raised by other MS, we would be open to accept the reinforced drafting of Recital 17 under Option 2. SE (Comments):

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PCY note	Comments
	Sweden has not made use of the option to apply Solvency II to multi sponsor IORPs and can therefore be flexible, with a slight preference for Option 1. SK (Comments): **Option 2**
Operating requirements - article 10	
Overview of the discussions	
Q13: Which of the two options presented above do Member States prefer?	BE (Comments): We prefer option 2 but are of the opinion that this requirement should be limited to 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. Drafting suggestion Art. 10.1*(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***" BG (Comments): BG: We prefer option 2. DE (Comments): We prefer option 2.

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PCY note	Comments
	We would like to highlight that the IORP II framework does not require EIOPA guidelines and, therefore, even the entire Article 10 (3) must be deleted. DK (Comments): DK supports option 2 EL (Comments): EL: We fully support Option 2. ES (Comments): We prefer option 2 FI (Comments): We prefer option 2. FR (Comments): France supports option 2, we agree with the risks posed by an EIOPA mandate which are identified in the Presidency's paper and therefore support removing such mandate. HR (Comments):

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PCY note	Comments
	We would prefer Option 2, but we would also highly recommend to include PCY explanation of financial resources available to cover current and future operating costs at least in the recital. HU (Comments): We prefer option 2. IT (Comments): Option 2 LT (Comments): Option 2 LU (Comments): LU is in favour of option 2 and to delete EIOPA's mandate to issue guidelines on the prudential assessment for authorisation. LV (Comments): We support option 2. NL (Comments):

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PCY note	Comments
	Option 2, we would like to emphasise that we are not in favour of the proposed EIOPA mandate, divergences between EIOPA requirements and national requirements would be undesirable from a supervisory point of view. PL (Comments): PL: We prefer option 2. We do not see a need to empower EIOPA to create guidelines on "prudential assessment for authorisation." PT (Comments): Considering the further specification on the prudential assessment proposed by the PRES CY through Article 9(1b), PT favours going forward with Option 2 and the deletion of Article 10(3). SE (Comments): Sweden has no objection to the Commission proposal as such, but considers EIOPA's mandate to be overly broad. Sweden can therefore support Option 2. SK (Comments): **Option 2**
Cross Border Activities and Transfers (CB and domestic)	
Right of Establishment and Freedom to Provide Services - article 8a	

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PCY note	Comments
Overview of the discussions	
Q14: Do Member States agree with the above proposal?	BE (Comments): We agree with the proposal, but from the COM clarification at the 1st CWP, we understood that Art. 8a.2 was introduced because in some countries IORPs are not allowed to be set up. In that perspective, the right of establishment seems not to be about the setting up of a branch or office, but of the head office, i.e. the IORP itself. BG (Comments): BG: No clarifications have been provided as to why this new provision has been proposed as new Article 8a instead of possible further clarifications in Article 11 and 11a. We do not see what is the added value of Article 8a and would lead to implementation challenges. DE (Comments): We basically agree. We believe that a small addition could be useful. Drafting suggestion for Article 8a: '1. IORPs shall be allowed to provide services **of occupational retirement provision** throughout the Union in accordance with Articles 11 and 11a.' Rationale: clear signal that the Directive does not provide a cross-border framework for personal pension products. For PEPP, cross-border business follows the rules of the PEPP regulation. EL

PCY note	Comments
	(Comments): EL: We accept Presidency's explanations and we propose the following wording amendments, to better reflect them and to align the provision with the wording in articles 11 and 11a, where no distinction between FOS and FOE is made: "1. IORPs shall be allowed to **provide occupational pensions** ~~**services**~~ throughout the Union in accordance with Articles 11 and 11a. ~~**2. Member States shall not restrict IORPs from establishing in their territory.**~~**"** ES (Comments): Not in principle. We still believe that by stating in this article that "IORPs shall be allowed to provide services throughout the Union in accordance with Articles 11 and 11a. and Member States shall not restrict IORPs from establishing in their territory.", the EU passport for IORPs and their management entities is in some way being regulated. Nevertheless, we are confused by the reference to Articles 11 and 11a, as we still do not understand the difference in that case with the cross-border activity regulated therein. FR (Comments): France agrees with the Presidency's proposal HR

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PCY note	Comments
	(Comments): We agree with the explanation and PCY proposal. HU (Comments): Yes we agree. IT (Comments): No. Article 8a is not clear enough and should be deleted. These principles make sense only in cross-border activity. To do this, a new paragraph could be inserted in Article 11 to specify that the IORPs should be allowed to carry out the cross-border activities in both ways (establishing a branch in the territory of the host MS or by operating under the freedom to provide services). See also reply to question 3. LT (Comments): Agree LU (Comments): Yes, LU welcomes the aim of strengthening cross-border activities to ensure IORPs are authorised to operate without unnecessary restrictions within the single market.

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PCY note	Comments
	LV (Comments): ok NL (Comments): Neutral PL (Comments): PL: We agree with proposal to keep the article unchanged. PT (Comments): PT can support maintaining Article 8a as proposed by the COM. SE (Comments): Sweden can support the Presidency's proposal. SK (Comments): **Yes,** we can agree with the PCY´s proposal.
Cross border activities and procedures - article 11	
Overview of the discussions	
Q15: Which of the two options presented above do Member States prefer?	BE (Comments):

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PCY note	Comments
	We prefer option 2. BG (Comments): BG: We prefer Option 2. DE (Comments): We prefer option 2. EL (Comments): EL: We prefer Option 2 and we suggest that all deadlines are extended further by one more month. ES (Comments): None of them. As we express in previous meetings and written comments, this provision raises some doubts for us, since it is not entirely clear to us whether the removal of the second paragraph, and the consequent authorisation by the relevant competent authority of its home Member State, implies regulating the EU passport for IORPs, and whether this would also apply, in any event, to their management companies. At the same time, it is not clear to us that such authorisation is truly unnecessary, given that paragraph 4 of Article 11 of the current IORP Directive and of the proposal are very similar, and in both cases refer to “a reasoned decision that the administrative structure or the financial

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PCY note	Comments
	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. On the other hand, we believe that the replacement of the reference to competent authorities with Member States throughout the article results in less clarity as to whom the obligations are imposed FI (Comments): We prefer option 2. FR (Comments): France supports the principle of a simplified procedure and option 2. HR (Comments): We would prefer Option 2. HU (Comments): We prefer Option 2. IT (Comments): Option 2.

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PCY note	Comments
	We agree on the proposal, in particular with the clarification that IORP should also comply with the host information requirements. In general, we believe that the NCA of the host MS should have more powers, such as the powers to interact directly with the cross-border IORP in order to check the compliance with the national social and labour rules and the domestic information requirements, as well as to understand the concrete operativity in the host country (e.g. number of members). This clarification should be added to the text. Furthermore, the article should clarify that the cross-border procedure is only related to occupational pensions, even if personal pensions are allowed in the MS. LT (Comments): Option 2 LU (Comments): LU is open to considering option 2, which would reinstate the explicit requirement to comply with host Member State information requirements beyond social and labour law matters. However, we are not entirely certain on a possible right of the host Member State to contact the IORP directly. Based on our reading of the text, in particular paragraph 10, the host authority is

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PCY note	Comments
	required to inform the home authority in cases of non-compliance with host Member State requirements. Paragraph 12, in turn, grants host authorities the power to take measures to protect members and beneficiaries in the host Member State but only in cases where the home authority fails to take adequate action. LV (Comments): We support option 2. NL (Comments): We consider option 2 to be an improvement. However, as stated before we would prefer it if the deadlines in para 4 and 7 are kept as they are in the current text. Especially the proposed deadline in para 7 is too short, the current text sets the deadline at six weeks, which is already short. PL (Comments): PL: We prefer option 2 which is a response to Member States' concerns regarding deadlines and the information and supervisory requirements of the host Member State. PT (Comments):

PCY note	Comments
	PT can support the PRES CY suggested Option 2, namely the increase in the timeline for the reasoned decision to be drawn by the home MS authority and to clarify all deadlines only begin once the complete set of information is provided to the CA. SE (Comments): Sweden does not hold a strong position but can support **Option 2**. SK (Comments): **Option 2**
Simplified notification for existing cross-border activities - article 11a	
Overview of the discussions	
Q16: Do Member States agree with the above proposal?	BE (Comments): We agree with the proposal relating to Art. 11a 1 and the recital clarifying the concept of non-material amendments. However, with a view to reduce the administrative burden even more, we believe it would be appropriate to apply this simplified procedure to all types of pension schemes (and not just those where members and beneficiaries bear the full investment risk). Drafting suggestion Art. 11a 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*

PCY note	Comments
	pension scheme, or of non-material amendments to the characteristics of that scheme, is subject to a simplified notification procedure." BG (Comments): BG: We agree with PCY proposal. DE (Comments): We agree. EL (Comments): EL: We support the introduction of a Recital to clarify the matter, as suggested by the Presidency. However, we preserve our concerns regarding the acceptance of more than one sponsoring undertakings within the same pension scheme (see our comment above on art. 9a). ES (Comments): We agree FI (Comments): Yes, we agree. FR (Comments):

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PCY note	Comments
	France supports the Commission proposal and would not seek adjustments. Notification of the host authority by the home authority following the IORP notification places an undue burden on the home authority and would delay the host authority notification. HR (Comments): Yes, we agree with the above proposal. HU (Comments): Yes we agree. IT (Comments): No. We are in favour of maintaining the first subparagraph as it is, considering the need for the host NCA to receive this information at the same time as the home NCA. As regards the second subparagraph, we suggest to redraft it clarifying which information should be provided in this case (i.e. the name and the location of the main administration of the new sponsoring undertaking, the main characteristics of the pension schemes or schemes to be operated for that new sponsoring undertaking if there are changes in respect to the other sponsoring undertaking already notified). LT

PCY note	Comments
	(Comments): Agree LU (Comments): LU agrees with the suggested way forward. NL (Comments): No. We agree with the proposed clarification in the recital, but oppose the deletion of the provision that the host member state is informed by the IORP at the same time as the home member state. This weakens the information position of the host MS as it will receive the notification regarding amendments to the scheme on a later date. On top of this initial exchange of information, a set frequency of communication to the host NCA (in the form of an annual report) by either the home NCA or the IORP itself would provide the host NCA with necessary insight into the IORPs it is hosting. A minimum level of cross-border information sharing is indispensable. PL (Comments): PL: We agree with proposal. PT (Comments):

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PCY note	Comments
	PT supports the PRES CY contemplated way forward but would like to suggest adjustments to the proposed drafting for Article 11a(1) to maintain the precision depicted in the COM proposal. Please consider the following 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 authority of the home Member State at least one month before making the change. The competent authority of the home Member State shall inform the competent* ***authority*** ~~*authorities*~~ *of the host Member States* ***about such*** ~~*of the*~~ *change as soon as possible* ***to enable the fulfilment of their respective obligations under Article 11****."* SE (Comments): Sweden can support the Presidency's proposal. SK (Comments): **Yes,** we can agree with the PCY´s proposal.
Cross border transfers - article 12	
Overview of the discussions	FR

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PCY note	Comments
	(Comments): ;
Q17: Which of the two options presented above do Member States prefer?	AT (Comments): We prefer option 2. BE (Comments): We prefer option 2. We would, however, like to point out that, with large groups of members (and particularly those who only have deferred rights, the so-called 'dormant members'), it is practically impossible to obtain a sufficient number of responses. In view of this, we propose the following amendment: *Drafting suggestion Art. 12.3 §2: "For the purposes of the first subparagraph, point (a), the simple majority shall be calculated* ***based on the received responses where a lack of response is counted as a positive response."*** BG (Comments): BG: We prefer Option 2. DE (Comments): We reject both options because they are too restrictive. Rationale: IORPs and for the parties involved in operating them or a pension scheme (including social partners) must have the right to charge a higher majority than the Directive and to implement additional safeguards – laid down in the rules of the pension schemes (which may include the articles of association of the IORP) or in a collective agreement. Option 2 is not in line

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PCY note	Comments
	with this understanding. In fact, Option 2 sets definitive upper limits: There is no way for IORPs and for the parties involved in operating them or a pension scheme to apply higher limits. It is our understanding of the Directive that MS shall not require a higher approval threshold or otherwise impose more stringent approval requirements in national law. However, we think that IORPs should have flexibility. Drafting suggestion for Article 12: 'MS do not prevent IORPs and the parties involved in operating them to condition the transfer on stricter requirements.' DK (Comments): Denmark has previously emphasized the importance of flexibility and respecting national rules and statutes. For this reason, we support option 2, as it ensures that IORP requirements only apply where no alternative procedures are set out in the pension scheme's own rules or similar provisions. EL (Comments): EL: We appreciate the Presidency's proposal however our initial position remains, according to which the calculation of the majority should be determined by social partners. ES (Comments):

PCY note	Comments
	We would support option 2, but deleting the prohibition of requiring higher approval threshold or otherwise imposing more stringent approval requirements FI (Comments): We prefer option 1. FR (Comments): France reiterates its comments on majority rule. **It is imperative to take into account national practices.** As such we would support the rationale for option 2 but are wary of the last phrase "provided they do not require ….". This would hinder the principle of national rules being applied when needed. The trade-off between this more rigid harmonization and national flexibility does not appear to be obvious in terms of facilitating cross-border transfers. HR (Comments): We would prefer Option 1. Furthermore, the manner in which members and beneficiaries are to be informed should be specified. If Member States or IORPs have the flexibility to determine the manner of informing the members and beneficiaries concerned, this should at least be clarified in the recital. We should also consider introducing safeguards for those members that oppose to

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PCY note	Comments
	the transfer. Finally, the wording in Article 12 paragraph 1 should be more specific to make it clear that it refers only to "occupational pension scheme's liabilities, technical provisions, etc." IT (Comments): Option 2. We are in favour of the clarification that the thresholds and majority requirements for cross-border transfers are not harmonized at the EU level while remaining in line with pension rules. LT (Comments): Option 1 LU (Comments): LU is generally supportive of a more harmonized approval framework for cross-border transfers and can be flexible on the way forward. NL (Comments): We prefer option 1; Although NL sees no need for a harmonised definition of 'majority', we can accept the COM's proposal on new paragraph 3.

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PCY note	Comments
	In case the PCY would go with option 2, we find it important to add '**that the proposed alternative procedures can only be applied in so far as this is allowed in the national law of the MS concerned.**' PL (Comments): PL: We prefer option 2. PT (Comments): PT tends to favour Option 1, in an attempt to harmonise the approval framework for cross-border transfers, removing existing structural barriers, while facilitating the achievement of scale and enhance legal certainty. As previously said, we deem as adequate basing majorities on received responses and the preview of a minimum participation threshold. We also welcome the minimum harmonised timeframe introduced in Article 12(2a). Still, we believe it would be worth further densifying the concept of "members and beneficiaries concerned" for the cases of partial transfers, clarifying which portion of stakeholders are to be considered within the disclosure requirements, the approval process and associated thresholds (should only be the ones directly transferred or should the ones remaining in the original scheme be allowed to intake, considering potential impacts on them as well?).

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PCY note	Comments
	SE (Comments): National flexibility is important in order to accommodate different types of pension commitments and funding models. Sweden therefore prefers Option 2. SK (Comments): **Option 1**
Domestic Transfers – Article 12a	
Overview of the discussions	
Q18: Which of the three options presented above do Member States prefer?	AT (Comments): Due to the greater flexibility, we prefer option 3. BE (Comments): We prefer option 3, however we plead for deleting the whole article 12a, since this is not about the internal market and it relates to social and labour law. BG (Comments): BG: We prefer Option 1. DE (Comments): If at all, option 2.

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PCY note	Comments
	Actually, we do not think that there is any need for Article 12a. Member States may best solve the domestic transfer case and have done so for many years. Rules for domestic transfer do not hamper cross-border transfers. DK (Comments): Denmark supports Option 3, as it gives maximum flexibility to national authorities to adapt procedures to national circumstances. EL (Comments): EL: We prefer Option 2 as it grants flexibility to NCAs. ES (Comments): We prefer option 3, but deleting the last paragraph. This provision once again imposes a simple majority requirement, without allowing Member States to apply more reinforced (qualified) majorities regarding this matter. FI (Comments): We prefer option 2. FR (Comments): Following comments by other MS on subsidiarity at previous working parties, France supports option 2 which seems to strike a balance. HR

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PCY note	Comments
	(Comments): Between presented options, we would prefer Option 2. HU (Comments): We are open to Option 1&2. IT (Comments): In general, we do not see the need to regulate this topic under the Directive and therefore request the deletion of this article. If retained, we support option 3 because it provides more flexibility to NCAs to authorize domestic transfers. LT (Comments): Option 2 LU (Comments): LU favours strong supervisory safeguards and would prefer to stick to the initial proposal by keeping a pre-approval procedure in place for NCA's. NL (Comments): We prefer option 2, as it does the most justice to domestic transfers being a national competence, whilst also including a reference to appropriate supervisory powers being necessary.

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PCY note	Comments
	PL (Comments): PL: We choose option 1, which states that in order to reduce unnecessary burdens while maintaining supervisory safeguards, the first and third paragraphs of Article 12a should be retained and the mandatory prior consent of the competent authority in the second paragraph should be replaced by a prior notification procedure combined with an explicit power for the competent authority to prohibit a transfer if the required conditions are not met. PT (Comments): Considering the existence of frameworks in place governing these transfers, PT tends to favour going forward with either Option 2 or 3, maintaining full national discretion in this regard. SE (Comments): Sweden prefers **Option 1**, but considers that the word *"notified"* in the first paragraph should be deleted. Under Swedish law, a full substantive assessment by the competent authority requires an application procedure. Such an assessment cannot be carried out on the basis of a mere notification. The

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PCY note	Comments
	provision should therefore clarify that a transfer is initiated by an **application** to the competent authority. SK (Comments): **We prefer option 1.** Given the minimum harmonisation of the IORP II Directive, we would like to reiterate that the conditions in case of domestic transfers should respect national law – and this is the reason for choosing option 1. In the case that there is no agreement among the MS, the deletion of this article could also be an option, as we have already proposed together with some other MS.
Quantitative Requirements (art. 13-18a)	
Articles 13-14	
Q19: Which of the two options presented above do Member States prefer?	AT (Comments): So far, our position has been that a period of 10 years might be too long. As neither of the two options reflects our position, we tend to favour option 1, as it at least specifies a maximum period of 10 years. BE (Comments): We have a strong preference for option 2. BG (Comments): BG: Please refer to our comments regarding the scope in relation to personal pensions provision. As stated other provisions in the proposal which refer to

PCY note	Comments
	personal pensions, including Article 13, should also be respectively clarified in the sense that their application is optional for personal pension business provided by IORPs or deleted. DE (Comments): Both options match. EL (Comments): EL: We prefer Option 2, under the condition that the fully funding requirement for cross border activity is maintained. ES (Comments): We prefer option 2 FI (Comments): We prefer option 1. FR (Comments): Given the need for flexibility in supervision, France would like to put forward an alternative option 1+ in between options 1 and 2. We propose to keep the 10 years maximum in the level 1 text as well as the grandfathering clause but also allow for the supervisory authority to prescribe a shorter recovery period if needs be. This would both maintain safeguards of current option 1 as well as provide flexibility to cover all-cases and national specificities as planned in option 2.

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PCY note	Comments
	HR (Comments): We can accept both options, with slight preferences towards Option 2. IT (Comments): Option 2. We are fine with the 10 years' limit, but we prefer the flexibility recognized to the NCA. LT (Comments): Option 1. Open to Option 2 as well. LU (Comments): Despite neither option being fully satisfactory, as we are very much concerned by the rationale of allowing underfunding of a pension scheme, we urge to opt for option 1 and keep the recovery period framed at the very least. This answer has to be read in conjunction with Q20, where no underfunding at all should be allowed in cross-border scenarios. LV (Comments): Between the two, Option 2 (leave the maximum recovery period to Member States) is generally the stronger and more workable approach, given the reality

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PCY note	Comments
	outlined in the Presidency note. We prefer Option 2, because it respects national diversity, supports better risk management, avoids unintended financial strain and fits better with the role of Level 1 legislation. NL (Comments): We have a preference for option 2 in combination with option 1 for Q20. In our view issue 1 (Q19) and issue 2 (Q20) should be discussed together. Long recovery periods are risky for members/beneficiaries in all MS where the IORP is active. We therefore believe the recovery period in cross border IORPs is also a matter of concern to the host MS. If paragraph 3 is deleted, (option 2 in Q20), there should at least be clear restrictions on the recovery period in the home MS or requirements on the home NCA to explicitly consider the interests of host MS beneficiaries/members. Keeping paragraph 3 (option 1 in Q20) could go with more freedom on the home NCA to determine the recovery period. PL (Comments): PL: We choose option 2, which consists of removing the 10-year maximum period and introducing a provision under which Member States will be responsible for setting the maximum recovery period at national level, taking

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PCY note	Comments
	into account local practices and circumstances, in a reasoned and transparent manner. PT (Comments): PT can accept moving forward with Option 1, foreseeing a harmonised ceiling allowing for the underfunding of technical provisions. SE (Comments): Sweden opposes making the allowance of temporary underfunding mandatory rather than optional. Sweden has also stated that a ten year recovery period is excessively long. Sweden therefore reiterates that this should remain a Member State option and can support Option 2. SK (Comments): **Option 2**
Q20: Which of the two options presented above do Member States prefer?	BE (Comments): We prefer option 2. DE (Comments): We prefer option 1.

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PCY note	Comments
	EL (Comments): EL: We fully support Option 1. ES (Comments): We prefer option 1. FR (Comments): France would prefer option 1 after previous comments by other member states. HR (Comments): We would prefer Option 1. Note: With respect to Article 13, we would like to reiterate our general comment that we disagree with the application of the IORP II Directive to national PPPs. Article 13(2) of the current IORP II Directive clearly limits the calculation of technical provisions under the IORP rules exclusively to occupational pension schemes. From the proposed amendments to this provision, it now appears that an IORP which, in addition to its IORP business, also operates personal pension scheme business must include in its total technical provisions not only the obligations arising from the IORP part of its business but also the

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PCY note	Comments
	obligations arising from the personal pension scheme business (which would need to be calculated in accordance with the methodology set out in the IORP Directive). Furthermore, we suggest further specifying the term "pension schemes" in Article 13(2), as it may encompass different types of pension schemes (not only those outside the scope of IORP, but also those outside the scope of PPPs). IT (Comments): Option 1. We request that paragraph 3 be maintained, considering the need to ensure that IORPs carrying out cross-border activity are fully funded, particularly at the beginning of their cross-border activity in a new MS. LT (Comments): Option 1 LU (Comments): LU strongly supports option 1 LV (Comments):

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PCY note	Comments
	Option 1 (reintroduce a Level 1 requirement for full funding of cross-border activities) is, on balance, the more defensible choice here, despite the complexity described. We prefer Option 1, because it ensures strong, harmonised protection in cross-border situations, prevents regulatory arbitrage, builds trust between Member States and provides clarity and enforceability. A strict rule at Level 1 is more justified here than in Issue 1, precisely because cross-border activity creates EU-wide risks that national flexibility alone cannot adequately manage. NL (Comments): See also Q 19: Option 1 in combination with option 2 for Q 19.: we think the obligation to be fully funded should be continuous, not just fulfilled at the moment the cross border activity is notified. PL (Comments): PL: We choose option 2. PT (Comments): PT favour going forward with Option 2, in an attempt to avoid negatively discriminating cross-border activities.

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PCY note	Comments
	SK (Comments): **Option 2**
Article 16	
Q21: Do Member States agree with above proposal?	BE (Comments): We agree with the proposal. BG (Comments): BG: Please refer to our comments regarding the scope in relation to personal pensions provision. As stated in Q5 and 6 other provisions in the proposal which refer to personal pensions, including Article 16 (1) should also be respectively clarified in the sense that their application is optional for personal pension business provided by IORPs or deleted. DE (Comments): We agree. EL (Comments): EL: We support Presidency's proposal. ES (Comments): We agree

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PCY note	Comments
	FI (Comments): Yes, we agree. FR (Comments): No strong view on the matter, agree with proposal. HR (Comments): We agree with the proposal with respect to IORPs. However, as already stated, we do not agree with mandatory application of IORP II Directive to national personal pension products in cases where IORPs are allowed, in addition to their occupational business, to provide such products, unless a Member State has opted to apply IORP II Directive in full also to those products, in line with Article 4 of the IORP II Directive. Therefore, we do not support the application of Article 16 to national PPPs. HU (Comments): Yes we agree. LT (Comments): Agree LV

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PCY note	Comments
	(Comments): ok NL (Comments): Yes, we agree with the proposal PL (Comments): PL: We agree with the proposed record of Article 16. PT (Comments): PT supports maintaining the COM's suggested amendments to Article 16 and the correction of the typo identified by the PRES CY. SE (Comments): Sweden can support the Presidency's proposal. SK (Comments): **Yes,** we agree with the PCY´s proposal.
Articles 17 and 18	
Q22: Which of the two options presented above do Member States prefer?	AT (Comments):

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PCY note	Comments
	Due to the greater flexibility, we prefer option 2. BE (Comments): We prefer option 2. BG (Comments): BG: We support Option 2. DE (Comments): We prefer option 2. We expect that the adjusted numbers and percentages will be implemented in the Directive as soon as possible and are not postponed until the next IORP review. DK (Comments): Denmark supports Option 2. Any changes to the parameters should be based on a thorough analysis and made directly in the Level 1 text EL (Comments): EL: We fully support Option 2.

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PCY note	Comments
	ES (Comments): No preferences FI (Comments): We prefer option 2. FR (Comments): France asks for a study highlighting the need for recalibration of theses parameters. France is still keeping an open mind on whether it shall be in a review clause for level 1 text or in a level 2 text. HR (Comments): On Q22, we would prefer Option 2. On Q23, we would prefer Option 3. HU (Comments): We prefer Option 2. IT (Comments): Option 2.

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PCY note	Comments
	The possibility of amending the numbers and percentages referred to in paragraph 7 should be addressed at the level of primary legislation, i.e., through amendments to the Directive itself and not by means of a delegated act by the Commission. LT (Comments): Option 2 LU (Comments): LU supports option 2 and would be in favour of adjusting the current Level 1 parameters, should a comprehensive impact assessment demonstrate the need to do so. LV (Comments): Option 2 (remove the delegated power and introduce a structured Level 1 review clause) is the more robust approach in this case. We prefer Option 2, because it respects Member State consensus, keeps core prudential parameters in Level 1, ensures evidence-based, comprehensive reform and preserves legal certainty and legitimacy.

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PCY note	Comments
	In this case, the priority should be getting the substance right, not enabling faster adjustments, especially when the analytical groundwork is not yet in place. NL (Comments): Option 2. We have been making a case for adjustment of certain percentages in article 17. However, while we still think adjustment is necessary we recognise that this should be done carefully on the basis of an appropriate study. Therefor option 2 is the best way forward. PL (Comments): PL: We choose option 1, which consists of maintaining the current parameters defined in Articles 17 and 18 of Level 1 and adapting them through a Level 2 Commission Delegated Act, based on the proposed provisions. PT (Comments): PT is inclined to favour Option 2, considering that core prudential elements such as the calibration of solvency margins should primarily remain at Level 1.

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PCY note	Comments
	In our view, frequent or open-ended adjustment through DA could undermine stability and the minimum harmonisation character of the Directive. Their significance appears to warrant the participation of the co-legislators under an ordinary legislative process. SE (Comments): Sweden can support **Option 2.** It is important that capital requirements are regulated at level 1. SK (Comments): **Option 2**
Article 18a	AT (Comments): Q23: Due to the greater flexibility, we prefer option 2. BE (Comments): **Q23:** We do not have an opinion. DE (Comments): [Q23] We prefer option 2. We would like to point out that paragraphs 3 and 4 still need to be discussed. DK

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PCY note	Comments
	(Comments): DK comments to Q23: Denmark supports Option 3, as it provides the greatest flexibility for Member States regarding the implementation of the stress test requirements. EL (Comments): REGARDING Q23: EL: We support Option 1. ES (Comments): No preferences FI (Comments): **Q23:** We prefer option 2. FR (Comments): **ANSWER TO Q23 (also joint to Q24)** France supports the principle of the introduction of mandatory stress tests or resilience test as it is an appropriate approach to ensure the prudent management of an IORP's activities and risks. It also appears proportionate to the specific nature of IORPs' activities. It is needed for ensuring both robust prudential requirements and for consumer protection over the long term. France is also delighted that in the Com proposal

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PCY note	Comments
	it is possible to forecast more stringent data. It is in line with a logic of minimal harmonisation Due to the lack of definition of what is risk-based and the minimum nature of IST provisions in this text France feels that paragraph 5 might be counterproductive and not needed. **Yet we do feel a wider drafting of this article might be needed, both on the account of the test level of prescription and on the carve-out for risk based supervision.** On question 23 amongst presented options France supports option 1. IT (Comments): Reply to Q23: Option 2. We support, in principle, the introduction of mandatory stress tests but the requirements are too detailed and may be overly prescriptive. National 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. LT (Comments): Open to Option 2 and Option 3 LU (Comments):

PCY note	Comments
	With regards to Q23, LU supports option 2. LV (Comments): Question 23: Option 3 (keep scope and scenario types at Level 1, but leave projection period and parameters to Member States) is the most balanced solution. Prefer Option 3, because it ensures EU-wide consistency on key risks, allows technical flexibility where it matters most, addresses proportionality concerns and fits better with a principles-based ORA framework It's the most credible compromise between harmonisation and flexibility, which is exactly what this issue requires. NL (Comments): Q23: Option 2 PL (Comments): **Lack of Q23 in this questionnaire. PL comment:** We choose option 2, which gives Member States the flexibility to define all these elements at national level. PT (Comments):

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PCY note	Comments
	PT previously expressed scepticism with the introduction of a standalone obligation to carry out IST, considering it would entail an additional burden, which, based on our national experience, may be disproportionate for the materiality of the risks assumed by these entities. Nevertheless, recognizing the lack of appetite to abandon such IST, we are willing to accept Option 1 at this stage, favouring the approach to foresee specific baseline scenarios and harmonised parameters, which allows for the provision of minimum guidance for MS and enables cross-border comparability of IST results. It should also be noted that the COM's framework already provides leeway for MS to require projections under additional scenarios and throughout longer analysis periods (as intended with Options 2 and 3). SE (Comments): Sweden does not have a strong view but prefers option 2. SK (Comments): Q23: We prefer deletion of the ITS requirements.
Q24: Which of the two options presented above do Member States prefer?	AT (Comments): Due to the greater flexibility, we prefer option 1.

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PCY note	Comments
	BE (Comments): We do not have an opinion. DE (Comments): No preference for any of the options. DK (Comments): DK comments to Q24: Denmark has a preference for option 1 EL (Comments): EL: We have no specific preference. ES (Comments): No preferences FI (Comments): We prefer option 1. FR

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PCY note	Comments
	(Comments): On question 24 amongst presented options France leans towards option 2 but would suggest a more general redrafting in concertation with other MS. HR (Comments): We would prefer Option 1. HU (Comments): We prefer Option 1. IT (Comments): Reply to Q24: Option 2. LT (Comments): Option 1 LU (Comments): LU does not have a particular preference and can be flexible LV (Comments):

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PCY note	Comments
	We prefer Option 1, because it respects proportionality, avoids duplication of risk analysis, acknowledges diverse national supervisory frameworks and maintains flexibility while still ensuring adequate risk coverage. The key improvement needed is not removing the waiver, but making its conditions precise, measurable, and consistently applicable across Member States. NL (Comments): We have a strong preference for option 1. This is a very important issue for us as Dutch funds are subject to a system of risk-based regulatory own fund requirements and as such the risks referred to in this article are already part of an assessment. An obligation to carry out stress tests would not have added benefits and only lead to extra administrative burden and costs. However, as said before we are open to explore wording that emphasises that these requirements should be adequate and based on robust and similar risk based stress scenarios. PL (Comments):

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PCY note	Comments
	PL: We choose option 1, to keep the provision, but provide more details regarding the wording "... provided that such regulatory own requirements are risk-based, at least in relation to market and longevity risks." PT (Comments): PT favours Option 1, to maintain the discretion of MS in exempting the carrying of IST under the described safeguards referred in Article 18a(5), promoting proportionality in the application of this regulatory requirement. We would also welcome additional specification on the conditions governing such waiver, as proposed by the PRES CY. SE (Comments): Sweden considers the Swedish risk based capital requirement to provide sufficient protection and that additional stress testing would be disproportionate. Sweden therefore **strongly opposes** deleting the exemption. Sweden can accept the clarifications proposed under Option 1. SK (Comments): We prefer deletion of the ITS requirements.
Q25: Which of the two options presented above do Member States prefer?	AT (Comments):

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PCY note	Comments
	Due to the greater flexibility, we prefer option 1. BE (Comments): We do not have an opinion. DE (Comments): We prefer option 1 a little bit. Within the ORA, an IORP should consider stress tests and their results regardless whether or not there is an obligation in the style of Article 18a. Conversely, the Article 18a stress test is not introduced and designed specifically for the ORA. Of course, IORPs can and should consider the Article 18a stress test when they are performing the ORA. EL (Comments): EL: We prefer Option 2, in alignment with Solvency II. ES (Comments): No preferences FI (Comments): We prefer option 2. But there must be a clear definition that only applies to those IORPs where the IORP itself guarantees the biometric risk. FR

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PCY note	Comments
	(Comments): Regarding question 25, the ORA shall retain its position as a risk management tool by the IORP distinct from reporting and quantitative regulatory provisions. Therefore, France supports option 1. HR (Comments): We would prefer Option 2. However, we caution that the timelines for performing the IST (as proposed by Commission) and the ORA differ. While the IST should be performed at least every three years, the proposal provides that the ORA shall be carried out at least every three years and without delay following any significant change in the risk profile of the IORP or of the pension schemes operated by the IORP. Therefore, if the ORA is performed due to a significant change in the risk profile of the IORP or of the pension schemes operated by the IORP, it should not be mandatory to perform the IST as part of that "exceptional" ORA. HU (Comments): We prefer Option 1. IT (Comments): Option 1. In any case, the 2 articles are strictly linked. LT (Comments):

PCY note	Comments
	Option 1 LU (Comments): LU does not have a particular preference and can be flexible LV (Comments): We prefer Option 2, because we believe scenario analysis belongs inside the ORA, not next to it as a separate obligation. NL (Comments): Option 2 PL (Comments): PL: We choose option 2, to embed article 18a provisions under Own Risks Assessment provisions in Article 28. PT (Comments): PT would support Option 2, in an effort to incentivise a broad review of Article 28 (ORA) so as to also incorporate the carrying of the IST. We believe this exercise may prove useful in making sure no overlapping requirements exist with the current separation in two different Articles. SE

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PCY note	Comments
	(Comments): Sweden prefers **Option 1.** SK (Comments): We prefer deletion of the ITS requirements.
Investments	
Article 19 – Investment rules	
Q26: Which of the options above do Member States prefer?	BE (Comments): We prefer option 1. BG (Comments): BG: We support option 3. We do not support Option 1 and 2. DE (Comments): We prefer an enhanced version of option 3, namely, without any framing of rules on investment limits. This enhanced version actually matches with the discussions in the working party. As highlighted in the discussion paper, many Member States expressed strong concerns about the removal of the Member State option to lay down more detailed or quantitative investment rules, including on an individual basis and for DB schemes. It is our understanding that the removed content should be preserved, without any additional framing with respect to types of limits.

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PCY note	Comments
	Indeed, no MS has proposed additional framing, and this approach was not discussed in the working party. DK (Comments): Denmark prefers Option 1 as we support investment freedom However, we are open to compromises if national limits are important for other Member States EL (Comments): EL: We fully support Option 3. ES (Comments): We are initially inclined toward option 3, but we have to insist in our concerns regarding the implications that this shift from the traditional prudent person rule to the prudent person principle would have in relation to IORPs. We would prefer to keep the article as it is in its current wording FI (Comments): We prefer option 1. FR (Comments):

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PCY note	Comments
	France supports both the change from a prudent person rule framework to a risk-based prudent person principle as well as the introduction of congruence or "currency matching" in the discussion. Yet we do feel one should not forget that investment rules are in many MS a key entry-point for supervisory dialog and can more often than not afford more freedom to IORPS compared to some risk-based regimes. Furthermore prohibiting national investment rules would naturally lead to a necessary overhaul of solvency requirements towards prudence as Latvia mentioned As such France supports option 3 for the sake of compromise and welcomes the mirroring of the OECD recommendation. HR (Comments): Between presented options, we would prefer Option 3. Although HR generally agrees with the introduction of a risk-based prudent person principle, we are of the view that Member States should retain the discretionary right to lay down more detailed or quantitative rules where these are prudentially justified also for defined benefit schemes. Quantitative limits can serve as prudential safety nets and may enhance legal certainty and supervisory enforceability. Allowing such discretion would also respect the principle of subsidiarity and enable authorities to address specific market features or systemic risks. Provided they are proportionate such measures can complement, rather than undermine the core prudent person principle. HU (Comments):

PCY note	Comments
	We prefer Option 3. IT (Comments): Option 3. LT (Comments): Option 3 LU (Comments): Option 1: LU remains supportive of the COM proposal to allow IORPs the necessary flexibility under the prudent person principle to make investment decisions that fit their risk profile LV (Comments): Option 3 (retain Member State powers to set investment limits, with clear qualitative constraints) is the most balanced and durable solution. We prefer Option 3, because it preserves Member State flexibility where it is genuinely needed, embeds strong safeguards against harmful investment limits, aligns with international standards (OECD), and maintains a balanced, risk-based approach. Option 3 avoids both extremes: it neither over-constrains supervisors nor over-liberalises investment rules, making it the most credible compromise.

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PCY note	Comments
	NL (Comments): Option 1, we support the clarification provided by de Commission and feel that this proposal is one of the key elements of the proposal. PL (Comments): PL: We choose option 3. We support the autonomy of EU Member States to introduce investment limits at the national level. PT (Comments): PT is in favour of moving forward with Option 3, considering our previously expressed disagreement with the approach to only impose more stringent or individualised national investment rules to cases where the risk is borne by members and beneficiaries. In our view, this restriction does not adequately account for the cases in which the same pension fund manages various schemes (a common practice in PT), resulting in potential unequal treatment and unlevel playing field between schemes of the same nature managed within a single purpose fund.

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PCY note	Comments
	As reiterated before, national leeway granted under Article 19(6) should not be conditioned by the bearing of investment risk, but rather when it is prudently justified and at the discretion of competent authorities, without prejudice to a full adherence to adherence to the prudent person principle. SE (Comments): Sweden has not made use of the possibility to introduce quantitative investment limits. While we, as a general principle, considers it important to allow for national adaptations and therefore initially supported option 3, we can, in light of the discussions held at the CWP meeting on 30 April, and in particular the points raised by the Commission, accept the removal of the possibility for such national adaptations in this regard. Sweden can therefore support Option 1. SK (Comments): **Option 3**
Q27: Which of the options above do Member States prefer?	BE (Comments): We prefer option 3. DE (Comments): We prefer option 3.

PCY note	Comments
	DK (Comments): Denmark supports option 4, as it strikes a balance between flexibility, administrative burdens, and sustainability. This option allows sustainability considerations to be included without creating unnecessary administrative or practical challenges for pension institutions. EL (Comments): EL: We prefer Option 4. We would also like to stress that in para. 1d(b) of art. 19, there is a reference to art. 2(17) of SFDR, which under the SFDR Review is proposed by the Commission to be deleted. ES (Comments): We prefer option 3 FI (Comments): We prefer option 3. Finnish IORPs can’t ask insured persons about their sustainability preferences. . In DB Funds, the shareholders are liable if the investment income is insufficient. In Finland, pensions are not pension accounts and the insured or pensioners don’t decide on the investment of their own pension assets. FR

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PCY note	Comments
	(Comments): France does not have a strong view and would support option 4 while asking for further elements on the interaction with the review of SFRD. HR (Comments): We would support Option 4. HU (Comments): We prefer Option 3. IT (Comments): Option 3. In our view 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 the fact that the IORP invests the assets collectively on behalf of all members. LT (Comments): Option 3 LU (Comments): LU considers option 4 as a an acceptable compromise solution. LV

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PCY note	Comments
	(Comments): Option 4 (keep the provision but soften and clarify it) is the most balanced and workable solution. We prefer Option 4, because it keeps sustainability preferences relevant but non-binding, reflects the collective nature of pension schemes, minimises administrative burden and legal risk and aligns with broader EU policy without over-prescription. Option 4 turns a potentially rigid and problematic obligation into a practical, proportionate, and usable principle. NL (Comments): We are in favour of reflecting where possible the sustainability preferences of members and beneficiaries and would prefer to keep 1c and 1d in the proposal. We can agree with the PCY suggestions for 1c. For 1d it should be better reflected in the text that in case of a collective scheme individual preferences cannot be taken into account. It will always be the compromise of the collective. Below a drafting suggestion for 1d: 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

PCY note	Comments
	integrated into his or her investment **where the IORP's investment strategy allows for individual investment options**. PL (Comments): PL: We choose option 3. We maintain our position that the sole purpose of IORP investment activities should be to generate the highest possible investment results for pension plan participants while maintaining the appropriate security of these investments. PT (Comments): PT is willing to accept Option 4, considering it a satisfactory compromise that balances flexibility with the possibility for the consideration of enhanced information about the members and beneficiaries in the managing of the schemes. SE (Comments): Sweden prefers Option 3. Option 4 does not address the underlying problem that it is, in practice, often virtually impossible for IORPs to take individual sustainability preferences into account, for example due to large numbers of members or beneficiaries or limited or no direct contact with them. If Option 4 were nevertheless chosen, it

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PCY note	Comments
	would be essential to ensure that the waiver ("to gauge") clearly covers such situations. SK (Comments): **Option 3** We can also relate to option 4, if this approach would be the only way forward that would help to close the matter.
Article 30 – SIPP	
Q28: Would MS agree with PCY's suggestions?	BE (Comments): We agree with the suggested amendments, but propose some further drafting to make clear that a separate SIPP is not needed for each pension scheme, but for each investment policy. Drafting suggestion Art. 30 §5: "*The statement shall be adopted by the administrative, management or supervisory body of the IORP. Where an IORP manages different pension schemes, that are subject to different investment policies, separate statements of investment policy shall be prepared for each* ***different investment policy***." BG (Comments): BG: We agree. DE (Comments):

PCY note	Comments
	We agree. However, we recommend to delete the last paragraph of Article 30. We do not consider the requirement of the last paragraph to be part of the statement of investment policy principles. Information about options should be subject to the information requirements of Title IV. DK (Comments): Denmark supports the adjustments. EL (Comments): EL: We appreciate the effort by the PCY regarding the proposed amendments of article 30, however we consider that investment objectives of each pension scheme should be included in the investment policy rather than in the public Statement of the Investment Policy Principles. The latter should contain only the principles. Similarly, information on how more complex asset classes will be used, should be included in the investment policy and not in the Statement. Moreover, the wording in the fifth subparagraph of article 30 should be amended to better reflect the IORPs' obligation to draw and maintain a single common Statement of Investment Policy Principles, alongside separate investment policies for each pension scheme. In addition, we consider that any provision of information to members and beneficiaries should relate to the Union PBS of art. 37(2).

PCY note	Comments
	ES (Comments): We agree in principle FI (Comments): SIPP is useful only in DC Funds. FR (Comments): France agrees with the Presidency's suggestion. HR (Comments): We agree with PCY's suggestions. HU (Comments): Yes we agree. IT (Comments): Yes. LT (Comments): Agree LU

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PCY note	Comments
	(Comments): LU agrees LV (Comments): Yes. NL (Comments): Yes, we agree PL (Comments): PL: We agree with the PCY's suggestions. PT (Comments): PT can agree with the way forward suggested by the PRES CY, most notably the adjustment allowing for the drafting of a single statement for multiple schemes subject to the same investment policy. SE (Comments): Sweden can support the proposal. It should also be clarified that there is no requirement to draw up a statement "for each pension scheme". SK (Comments):

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PCY note	Comments
	Yes, we can agree with the PCY´s proposal.
Appointment of a depositary, Safekeeping of Assets and Depositary Liability and Oversight Duties – Articles 33, 34 and 35	
Q29: Would MS agree with PCY's suggestions on art. 21,22, 23(3), 28, 31 and 33?	BE (Comments): In general, we agree with the proposed changes. However, we have the following important comments: (1) With regard to Art. 21 and 22 (general governance requirements and requirements for fit and proper management): The PCY paper clarifies that "*Where possible the proposed compromises try to bring consistency and always refer to Administrative, Management or Supervisory Body. The term "persons who effectively run the IORP" has a wider scope, as it includes, apart from the members of the AMSB, members of the lORP's senior management. The latter can be understood as persons who are responsible for high level decision making within the organisation.*" This interpretation is not consistent with SII where it results from Art. 257 that members of the AMSB are the "*persons who effectively run*": ***"Article 257 Administrative, management or supervisory body of insurance holding companies and mixed financial holding companies*** *Member States shall require that all persons who effectively run the insurance holding company or the mixed financial holding company are fit and proper to perform their duties.* *Article 42 shall apply mutatis mutandis."* Furthermore, from Art. 42 SII results that there are only 2 categories for which Fit & Proper requirements apply: 1° persons who effectively run (= AMSB);

PCY note	Comments
	and 2° persons who have other key functions. There are no F&P requirements for senior management. To avoid inconsistencies, the term "*persons who effectively run the IORP*" should be replaced everywhere by the AMSB, or deleted where the respective article already mentions the AMSB. (2) We note that, after the proposed amendments (in particular on the assumption mentioned in the PCY paper that the AMSB comprises the persons who effectively run the IORP – we also refer here to our comment above that, in our view, the AMSB and the persons who effectively run the IORP are one and the same), there seems to be an inconsistency between Art. 22, 1° (a) point (i) (requirement to be fit is checked on an individual basis) and point (ii) (requirement to be fit is checked on a collective basis): in our option the requirement to be fit for the AMSB-members is indeed checked on a collective basis. This implies that the current point (i) is to be deleted. (3) With regard to Art. 23 on the remuneration policy: We propose adding the words "*if necessary*" between "*IORPs*" and "*to establish*". 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. Moreover, taken into account our response to Q8, we would reintroduce the reference to size. Drafting suggestion Art. 23.1: "*Member States shall require IORPs,* ***if necessary,*** *to establish and apply a sound remuneration policy for all those persons who effectively run the IORP, carry out key functions and other categories of staff whose professional activities have a material impact on the risk profile of the IORP in a manner that is proportionate to their* ***size and***

PCY note	Comments
	internal organisation, as well as to the size, *nature, scale and complexity of their activities*." BG (Comments): BG: In general, we agree with PCY suggestions. However, we suggest the following amendments: **Article 23** - item i) of Art. 23, par. 3 should also be removed, as the principle of equal pay is horizontally regulated in Directive 2006/54/EC and is not regulated at sectoral level in financial services legal acts; **Article 28** – we suggest the proposal for new subparagraph in par.1 to be deleted. It requires that "IORPs establish a written policy for own-risk assessment". As the own-risk assessment is part of the risk management, it could be covered also in the risk management rules. We see no added value from preparing an extra stand-alone document on this matter. On the contrary, it creates an additional burden on IORPs and complicates compliance assessment. **Article 33** - the appointment of depositary should be at IORP level and not at scheme level. At present many IORPs managing occupational schemes of different employers have a single custodian for the whole IORP and not per scheme. The appointment of a depositary at scheme level may be necessary where the schemes managed have material differences (investments, risks covered, et c) but there are also providers that offer ready pure DC products and social partners are setting only basic parameters (contribution amount, waiting period, etc.). In these cases, there is no need to appoint a custodian per scheme, this would make the product more expensive and less attractive both for IORPs and small sponsoring undertakings with no clear added value. We suggest to revert to the current provision in par.1 and 2: "to appoint one or more depositaries for the safe-keeping of assets and oversight duties in accordance with Articles 34 and 35" The references in all articles of Chapter 3 (Articles 33(3), 34(1) and 35(1)) to Chapter IV of UCITS directive in our view lead to contradictions and overlaps

PCY note	Comments
	between the provisions of Chapter IV of UCITS and Chapter 3 of IORP directive. If some provisions of Chapter IV of UCITS is necessary to be applied for depositaries of IORPs than the relevant provisions should be directly inserted in the IORP directive and not to use a reference. DE (Comments): We agree and explicitly prefer the deletion of point (k) in Article 28 (2) instead of any alternative text. <u>Drafting suggestion for Article 21 paragraph 8 (italics: PCY drafting):</u> '8. […] *The first and second subparagraph shall not apply where members of the management or supervisory board are elected by the members* **<u>and beneficiaries</u>** *of the IORPs or by the representatives of social partners who have set up the IORP*.' DK (Comments): Denmark takes a scrutiny reservation on this matter before giving our final position. We need to examine the matter in more detail to ensure that all relevant aspects are properly considered. For Denmark, it is important to strike the right balance between sound governance and administrative burdens EL (Comments): EL: Regarding Art. 21: We overall agree with Presidency's suggestions. However, we are still skeptical about the removal of the option for small IORPs to be run by a single person.

PCY note	Comments
	Regarding Art. 22: We agree with Presidency's suggestions. Regarding Art. 23(3), 25(2), 26: We agree with Presidency's suggestions. Regarding Art. 28: We agree in principle with Presidency's suggestions, and we support the deletion of point (k) in par. 2, as the assessment of economies of scale appears to be unrelated to the own-risk assessment obligation. However, we suggest the following wording amendment, for reasons of clarity, in paragraph 2 point (i): " (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. ***The risk tolerance limits of members and beneficiaries may be ~~gathered~~ taken into account at collective level ~~and expressed by the representatives of members and beneficiaries~~***";" Regarding Art. 31: We agree with Presidency's suggestions. Regarding Art. 33: We agree with Presidency's suggestions. ES (Comments): With regard to Articles 25, 26 and 28, we request that the size criterion be reinstated in those paragraphs where it has been removed Regarding article 31, and although the Presidency explains that "the removal of the possibility in Article 31(1) does not prevent competent authorities from

PCY note	Comments
	opposing particular outsourcing arrangements on an individual basis, where this is justified on prudential grounds[EL13.1]", we don´t think this is enough to ensure the possibility of prohibiting the outsourcing of a specific function, as is the case in Spain with the oversight of the depositary, and therefore we do not agree with the wording of this article. The possibility of regulating exceptions, not only on a case-by-case basis but also for functions at a general level, should be reserved to national regulation FI (Comments): Yes, we agree. FR (Comments): France is still analysing the proposition on the collection of risk tolerance limits in article 28, could the Presidency or Commission provide more rational on this phrase. France generally welcomes the principle of Presidency's suggestions. HR (Comments): Article 21 - System of Governance requirements: We agree with PCY's suggestions. We would however welcome clarification that MS can in their national laws prescribe requirements and tasks of the compliance function that are deleted from the proposal (paragraph 4a.). Article 22 - Fit and Proper requirements - We agree with PCY's suggestions

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PCY note	Comments
	Article 23(3), 25(2), 26, 28 - Remuneration policy, Risk management, Internal audit system, Own risk assessment - We agree with PCY's suggestions and regarding Article 28. paragraph 2 letter k) we prefer proposed alternative. Article 31 – Outsourcing - We agree with PCY's suggestions. HU (Comments): Yes we agree. IT (Comments): Yes. We consider that the PCY's has improved the wording of the above-mentioned Articles. As regards Article 21, paragraph 6, we suggest not accepting the COM proposal and leaving the text as it currently is. LT (Comments): Agree LU (Comments): LU is overall very positive regarding the proposed changes. In particular, we welcome the amendments to Article 21, which introduce a more principles-based application of the compliance function, thereby enhancing

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PCY note	Comments
	proportionality. With respect to Article 28, LU supports the deletion of point (k). LU also approves the proposed approach concerning the appointment of a depositary. The wording is sufficiently flexible to allow for the possibility to appoint the same depositary at the IORP level. LV (Comments): Ok. With regard to the "compliance" function, by removing the explanation of its role and not clearly stating that such a function must be established, too broad a scope for interpretation is left. If Article 21(4) is supplemented with "internal control framework including compliance," then the tasks of this control function should be clarified. NL (Comments): On article 21 (4) : we see added benefit to including a separate compliance function, so we would prefer maintaining this in the proposal. On article 21 (8): we would prefer to keep the deleted text in the second subparagraph. We agree with the additions in the para 8 and are especially supportive of the addition in the third subparagraph.

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PCY note	Comments
	On articles 22, 23(3), 31: we agree with the PCY proposals. On article 28 we prefer the alternative wording from the PCY for (k). With regard to article 33 on depositaries: we cannot agree to either option. Although we appreciate the PCY proposal to include a grandfathering clause the proposed wording would be too static and does not sufficiently cater for the arrangements that Dutch pension funds already have in place. We would strongly prefer adding a member state option to para 1, to allow for other arrangements with comparable safeguard: '***Member States may decide not to apply this paragraph for IORPs that provide a level of protection for members and beneficiaries comparable to those laid down in the first subparagraph'.*** PL (Comments): PL: We maintain our previous position that the sole purpose of statutory bodies should be to maximize management efficiency. PT

PCY note	Comments
	(Comments): At this stage, PT can agree with the PRES CY proposals for the mentioned articles. Regarding Article 28(2)(k), we would prefer to go forward with its deletion, as analysis on economies of scale and other efficiency options appear to go beyond the purpose of the ORA. SE (Comments): Regarding Article 21.8, the provision raises corporate governance concerns, as the owners appoint the board, which in turn appoints the CEO. While the Presidency compromise partially addresses the situation in collectively agreed occupational pension schemes, similar governance structures exist also in individual occupational pensions, where the board is likewise appointed by the owners or the general meeting rather than by the IORP itself. Furthermore, to the best of our knowledge, comparable requirements are not found in other sectoral financial services legislation. Sweden therefore sees no justification for introducing such governance-specific provisions exclusively for the occupational pensions sector.

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PCY note	Comments
	Sweden can support the compromise proposals regarding Articles, 22, 23(3), 28 (with a preference for deleting point (k)), and 31. Regarding Article 33, Sweden welcomes the introduction of an option for Member States not to apply the requirement to appoint a depositary. However, this option should not be limited to situations where a comparable level of protection is achieved through other safekeeping measures. In Sweden, the main justification for an exemption is that occupational pension undertakings own the managed assets, meaning there is no need for separation. In addition, Swedish law provides for liability coverage and preferential rights. It is necessary to ensure that the proposed exemption also covers this national model. We would strongly prefer a member state option to allow for other arrangements with comparable safeguard along the following lines: '***Member States may decide not to apply this paragraph for IORPs that provide a level of protection for members and beneficiaries comparable to those laid down in the first subparagraph."*** SK (Comments): **We can agree with the PCY´s suggestions on art. 21, 22, 23 (3) and 33.**

PCY note	Comments
	Comments on Art. 28 We prefer deleting of letter k) in paragraph 2. We also express reservations to the application of requirement in the second subparagraph in paragraph 2 in pension schemes where the IORP manages the assets of tens to hundreds of thousands of members and beneficiaries. Obtaining information on risk tolerance or loss-bearing capacity for individual members and beneficiaries (its evaluation, updating, and storage) represents an unjustified administrative and financial burden for the IORP. **Comments on Art. 31** The competence to decide which activities of the IORP will be allowed to outsource should be left to the respective MS, therefore we ask for the previous wording to be reinserted. The regulation that would allow any activity of the IORP to be outsourced to another entity is disproportionate, too extensive and may increase the risks to which the assets of the clients under management will be exposed. The risks that the outsourcing of certain activities would entail may outweigh the benefits of delegating them to another entity (for example, internal audit should be among the key functions that should be carried out by IORP and portfolio management should only be able to be outsource to selected authorised entities). Excessive freedom in this area may lead to complex supply chains, which may weaken the supervision of the IORP's activities by NCAs and thus jeopardise the consumer of protection.
Information to be given to prospective members, members and beneficiaries, Articles 36 -44	
Disclosures where IORPs provide personal pension products other than PEPP – Article 36	
Q30: Which of the above options do MS prefer?	BE

PCY note	Comments
	(Comments): We prefer option 2. DE (Comments): No preference for any of the options. We welcome that both options include the deletion of the EIOPA mandate for guidelines. DK (Comments): Denmark prefers Option 2, as it allows more flexibility for Member States to set appropriate information requirements for personal pension products. EL (Comments): EL: We have no preference. ES (Comments): Once again, we would like to warn about the risk involved in including IORPs that are authorized to provide personal products in the proposal, reiterating the concern that this could blur the line between Pillar II and Pillar III. In any case, we prefer option 2 FI (Comments):

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PCY note	Comments
	We prefer option 2. FR (Comments): France supports the harmonisation at member state level of disclosure on personal pension products across the different products and entities and institutions managing them. **France welcomes option 2.** HR (Comments): We strongly support Option 2. HU (Comments): We prefer option 2. IT (Comments): Option 2. LT (Comments): Option 2 LU (Comments): Currently, LU law does not allow IORPs to sell pillar 3 products and therefore we can show flexibility on both options. LV

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PCY note	Comments
	(Comments): We support option 2. NL (Comments): Option 2 PL (Comments): PL: We maintain our position on minimum harmonization of the solutions contained in the IORP Directive. All regulations relating to pension products should remain the responsibility of EU Member States. EIOPA's mandate should also be limited in this regard. PT (Comments): PT does not see constrains in going forward with Option 1 and maintain the COM's original draft in this regard as equivalence to information disclosures applicable for national PPPs appears to be already foreseen in Article 36(1). SE (Comments): In light of the fact that disclosure requirements in Sweden are to a large extent determined by the social partners, Sweden is open to Option 2. SK (Comments):

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PCY note	Comments
	Option 2 According to COM clarifications Articles 7, 13, 16, 36, 47, 50 of IORP Directive (as the minimum requirements) should be taken into consideration in national laws also for the personal pension business. **As stated above (Q6/Q9), it is essential to keep the minimum harmonisation of the legislative act. Therefore we suggest deletion of "personal pension provisions" from the provisions.** **IORP directive should regulate occupational pension schemes only and its scope should not be extended to personal pension products which are regulated at national level.** As an alternative we can accept that the specific definitions and provisions will only apply when MS expand the application of the IORP Directive to personal retirement products.
Pension Tracking Systems – Article 37a	
Q31: Which of the above options do MS prefer?	AT (Comments): We prefer option 3. BE (Comments): We prefer option 3. BG (Comments): BG: We strongly support option 3. DE

PCY note	Comments
	(Comments): We prefer option 3. DK (Comments): Denmark supports Option 3. As mentioned in an earlier stage of this file, we believe pension tracking systems should remain a national matter and not be regulated at EU level. EL (Comments): EL: We have no preference. ES (Comments): We prefer option 3 FI (Comments): We prefer option 3. This is very important issue. FR (Comments): **France warmly welcomes this article. However we feel a delegated act is not needed and we oppose the mandate to the Commission therefore France supports option 1.** Indeed, France's pension tracking system, already benefits from the sharing of information by IORPs – a system that is effective, functional and does not present any difficulties a priori.

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PCY note	Comments
	HR (Comments): We would prefer Option 3, but could also accept Option 2. HU (Comments): We prefer Option 3. IT (Comments): Option 3. LT (Comments): Option 3 LU (Comments): In line with our position on PEPP, LU strongly supports option 3. We reiterate our position that the recommendation in itself deals with the PTS and is an integral part of the whole Pension Package. LV (Comments): We prefer option 3. NL

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PCY note	Comments
	(Comments): Option 2 PL (Comments): PL: We choose option 3. We maintain our position that there is no need to regulate Pension Tracking Systems at the EU level. PT (Comments): PT fully favours Option 3. The set up and design of PTS shall remain at the discretion of MS in accordance with the purpose inherent to the COM's published recommendations. Moreover, and as previously reiterated, provisions referring to the optional application of these COM recommendations or that condition the adoption of those in any regard, besides the lack of added value, in our view, go beyond the regulatory regime governing the provision of occupational pension schemes. SE (Comments): Sweden considers pension tracking systems to be a matter of national competence and takes the view that the Directive should not regulate such systems. Sweden therefore has a strong preference for Option 3. SK

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PCY note	Comments
	(Comments): **Option 3**
Pension Benefit Statement (PBS) and Supplementary Information – Articles 38 – 39	
General Provisions - Article 38	
Q32: Which of the above options do MS prefer?	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. Therefore, we prefer option 4. BE (Comments): We prefer option 4. There is only a small % of workers that are mobile across countries. There is therefore no need for a EU harmonised PBS. It is far more important to ensure national harmonisation between providers and products. BG (Comments): BG: We prefer Option 4. DE (Comments): We prefer option 4.

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PCY note	Comments
	DK (Comments): Denmark prefers Option 4 to reduce burdens without a clear benefit to consumers. EL (Comments): EL: We support Option 2A, which provides Member States flexibility to cover national specificities. ES (Comments): We prefer option 3 or 4 FI (Comments): We prefer option 4. We will make the necessary changes in PBS accordance with model 3, and no EU-level regulation is needed. FR (Comments): France is opposed to EIOPA RTS, for simplification purposes. It is not needed as Article 39 is already sufficiently prescriptive for a minimum harmonisation directive. **Paragraph 6 of Article 38 shall therefore be deleted, France supports option 4.** HR (Comments):

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PCY note	Comments
	We would prefer Option 2b. HU (Comments): We prefer Option 4. IT (Comments): Option 4 is the preferable one. The second best is option 2B. We do not support the possibility of having an EU standardised format for PBS justified for the very few cases of cross-border adhesions. LT (Comments): Option 4 LU (Comments): In previous comments, LU expressed some sympathy for the idea of introducing a certain degree of standardization. However, we also understand the concerns raised by other Member States. As regards Option 2A, LU notes that having a single format for all type of activities be it on a crossborder basis or not, would be necessary to achieve genuine harmonisation. Concerning Option 2B, LU observes that the coexistence of national PBS and European PBS for cross-border operating IORPs would add further complexity.

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PCY note	Comments
	LV (Comments): We prefer option 4. NL (Comments): We very much welcome option 3, and do not oppose to option 4 PL (Comments): PL: We choose option 4. We do not see a need for convergence and standardization of disclosure obligations regarding pension products, including the Benefit Statement. PT (Comments): PT supports Option 2, version 2A, viewing as positively the effort to move towards a harmonised PBS to enhance comparability across schemes and MS, while also promoting competitiveness and a level playing field between IORPs. In an increasingly mobile labour force within the EU, we believe it is important that workers, potentially enrolled in various occupational schemes, be able to satisfactorily confront benefits received, irrespective of the MS in which the IORPs are headquartered.

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PCY note	Comments
	In our view, Option 2, version 2A, leaves room to account for national specificities that cannot be captured in the baseline core elements of the PBS through the proposed annex, without the need for multiple national standardised templates, as suggested in Option 3, that ultimately maintain the current setting of EU level fragmentation. Moreover, differentiating the PBS based on the provision of cross-border activities also appears to be undesirable and may serve as a deterrent to start or cease such ventures. SE (Comments): In Sweden, pension benefit statements are designed by the social partners and are tailored to national circumstances. Sweden has therefore strongly opposed the introduction of a standardised EU-level format for pension benefit statements and supports option 4. SK (Comments): **Option 4**
Pension Benefit Statement - Article 39	
Q33: Which of the above options do MS prefer?	AT (Comments): In the interest of transparency, we prefer option 1. BE

PCY note	Comments
	(Comments): We prefer option 2. We would, however, like to point out that we are of the opinion that it is recommended to keep the text of the current Directive for point (g) of Art. 39.1. The pension sector has very recently made considerable efforts and incurred significant costs (partly due to the necessary IT changes) to implement the new transparency legislation (implementation of IORP II). It will be extremely costly and time-consuming to ask the sector to implement further changes at such short notice. In view of this, we also request that, for all changes to transparency documents, the sector be given ample time to implement these changes. DE (Comments): We prefer option 2 with additional comments. The determination of the costs and the breakdown ("cost classes") must not require disproportionate effort, that is, no burdensome analysis of cost structures and cost levels. Administrative burden could be reduced further by applying the provision only to schemes where members and beneficiaries bear material investment risk. Drafting suggestion for Article 39 paragraph 1 point (g): '(g) where members bear **material** investment risk ~~or can take investment decisions~~ **without the employer providing separate buffers to smooth the returns**, information on the costs imposed and their impact, including:

PCY note	Comments
	(i) a breakdown of ~~all~~ **the** 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; (ii) ...' Reason: Burden reduction and simplification. The costs that at least have to be taken into account are already specified in the provision. For a definition of "material investment risk", see below. Drafting suggestion for Article 39 paragraph 1 point (i) and (j): '(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; (j) 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~~.' Accordingly, set a five years horizon in Artikel 37 (1)(g) and Article 41 (2)(a) as well. Drafting suggestion for a definition of 'material risk': **"Members bear material investment risk if the scheme does not provide for a minimum capital at the beginning of the payout phase or if a provided minimum capital is lower than 80 percent of the contributions paid by the sponsoring undertaking and the member. Beneficiaries bear material investment risk if there is no essential minimum pay-out."**

PCY note	Comments
	DK (Comments): Denmark prefers Option 2 to reduce risk of information overload. Members will receive sufficient information on costs anyway. EL (Comments): EL: We have no specific preference. However, we suggest that we reassess the content of the PBS, as some pieces of information are not always relevant and should therefore be provided only when applicable. More specifically, the disclaimer in Article 39 par. 1 point (d) is not relevant for DB schemes. Also, the information in par. 1 point (g) should be provided only when the members bear all or part of the costs. Moreover, the information in the second subparagraph of par. 1, introduced with this proposal, should be provided when members bear risks and it is not relevant e.g. for DB schemes.). ES (Comments): We prefer option 1 to option 2, but we still believe the article should be left as it is in its current wording. we believe that the level of detail of the information intended for the PBS is excessive and could increase both costs and

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PCY note	Comments
	complexity for IORPs as well as for members and beneficiaries, to the detriment of the desired transparency FI (Comments): We prefer option 2. FR (Comments): Could the Presidency or Com provide clarifications on the consistency with the IDD, MiFID and PRIIPS text ? Beyond these clarifications, **France favours option 2 which is more appropriate for understanding of the PBS by beneficiaries.** HR (Comments): We would prefer Option 2. HU (Comments): We prefer Option 2. IT (Comments): Option 2. On this regard, we recognize that information in relation to costs is important for (DC) members, but the excessive breakdown suggested could produce a counterproductive effect and it is too burdensome for IORPs. For the same reasons, we do not support providing information on the costs borne since

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PCY note	Comments
	the member joined the scheme, as such figures could be misleading and inappropriate. Finally, for DC pension funds organized by investment options, we consider essential that costs (as well as all other information, including past performance) are provided at investment options' level and not at the level of the pension scheme. LT (Comments): Option 2 LU (Comments): LU supports Option 2, we welcome the simplifications to reduce information overload. LV (Comments): We can partly support option 2, but at least one metric of reflecting compound costs should be kept. NL (Comments): Option 2, with the caveat that we need to see the actual wording before we can agree. Additionally, we feel the wording of the article would benefit from a

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PCY note	Comments
	clarification: "where members bear investment risk, information on the past performance of the pension scheme or, where applicable, the investment selection made **for or by the relevant group of members**, 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" PL (Comments): PL: We prefer option 2. There is no need to increase the information burden that would increase the costs of managing occupational pension funds, especially when IORPs operate on a non-commercial basis, as is the case in Poland. PT (Comments): PT would prefer sticking with Option 1, not going as far as deleting the data points highlighted under Option 2 and to preserve a baseline alignment with related provisions being discussed under the revision of the PEPP Regulation. As previously expressed, enhanced granularity of the presented information on costs contributes towards greater transparency and the saver's understandability.

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PCY note	Comments
	Nevertheless, the COM' drafting warrants specific improvements to clearly specify disclosures on a relative basis needs to be based on the total contributions made since the members' onboarding, which shall include amounts transferred from other schemes that remain invested and have not yet been subject to benefit payments. Moreover, and regarding the topic of future performance, the presentation of underlying assumptions used by the IORP needs to be underscored in Article 39(1)(g)(ii). Please consider the following suggestions: *"Article 39* *1. (...)* *(...)* *g) where members bear investment risk or can take investment decisions, information on the costs imposed and their impact, including:* *(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;*

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PCY note	Comments
	*(ii) an estimation of the impact of the costs on the final capital accumulated**, and the assumptions made to produce such estimation***; *(...)* *For the purposes of point (g)(i~~i~~), the costs shall be shown at least in monetary terms~~ and as a percentage of contributions~~ over the previous 12 months and **as a percentage of total contributions** since the member joined the scheme**, which shall include amounts transferred from other schemes that remain invested and have not yet been subject to benefit payments~~, respectively~~**.* *(...)"* SE (Comments): Sweden supports option 2. SK (Comments): **Leaning towards option 2** We are still concerned about the level of details of information required and the resulting information overload – requirements should be streamlined, simplified, adding no administrative burden.
Underperformance and disclosures to members and beneficiaries – Article 41a	
Q34: Which of the above options do MS prefer?	AT (Comments):

PCY note	Comments
	From our point of view underperformance management is important. Option 2 is very interesting, and it might be an appropriate way forward. BE (Comments): We prefer option 3. BG (Comments): BG: We support Option 3. We consider the introduction of the concept of value for money (VfM) in the IORP directive to be premature at this stage. Agreement on the Retail investment strategy has only been achieved. There is no proof yet of its effectiveness as there is no practical experience. Thus we would suggest to include this in the review clause. This approach would allow for sufficient time to see how the supervisory benchmarks that would be developed would be applied in practice. In addition, we would like to note that currently in Bulgaria there is 1 active IORP. Moreover, this provision is unclear and leaves essential elements of level 1 text to be defined with guidelines. DE (Comments): We prefer option 3. DK (Comments): Denmark supports option 2. EL (Comments):

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PCY note	Comments
	EL: We support Option 2, adding a necessary clarification in the wording that it's about **investment** underperformance. ES (Comments): We prefer option 3 FI (Comments): We prefer option 3. FR (Comments): **France supports option 3.** France is extremely cautious about this requirement, which appears to be entirely unprecedented in the context of financial regulation. these benchmarks and their implications seem to differ significantly from what is set out in the RIS, notably in article 25. In the RIS, this is a monitoring tool designed to delist certain funds or products. No specific public information is provided. Furthermore, these benchmarks and their implications appear to be entirely new compared with other applicable legislation. It seems strange to diverge from the equilibrium of past texts. HR (Comments): We would prefer Option 2. IT (Comments):

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PCY note	Comments
	Option 3. We prefer this option because, even with the revision proposed by the Presidency, we are still concerned about Article 41a. The practical application remains difficult. In general, the introduction of an obligation for pension funds to notify members of underperformance would impose a significant burden on pension funds and is not beneficial for members. This new requirement might have several negative implications, such as: - it is counterproductive for members by shifting their attention toward short-term performance assessments; - the investments of IORPs may become less efficient and more oriented towards short-term results. For these reasons we ask for the **deletion** of Article 41a. As an alternative to Article 41a, we propose to introduce in the PBS the obligation to accompany the disclosure on past performance (net of costs) with the disclosure on the results of the benchmark chosen by the IORP in its investments strategy and require the disclosure of costs for each investment option. LT (Comments): Option 3 LU

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PCY note	Comments
	(Comments): LU strongly supports option 3. The requirement to disclose an underperformance risks to bring more confusion for members and beneficiaries without only a limited benefit. LV (Comments): We support the direction of option 2. NL (Comments): Option 3. We see the merit of the provision and think that significant improvements have been made by the presidency based on the clarification from the Commission. However, we do not agree with the role of the competent authority as foreseen, because the performance of the pension fund is in our view primarily the responsibility of the pension fund, not of the NCA. The relevant key function holder and/or the social partners can steer the IORP to a solution or inform the NCA when appropriate or needed. In the Netherlands, employers of sectorial pension funds are able to leave the pension fund in the situation of significant underperformance. We would like to keep this correction mechanism. Therefore, we are not able to support option 2. PL

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PCY note	Comments
	(Comments): PL: We choose option 3. We are sceptical of solutions that increase the costs of managing IORPs. PT (Comments): PT would prefer to remove Article 41a in its entirety and choose Option 3. Despite recognizing that Option 2 better mirrors the COM expressed intent on having the IORPs select their appropriate benchmarks, rather than the respective CA, the revised draft still retains an inherently subjective notion of underperformance. The contemplated notification obligations triggered by deviations from the predefined benchmarks will only take place if the specific IORP or CA labels such deviations as significant, leaving room for severe fragmentation across MS and even at the national level. This calls into question the value added of previewing the implementation of a regime under these terms. Therefore, in our view, the pertinence in going forward with Option 2 depends on the setting of harmonised standards ideally foreseen in the text to mitigate the subjectivity concerns referred. SE (Comments): Sweden strongly supports option 3.

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PCY note	Comments
	SK (Comments): **Option 3**
Information to be given to beneficiaries during the pay-out phase - Article 43	
Q35: Would MS agree with PCY's suggestion on articles 41,42 and 43?	BE (Comments): We agree with the suggested amendments in Art. 41 but do not understand the part "**or** can take investment decisions". Should this be "**and** can take investment decisions"? Regarding Art. 41.2 (b) It is not clear which point should be taken into account when going back to the "previous 12 months": the date of the establisment of the precontractual document? or the date at which the prospective member asks for it? We therefore suggest a fixed 12 month period, that would always be the same, i.e. the previous calendar year. Furthermore the requirement to provide the information in monetary terms would mean a huge burden for IORPs, because the money amount will depend on the actual contributions which may differ between prospective members. Drafting suggestions Art. 41(b): "*information on all direct and indirect costs that members and beneficiaries have borne over the previous* ~~***12 months***~~

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PCY note	Comments
	calendar year, *including the costs of each investment option separately, where such options are available****, presented at least in monetary terms, and an estimation of the impact of the costs on the final capital accumulated***." We agree with the change to Art. 42, but could also agree to removing the 2nd §. We agree to the changes to Art. 43. DE (Comments): We agree provided that clarification on Article 43 is confirmed. More precisely, regarding the breakdown of costs, Artikel 39 (1)(g) and Article 43 (1) suggest that all members and beneficiaries of a scheme where members bear investment risks or can take investment decisions receive a breakdown of costs of that scheme. It is our understanding that all members and beneficiaries of the scheme get the same set of figures on costs of the scheme. Is this reading correct? If this reading is correct, Drafting suggestion for Article 43 paragraph 1, first subparagraph: '1. Member States shall require IORPs to ~~annually~~ **periodically provide, at least every five years and at the latest in the case that the benefits are adjusted,** beneficiaries with information about the benefits due, the corresponding payout options, and a breakdown of ~~all~~ **the** costs incurred and information on the past performance as referred to in Article 39 paragraph 1, points (g) and (i).' [second subparagraph unchanged]

PCY note	Comments
	Reason: 1) Simplification and burden reduction: lower frequency of information in certain cases (the discussion paper contains a similar proposal). 2) Streamlining with Article 39 (1)(g) in the version proposed above. DK (Comments): Denmark agrees with the PCY's suggestions on Articles 41 and 42, as they seem appropriate. However, regarding Article 43, we would prefer the COM proposal. Receiving information only every five years is not very useful for members. We believe annual updates provide greater transparency and therefore better consumer protection. EL (Comments): EL: Regarding articles 41, 42 and 43 in principle we support the proposed amendments regarding information to prospective members and pre-retirement and decumulation disclosures. ES (Comments): In principle we agree FI (Comments):

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PCY note	Comments
	We still have concerns on these, so we don't agree with PCY's suggestions. FR (Comments): France welcomes the specification in article 41 towards prospective members who would bear investment risks and agrees with the presidency's suggestion HR (Comments): We can agree with the PCY suggestions on articles 41,42 and 43. HU (Comments): We agree with PCY's suggestion. IT (Comments): We consider that PCY has improved the wording of Articles 41 and 42. As regards Article 43 we do not agree with the changes proposed. With regard to this Article, we see the need to insert in subparagraph 1 the words "*, where relevant,"* before the words "*past performance*". LT (Comments): Agree LU (Comments):

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PCY note	Comments
	LU supports the direction of travel on these articles. LV (Comments): Ok. NL (Comments): Yes, we agree with the suggestions. PL (Comments): PL: We incline to support the proposal presented, while maintaining our position that disclosure obligations for IORPs in which participants do not have an investment strategy should be significantly limited. PT (Comments): Regarding Article 41, we reiterate our previously made observation on the relevance to specify in the L1 text baseline criteria or a methodology to harmonise the presentation of past performance, considering differing returns for members within the same scheme based on their characteristics (age, for example). This caution is especially relevant in disclosures to prospective members, as these data points may inevitably be compared across providers. Moreover, on the previewing of estimations on the final capital accumulated, we would call for those to be accompanied by a description of the assumptions

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PCY note	Comments
	made to produce them. In our view, this is key to ensure minimum baseline transparency to facilitate meaningful comparability across schemes. It should be noted this obligation is already foreseen in Article 40(1)(c) to sustain pension benefit projections. Regarding Article 42, we see as relevant that presented projections regarding variable annuities, which are not defined under this Directive, also include a clear insight on the expected duration of the pay-out, considering that such timeline may be limited by the financial capacity of the members' accumulated assets. Regarding Article 43, we can accept at this stage the suggested amendments. Please consider the following suggestions: *"Article 41* *(...)* *2. (...)* *(...)* *(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, where such options are available, resented at least in monetary terms, and an estimation of the impact of the costs on the final capital accumulated,* ***accompanied by a description of the assumptions made to produce such estimation****;*

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PCY note	Comments
	(…)" *"Article 42* *(…)* *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* ***and, where applicable, the potential duration of such pay-out****."* SE (Comments): Sweden can support the compromise proposals for Articles 41–43, provided that, in Article 41, the exemption for defined benefit pension schemes applies to all of paragraph 2 and to the proposed amendment in paragraph 3. SK (Comments): **Yes,** we can agree with the PCY´s proposals.
Business conduct – Art 44a-44d	
Q36: Which of the above options do MS prefer?	BE (Comments): We strongly prefer option 2. BG

PCY note	Comments
	(Comments): BG: We support the PCY drafting suggestions in Article 44a. However, we do not agree with the proposed addition to par. 2 “provided that such assistance does not constitute investment advice,”. Investment advice is a concept related to financial instruments in accordance with Directive 2014/65. Article 44b: We support Option 2. DE (Comments): We prefer option 2. DK (Comments): On Art. 44a, we do not agree with the PCY amendment whereby the duty to act in the best interest of the members is in relation to the members “as a whole”. The duty of care should always be in relation to each specific member, even in collective schemes. We agree with the remaining amendments put forward by the PCY. On Art. 44b, we would prefer to keep the COM proposal, as this includes important principles for member protection. However, if we must choose one of the two Options presented by the PCY, we would prefer Option 1, since some of the principles from the COM proposal are kept this way. EL (Comments):

PCY note	Comments
	EL: We prefer Option 2, deleting art. 44b, as we see no added value in preserving it. ES (Comments): We support option 2 FI (Comments): We prefer option 2. FR (Comments): France supports the Presidency proposal on 44a. France is still analysing the matter on 44b but wants to highlight that a very strong care shall be taken off not to unnecessarily supplement other existing provisions. As such France might support option 2. HR (Comments): We would prefer Option 2. HU (Comments): We prefer Option 2. IT (Comments): Option 2 is the preferable option. The second best is option 1.

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PCY note	Comments
	LT (Comments): Option 2 LU (Comments): LU supports the way forward on article 44a. With regards to article 44b, LU is in favour of option 2. LV (Comments): We prefer option 2. NL (Comments): Option 2 PL (Comments): PL: We choose option 2. As in other areas, we believe that there should be minimum harmonization of regulations here to eliminate the risk of conflict with other national regulations. PT (Comments): At this stage, PT tends to support Option 2, fearing the proposed Article may be duplicating other obligations already covered within the revised Directive,

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PCY note	Comments
	such as the ORA and other governance provisions. It is also not evident what are the expected outcomes and added benefits of certain of parts of Article 44b (for example Article 44b(2)(b)). Moreover, in PT most elements relating with the design of pension schemes and its financing usually do not necessarily depend on the entities managing the IORP but rather on its sponsoring undertakings, which again raises questions, in our view, about the relevance of the proposed Article 44b. SE (Comments): Sweden prefers option 2. SK (Comments): Option 2
Q37: Would MS agree with PCY's suggestions on articles 44c and 44d?	BE (Comments): We agree with the suggested amendments. We have however a remark on the language used for the procedures and arrangements since we have a very strict language legislation in Belgium. Drafting suggestion Art. 44c.2: "*The procedures and arrangements referred to in paragraph 1 shall be available in at least one of the official languages of the Member State concerned, or,* ***in accordance with national legislation****, in*

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PCY note	Comments
	another language accepted by the competent authorities of that Member State, or agreed between the IORP and its members and beneficiaries." BG (Comments): BG: We agree as we understand the need to accommodate existing redress frameworks in some MSs involving social partners. DE (Comments): We agree and propose further enhancement. Drafting suggestions for Article 44c paragraph 4: '**4. 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 …'. Drafting suggestions for Article 44d paragraph 1: '**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 …'. Rationale (Articles 44c and 44d): simplification, further reduction of costs and bureaucracy. 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. DK (Comments):

PCY note	Comments
	We agree with the PCY's suggestions, as this allows the Member States some flexibility, while still ensuring consumer protection. EL (Comments): EL: We agree with PCY's suggestions on articles 44c and 44d. However, we would like to reiterate our comment regarding wording improvements in par. 7 of art. 44c, as below: "7. Member States shall ensure that, **where** ~~**were**~~ a case ~~that~~ concerns more than one Member States, 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." ES (Comments): We agree FI (Comments): Yes, we agree. FR (Comments): France will come back into writing after detailed analysis but otherwise welcomes the Presidency's suggestion on 44c and 44d. HR

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PCY note	Comments
	(Comments): We can agree with PCY's suggestions on articles 44c and 44d. HU (Comments): We agree with PCY's suggestion. IT (Comments): Yes. We consider that the PCY's has improved the wording of Articles 44c and 44d. As regards Article 44c, we request, in addition, the deletion of paragraph 6. LT (Comments): Agree LU (Comments): LU has no major objections on this way forward. NL (Comments): Yes, we agree with the suggestions PL (Comments):

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PCY note	Comments
	PL: We agree to the provisions in question regarding complaints (44c) and Out-of-court redress (44d). PT (Comments): PT can support the PRES CY proposals for Articles 44c and 44d. SE (Comments): Sweden can support the proposal. SK (Comments): **Yes,** we can agree with the PCY´s proposals.
Supervision - Art. 45-59	
Powers, resources and main objective of supervision by competent authorities/ Competent authorities/Scope of supervision/ General principles of supervision/ Powers of intervention and duties of the competent authorities - Articles 45 – 48	
Q38: Would MS agree with PCY's suggestions on article 47?	BE (Comments): We agree with PCY's suggestions. BG (Comments): BG: We agree with the proposed amendments.

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PCY note	Comments
	In addition, we would like to note that the directive should retain its minimum harmonization character and should cover only occupational pension activities, without extending its scope to personal pension products regulated at national level. In that respect we do not support the proposed extension of the supervisory powers in the directive to the personal pension business of the IORPs. The supervisory powers regarding the personal pension business are regulated in the national legislation. In Bulgaria national pension products and providers of those products are under strict supervision. **We suggest to revert to the current text of par. 4.** DE (Comments): We agree. DK (Comments): Denmark support PCY's suggestions. EL (Comments): EL: We fully support PCY's suggestions on article 47. We would also like to underline that there is possible duplication between art. 47 (4) second sentence and art. 48 (1b). ES (Comments): We agree FR

PCY note	Comments
	(Comments): France agrees with the Presidency's suggestion HR (Comments): Yes, we agree with the PCY's proposal. HU (Comments): We agree with PCY's suggestion. IT (Comments): We support PCY proposals related to art. 47 par. 2 and 6. With reference to par. 4 we reiterate our comments to art. 6 (Q 9). LT (Comments): Agree LU (Comments): LU welcomes the deletion of paragraph 6 considering that it is not a supervisory competence to intervene in private market developments and incentivize market consolidation in a free market economy. LV (Comments):

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PCY note	Comments
	Ok. NL (Comments): Yes, we agree. PL (Comments): PL: We agree to the general principles of supervision expressed in this article. PT (Comments): PT can support the PRES CY proposals for Article 47. SE (Comments): Sweden can support the proposal. SK (Comments): **Yes,** we can agree with the PCY´s proposals.
Supervisory review process and Regular supervisory dialogue – Art 49 and 49a	
Q39: Would MS agree with PCY's suggestions on article 49?	BE (Comments): We agree with the proposed amendments. BG

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PCY note	Comments
	(Comments): BG: We agree, with most of the proposed amendments in Article 49. However, we do not support the proposed amendment in the second subparagraph of par. 1b as depending on the business model of the IORP in some cases the IORP does not take into account the risk appetite of the members and beneficiaries. DE (Comments): We agree. For simplification, we propose to delete the second subparagraph in the PCY draft for Article 49 (1b). DK (Comments): Denmark support PCY's suggestions. EL (Comments): EL: We support Presidency's proposal. ES (Comments): In principle we agree FI (Comments): We can't agree. We would prefer deletion of paragraph 1b and 2 FR

PCY note	Comments
	(Comments): France supports in principle the Presidency's suggestion except for the added subparagraph around the assessment of the reflection in the investment strategy of the risk appetite and tolerance of members and beneficiaries. This provision seems to be difficult to apply in practice and would pose a heavy burden on the competent authority without tangible results compared to other provisions, including duty of care already provided for in article 44a. HR (Comments): Yes, we agree with the PCY's proposal. We only draw attention to the fact that the word "review" in paragraph 1 has been deleted, and therefore the adjustments should also be made in paragraphs 1b and 4. HU (Comments): Yes, we agree. IT (Comments): In general, PCY's has improved the wording of Article 49, but we suggest, in addition, to: - delete in paragraph 1b) the following text "*Member States shall ensure that the risk-based assessment by the competent authority includes an assessment of whether the investment strategy reflects the risk appetite and tolerance of members and beneficiaries*";

PCY note	Comments
	- delete in paragraph 2 the following words ***"impact on members' and beneficiaries' entitlements or"***: "*Member States shall ensure that IORPs have procedures in place to identify material deteriorating financial conditions and immediately notify the competent authorities when such deterioration occurs is reasonably expected to have a significant* ~~***impact on members' and beneficiaries' entitlements or***~~ *the IORP's sustainability. Short-term fluctuations in investment returns that do not threaten the fulfillment of long-term obligations shall not, of themselves, be considered material.* LT (Comments): Agree LU (Comments): In conjunction with the deletion of article 49a, LU is positive on the suggested way forward in Art.49. LV (Comments): Ok. NL (Comments):

PCY note	Comments
	Yes, we agree. However, regarding the text of 1a, we would like to clarify that the reference should in our view be to article 46(1) instead of Art 46 as a whole (part of which may be outside the NCA's role). PL (Comments): PL: We agree, but with the provision that the competent authorities will determine the minimum frequency and scope of reviews, assessments, and analyses, taking into account the nature, scale, and complexity of the IORP's activities. PT (Comments): PT can support the PRES CY proposals for Article 49. SE (Comments): Sweden welcomes the removal of the requirement for a regular supervisory dialogue every three years, in favour of wording that better reflects a risk based supervisory approach. However, Sweden notes that the addition in Article 49(1b), requiring the supervisory authority to assess whether the investment strategy reflects members' and beneficiaries' risk appetite and risk tolerance, may be difficult to implement in practice. SK (Comments):

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PCY note	Comments
	We don't agree with PCY's suggestions on article 49. Based on the statements of our supervisory authority, we reiterate our reservations about the too generally defined obligations for the competent authority. Regular supervisory dialogue with IORPs should be defined by individual MS – in order to maintain the possibility of adjusting its activity and criteria of supervision according to the specifics of a particular pension scheme and the nature of the entity (IORP) itself, taking also into account the size and riskiness of the sector etc.
Q40: Which of the above options do MS prefer?	BE (Comments): We prefer option 2. BG (Comments): BG: We support Option 2. As stated in our previous comments regular supervisory dialogue is by nature an informal process and should not be regulated in the directive. DE (Comments): We prefer option 2. DK (Comments): Denmark supports Option 2, as it provides the greatest flexibility for the NCA. EL (Comments): EL: We support Option 2.

PCY note	Comments
	ES (Comments): We support option 2 FI (Comments): We prefer option 2. FR (Comments): France supports the article 49a in the Commission proposal. Yet for the sake of compromise, we are ready to support the option 1 proposed by the presidency HR (Comments): We would prefer Option 1. HU (Comments): We prefer Option 2. IT (Comments): Option 2. See reply to Q41 for art. 51 paragraph 4. LT (Comments):

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PCY note	Comments
	Option 1 LU (Comments): For the reason outlined above in Q38 and in line with previous comments, the deletion of article 49a is strongly supported. LV (Comments): Option 1. NL (Comments): We appreciate the efforts to make the supervisory dialogue more risk based and we would like to retain a provision for a supervisory dialogue as we have very positive experiences with such a dialogue. However, by deleting the references to scale and consolidation we think the provision has less merit. Additionally: referring to our concerns regarding article 41a, the provision in para 4 is not acceptable for us. This should not be a role for the NCA. Therefore, all things considered, we prefer option 2. PL (Comments):

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PCY note	Comments
	PL: We choose option 2. We support the position of those countries that opt for greater freedom for national authorities in developing methods of cooperation with supervised entities. PT (Comments): Considering all the reinforced safeguards introduced under the revised Directive (IST, ORA, enhanced disclosure requirements, …), and to ensure a balanced equilibrium with the priorities of simplification and proportionality, PT would at this stage be willing to support Option 2. SE (Comments): Sweden prefers option 1. SK (Comments): **Based on the statements of our supervisory authority, we reiterate some of our previous reservations.** The frequency of the supervisory dialog should be set by the NCA taking into account the riskiness of the entity. We also propose to leave the criteria to individual MS (NCA) to determine scope of the dialogue – some of the proposed parameters are vague and difficult to assess (e.g. any deviation from target benefit levels, which is irrelevant for DC schemes) and adjust NCA´s activity to the specifics of the particular pension market and supervised entities.

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PCY note	Comments
	We also question the introduction of NCA´s powers in the area of assessing the rate of return and cost and applicability of this provisions in practice.
Withdrawal of authorisation, Information to be provided to the competent authorities, Supervision of outsourced functions and activities, Transparency and accountability – Art 49b – 51	
Q41: Would MS agree with PCY's suggestions on articles 50, 50a and 51?	BE (Comments): We agree with the proposed amendments. BG (Comments): BG: We strongly support the proposed amendments in these Articles. In Article 50, we suggest the subparagraph after letter g) to be deleted as we see no added value. The competent authority has the power to require any information that is relevant for supervisory purposes as referred to in letter c). In Article 51, par. 2 (a) we suggest to delete the reference to personal pension products. Please refer to our comments in Q5 and Q6. DE (Comments): We agree, provided that the targeted reference to Article 35 of Regulation (EU) No 1094/2010 is retained. Regarding the cost reporting in Article 50, the paragraph after point (g), we understand that the competent authority can decide on its own if the information is relevant. DK (Comments):

PCY note	Comments
	Denmark support PCY's suggestions as it allows the proper amount of flexibility for NCA's. EL (Comments): EL: We fully agree with PCY's suggestions on articles 50, 50a, 51. ES (Comments): We agree FI (Comments): Yes, we agree. FR (Comments): France asks for clarity on the status of paragraph (g) in article 50 in the Presidency's proposal. Otherwise, France thoroughly agrees with the Presidency's suggestion on 50, 50a and 51. HR (Comments): Yes, we agree with the PCY's proposals. However, we would like to reiterate our previous comments with respect to Article 51. We consider that the proposed requirements should apply to personal pension products only where Member States have decided to fully apply this Directive to such products. HU

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PCY note	Comments
	(Comments): Yes, we agree. IT (Comments): YesRegarding art. 51 we could support also maintaining paragraph 4 as the disclosure of this information is important for DC members and for supervision. In Italy we have on COVIP web site all this information regarding returns (https://www.covip.it/per-gli-operatori/fondi-pensione/costi-e-rendimenti-dei-fondi-pensione/elenco-dei-rendimenti) and costs (https://www.covip.it/isc_dinamico/). This approach could allow to reach the same result as the one implied by new art. 49a, in terms of protection of members and supervision. LT (Comments): We agree for the proposals on Articles 50a and 51. The proposed amendment to Article 50 is not entirely clear: "(iii)the following paragraphs are added: Member States shall ensure that IORPs report on an 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. That information shall be provided only where relevant and only if relevant for supervisory purposes as decided by the competent

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PCY note	Comments
	authorities." From the submitted proposal, it is not entirely clear whether the IORP report will have to be submitted every year or only where relevant and only if relevant for supervisory purposes as decided by the competent authorities LU (Comments): LU is overall positive on the suggested way forward. Nevertheless, in Art. 50, letter g), we see merit in keeping the reference to “Article 35” of the EIOPA regulation for better legal certainty. LV (Comments): The proposal is overall acceptable, particularly with regard to the supervision of outsourcing, data accessibility, and the strengthening of supervisory powers. At the same time, it is important to maintain proportionality in practice by limiting EIOPA’s role to the necessary minimum and avoiding excessive standardisation (comparability). NL (Comments): Yes, we agree PL (Comments):

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PCY note	Comments
	PL: We support solutions that limit the role of EIOPA and leave greater freedom to national authorities (EIOPA's auxiliary role, which complements and supports – in accordance with the principles of subsidiarity and proportionality – and does not replace national supervisory authorities). PT (Comments): PT can support the PRES CY proposals for Articles 50, 50a and 51. SE (Comments): Sweden can agree with the PCY´s suggestions. SK (Comments): **Yes,** we can agree with the PCY´s proposals.
Collaboration platforms and Publication of national rules – Art 55a and 59	
Q42: Would MS agree with PCY's suggestion on art. 55a and 59?	BE (Comments): We agree with the proposed amendments. BG (Comments):

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PCY note	Comments
	BG: We do not deem collaboration platforms to be necessary for effective cooperation between competent authorities. However, we could support the article with the proposed amendments by the PCY as part of an overall compromise proposal. We agree with the proposal. DE (Comments): We agree. DK (Comments): Denmark support PCY suggestions. EL (Comments): EL: Regarding art. 55a we would prefer full alignment with the S II provisions, but we could accept the PCY proposal. We agree with PCY's suggestion on art. 59. ES (Comments): We agree FR (Comments): Regarding collaboration platforms, France welcomes their addition in the directive as well as the Presidency's proposal. As for the EIOPA mandate in para. 4 France would suggest for the sake of clarity a full alignment with the article 152b of the Solvency 2 directive which mentions

PCY note	Comments
	an objective of "allowing for the proper functioning of the collaboration platform." Regarding article 59 France welcomes the Presidency's suggestion. HR (Comments): We can agree with the PCY proposal, as our comments on the role of EIOPA has been addressed. HU (Comments): We agree with PCY's suggestion. IT (Comments): We do not agree with the PCY suggestion on Article 55a (Collaboration platforms), as we seek full alignment with Solvency II provisions. LT (Comments): Agree LU (Comments): With regards to Art.55a, we reiterate our comments from previous working parties to remove EIOPA's own-initiative powers. However, the streamlining could go even further by limiting the establishment of collaboration platforms

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PCY note	Comments
	to cases where at least two competent authorities have requested such action. This would help to avoid early escalation and ensure that greater emphasis is placed on bilateral cooperation as a first step. LU welcomes the changes proposed in Art.59. LV (Comments): Ok. NL (Comments): Yes, we agree. However, we do feel that the disagreement resolution as proposed in article 55a(6) would provide a meaningful tool for host NCA's. PL (Comments): PL: We support solutions of limiting self-initiated actions and participation in on-site inspections. PT (Comments): Regarding Article 55a, PT does not oppose the granting of discretion to EIOPA on the creation of collaboration platforms, as originally envisioned by the COM.

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PCY note	Comments
	Regarding Article 59, we can accept the deletion of paragraph 4. SE (Comments): Sweden can agree with the PCY´s suggestions. SK (Comments): **Yes,** we can agree with the PCY´s proposals.
Final Provisions and IDD Provisions	
IDD Provisions	
Q43: Which of the above options do MS prefer?	AT (Comments): We prefer option 3. BE (Comments): We prefer option 3. BG (Comments): BG: We support Option 3 - Article 22a in IDD to be deleted in line with our position on Article 37a of IORP Directive. CZ (Comments): Regarding Article 22 of the IDD, in particular the new paragraph 6:

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PCY note	Comments
	We consider this provision to be redundant and unnecessary. If an IORP has this obligation, it has it regardless of the channels through which it distributes its product. If the regulation is to be distribution-neutral and ensure that the customer receives the necessary information regardless of the distribution channel (i.e., even if the product were distributed by an insurance intermediary), this should be reflected directly in the text of the IORP Directive. CZ: Regarding Article 22a of the IDD: This provision again introduces a duplicative obligation, particularly with regard to IORP products, where the same requirement is already established by the IORP Directive. More generally, it is unclear which insurance products the introduction of the PTS should apply to. In addition to other issues raised by other Member States (such as the scope of data, its updating, etc.), there is also the question of whether intermediaries should also be required to report data to the PTS. The necessary information is primarily held by the insurance company that governs the contract. According to the proposed text, the same data would be reported by multiple entities, which we consider disproportionate and unnecessarily duplicative. As for the authorization for the DA—this is in Article 37a of the IORP Directive, but there is no such provision in the IDD (there, the form of

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PCY note	Comments
	information is regulated by a reference to Article 29 of the IDD, where, however, there is no such authorization for the DA from the EC). If the PTS were to also apply to insurance, then generally speaking, the provisions of the PTS should be the same in both regulations—both in the IORP and in the IDD. DE (Comments): We prefer option 3. DK (Comments): Denmark remains highly critical of the process and the way in which the proposal transposes IORP requirements into IDD. It is more appropriate to address this as part of a general review of IDD. While we recognize that IORP contains consumer-friendly and well-balanced information requirements, we are concerned about transposing these directly into IDD without proper assessments. It is important to consider how these requirements will interact with existing provisions in IDD and Solvency II. This is particularly relevant for Denmark, where almost all occupational pension products are already subject to IDD and Solvency II requirements. Our own preliminary impact assessments indicate potentially significant costs for Danish pension providers. Hence a process including a thorough and comprehensive impact assessment, for example as part of an IDD-

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PCY note	Comments
	review, is essential to ensure proportionality and to avoid unnecessary administrative burdens. EL (Comments): EL: We would prefer Option 3. ES (Comments): We prefer option 3 FI (Comments): We prefer option 3. HR (Comments): As expressed under Article 37a, we would prefer Option 3, but could also accept Option 2. HU (Comments): We prefer Option 3. IT (Comments):

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PCY note	Comments
	We support option 3. We are not in favour of introducing in the IDD the new Article 22a on pension tracking system. In our view the regulation of PTS should be left to Member States national competences. Moreover, this obligation, envisaged for insurance operators, IORPs (new Article 37a of Directive 2016/2341) and PEPP providers (new Article 51a of the PEPP Regulation) would create an unlevel playing field with other financial sectors. LT (Comments): Option 3 LU (Comments): In line with our answer to Q31, we opt for option 3 by deleting the PTS article. NL (Comments): Option 2 PL (Comments): PL: We consistently support option 3, taking into account the choice made in question 31, referring to Article 37a, option 3, i.e., there is no need to regulate the Pension Tracking System at the EU level. PT (Comments):

PCY note	Comments
	In accordance with our answer to Q31, PT supports Option 3 here as well. SE (Comments): Sweden **strongly prefers Option 3.** SK (Comments): **Option 3**

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