Position Paper

Comments on the proposed IORP directive

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General remarks

In March 2014 the European Commission (EC) published a proposal to review the Institutions for Occupational Retirement Provision (IORP) Directive. This paper provides Insurance Europe's comments on the proposal. Insurance Europe welcomes its main objectives to facilitate the development of occupational retirement savings and to create safer and more efficient markets for occupational pensions for the benefit of employees.

1. All members and beneficiaries should enjoy a high level of protection

To achieve these objectives, the EC proposed to rely on a combination of improved qualitative and enhanced information requirements, but did not include new risk-based quantitative requirements. In Insurance Europe's opinion, the omission of risk-based quantitative requirements raises concerns that members and beneficiaries of occupational pension schemes may not consistently benefit from the highest standards of protection.

However, Insurance Europe acknowledges that quantitative requirements are not included in the directive largely because the development of an appropriate quantitative regime for IORPs is still ongoing, for example EIOPA's work on the Holistic Balance Sheet. Further work is needed to ensure that the regulatory framework is designed in a way that appropriately takes into account the long-term nature of the business and the specificities of IORPs, schemes and products or contracts. These specificities should also be made transparent to members, beneficiaries and employers.

Both insurance companies and IORPs provide occupational pensions, but are subject to different regulatory frameworks at the EU level, notably IORP II for occupational pension schemes managed by pension funds, and Solvency II for most occupational pension schemes managed by insurers. Additionally, the protection of employees under IORP II significantly depends on national approaches; for example the security mechanisms vary between member states (sponsor covenant, pension protection schemes and benefit reduction options). In cases where the risks carried by the respective institutions are similar, similar protection for members and beneficiaries is needed, regardless of the applicable framework. This would also ensure that pension products, in general, receive similar regulatory treatment where the features of such products are similar.

Insurance Europe supports the work undertaken by EIOPA in this field, as well as EIOPA's aim to test its

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findings in stress tests on IORPs. We would also welcome a reasonable timetable for the further development of risk-based quantitative requirements.

In the meantime, for countries currently applying Article 4, the transitional measure proposed by the EC in IORP II and Solvency II should be extended until the quantitative requirements applicable to IORPs have been revised.

2. The directive should focus on the activities and the risks borne by the IORP, not on the underlying schemes

A "pension scheme" in the context of the IORP directive is an agreement laying down the pension promise to the members and beneficiaries of the scheme (Article 6 (b)). It can cover a certain level of benefits (Defined Benefit - DB) or a certain level of contributions (Defined Contribution - DC). An IORP on the other hand is a separate vehicle which has been set up to handle the contributions paid according to the scheme agreement and/or to provide certain services related to the scheme.

In some cases, the IORP may carry all or part of the employer's risk to cover the benefits stipulated in the pension scheme. In other cases, the IORP may carry risks that are unrelated to the pension scheme agreement. For example, the IORP might provide additional investment guarantees, regardless of the fact that the employer's promise under the scheme does include a guarantee.

IORP II is a legal framework which aims to regulate the activities and supervision of IORPs, and not the features of underlying pension schemes. Therefore, the IORP II rules should not be based on a distinction related to the risk the member or beneficiary bears in relation to the pension scheme (i.e. whether the scheme is DB or DC), but instead on the activities and risks borne by the IORP.

In light of the above, the wording included in the proposal's explanatory statement that; "the proposal does not consider the introduction of new solvency rules, which are in any event not relevant for DC schemes" is not correct. IORPs can cover for risks which are not included in the scheme. Moreover, even where the IORPs do not bear any pension related risks, they will be exposed to operational, concentration and expense risks.

Furthermore, it is often very difficult to establish a clear-cut distinction between DB and DC schemes anyway, as the features of the schemes vary between member states, and many schemes sit somewhere along a spectrum ranging from pure DC to pure DB. For example, the distinction in the proposal between which information requirements should apply to DC scheme and DB scheme members respectively does not make sense. Additionally information requirements should be based not only at the pension scheme but should also take into account the activities and risks that are borne by the IORPs.

3. Information requirements should be tailored to the needs of prospective or new members, members and beneficiaries

Insurance Europe wishes to stress the importance of clear and transparent information in order to increase pension awareness. It therefore welcomes the objective of the Commission to ensure transparency for members and beneficiaries and strongly supports the EC's intention to create a solid basis for information requirements.

In order to fulfil these objectives, the information requirements in the directive should be non-exhaustive and outcomes-focused rather than stipulate who provides the information and in what form. In many EU Member States, this information is already provided through a variety of means, which can include similar Pension Benefit Statements (PBS) but equally other means, such as internet solutions. Therefore, member states are best placed to decide on which means are the most appropriate.

Additionally, as it is a Member States' responsibility to decide on the design of pension schemes, in many cases with the involvement of the social partners, the information requirements must be sufficiently flexible in order to cater for different national systems. This is not the case in the Commission's proposal and instead the provisions could hinder existing good (national) practices.

Finally, which information is relevant at which time should be adjusted along the following lines:

- Information provided before or at the time of joining a scheme should enable members to compare the different pension products or investment options offered under a scheme. It could also provide guidance for those employees who have a choice regarding their enrolment in the scheme. Therefore, certain elements from the ongoing information provisions should be provided before or shortly after enrolment, rather than in the annual statements. Specifically, differences between the providers and products, the risks borne by the provider and the security mechanisms, such as benefit reductions, sponsor covenant and pension protection schemes should be made transparent to prospective or new members and, where relevant, current members. As to the timing of the information, it has to be taken into account that in case the membership of the scheme is mandatory for the employee; the information cannot be given until the time of the enrolment.
- Information provided on an ongoing basis should serve to keep members aware of the progress of their pension entitlements. It is key to ensure that the provisions on ongoing information requirements are concise and relevant to members. Otherwise this could result in member disengagement with their retirement savings and so contradict the general objectives of the directive.
- At the time of pay-out the information requirements should include – depending on the situation – information on the different retirement or pay-out options and information about the options when leaving the company.

4. Approach on governance supported

Insurance Europe generally welcomes the EC's approach in the area of governance, which are in line with well-established rules for financial service providers and will enhance governance standards. Most new provisions are appropriate and should contribute to achieving a sound and prudent management of IORPs in the interest of members and beneficiaries. All financial institutions providing occupational pension products should be regulated according to the activities of the provider and the risks for the members and beneficiaries, rather than on the basis of the legal vehicle through which they are sold.

Additionally, Insurance Europe is strongly supportive of the principle of proportionality, as set out in the proposal, which should enable firms to comply with the governance requirements whilst leaving sufficient flexibility to take into account the nature, scope and complexity of their activities. For example, in line with the proportionality principle, it might be more appropriate to look at access to skills and experience across the board as a whole and in line with individual's effective duties.

Furthermore, the requirement for a single depositary is – in many cases – unlikely to add value, but instead will increase costs, which will be passed on to pension scheme members, and will increase operational risk. Therefore, a depositary should only be required in situations where the benefits to the scheme and its members clearly outweigh the costs and additional risk.

5. Reinsurers should be allowed to reinsure IORPs

Under the "Reinsurance" Directive 2005/68/EC, which is still in force today, member states can allow reinsurers to provide cover to IORPs. However, under Directive 2009/138/EC ("Solvency II"), which is due to apply from 1 January 2016, reinsurers seem no longer allowed to provide cover to IORPs directly.

This potential development is unfortunate for reinsurers, IORPs and beneficiaries. IORPs can be exposed to a market and biometric risks. For instance, IORPs offering annuities may be exposed to sizeable longevity risks, for which it is essential that they get adequate coverage. Reinsurance, as a security mechanism for carriers of occupational pension schemes, has the capacity to add stability to the pension system by offering such coverage. Insurance Europe therefore suggests making an amendment to ensure that IORPs that currently make use of reinsurance can continue using reinsurance as a security mechanism for the benefit of the members and beneficiaries.

Detailed Comments

General Provisions (articles 1 – 20)

Article	Paragraph	Insurance Europe's comments
Article 6	(c)	Insurance Europe does not support the new definition of "sponsoring undertaking", as the reference to "employers", which was previously one of the key ways to distinguish the sponsoring undertaking from a pension provider, has been removed. Without this reference, there is no longer a clear distinction between sponsoring undertakings and IORP provider firms. Therefore, the definition of "sponsoring undertaking" under the original IORP Directive should be maintained.
Article 12	§10	Insurance Europe is not supportive of the prohibition on a host member state from imposing additional information requirements on institutions carrying out cross-border activities. The Directive should acknowledge the wide diversity between member states. First, there are significant differences in social and labour law, reflecting national specificities. The national level is therefore more appropriate for deciding which additional information must be provided to prospective members, members and beneficiaries. Second, it is not possible – and not desirable – for the Directive to encompass all the characteristics of pension schemes for the purpose of information requirements. For example, in Germany many occupational pension schemes cover risks which are not always covered in other member states, and encompass for instance integrated occupational disability insurance or benefits for surviving dependants. The information provided should target the actual expected benefits. It should therefore be possible for host Member States to impose additional information requirements on cross-border schemes to ensure that accurate information is provided to prospective members, members and beneficiaries.
Article 13	§1	Insurance Europe calls for clarity on the provision on cross-border transfers of pension schemes. We assume that this provision is aimed at the transfer of assets and liabilities managed by an IORP. Therefore it is not correct to say "transfer of *pension scheme*" as the scheme is merely the agreement (see Article 6.b). In addition, as stated in the explanatory statement, the transfer should not affect the level of protection of the members and beneficiaries concerned by the transfer. This provision should be explicitly included in the text of the article.

	§3	It is important that the transfer should be approved a priori by the employer and, where relevant the social partners. In addition, the choice of funding has often been decided by the social partners through collective agreements. Furthermore, if required by national, social and labour laws, the home member state from which the transfers is taking place should also be able to decide on the approval of transfers. Members and beneficiaries should be informed about the transfer.
Article 15	§3	Insurance Europe welcomes the Commission's decision to maintain the obligation for IORPs to be fully funded when they operate cross-border. It is crucial that cross-border IORPs remain fully funded at least until appropriate harmonised capital requirements are imposed throughout the EU. Lowering the quantitative requirements for cross-border activities of IORPs without intervention possibilities for host member states would not only be detrimental to the protection of members and beneficiaries, but also result in other problems, such as spreading risks and regulatory arbitrage. Specifically, in the absence of the requirements of full funding and in case an IORP would be underfunded; the risk that an IORP cannot fulfil its promises could be transferred to other countries. For example, IORPs could transfer capital from other entities in other countries to decrease the funding gap in one particular entity. However, this does not solve the underfunding of the IORP in general and could cause additional problems in those countries where the capital was transferred from. This risk is aggravated by the fact that the sole responsibility to request ring-fencing of cross-border business lies with the home member state. This option for ring-fencing could lead to regulatory arbitrage should IORPs opt for a member state where ring-fencing is not required by their home member state. Finally, in case the fully funding requirement would be removed, the host member state would not have control over the IORP and would not be in a position to request a recovery plan from the IORP, for instance.
Article 20	§8	Insurance Europe rejects the provision in Article 20 (8) that does not allow host member states to impose extra investment requirements on cross-border IORPs. However, it should be acknowledged that investment rules imposed by the host member states on cross-border IORPs should not exceed the rules member states impose on national IORPs (Article 20 (7)) and should be prudentially justified. At least until appropriate harmonised and risk-based capital requirements and the corresponding reporting requirements are imposed throughout the EU, member states should be able to impose additional requirements on cross-border IORPs

		in case such requirements are imposed on national IORPs. Otherwise, it would lead to weaker protection of members and beneficiaries and to regulatory arbitrage.

Governance (articles 21 – 37)

Article 22	§3	The requirements for a review should be "at least" annually, rather than only annually.
	§4	It is stated that the institutions shall have an effective internal control system including administrative and accounting procedures, reporting arrangements and an internal control framework in place. On the other hand, there is no obligation for IORPs to have an internal control policy or process to ensure compliance. Therefore, a specific section should be introduced on the internal control system, describing the tasks of the compliance function, comparable to article 46(2) of the Solvency II Directive. It should be defined at national level whether the responsibility for the compliance function should be attributed to a single holder of the function or be ensured as a collective responsibility. Additionally, it should be noted that depending on the nature, scale and complexity of the IORP, the proportionality principle should be taken into account. Furthermore, it should be possible for more than one function to be carried out by a single person or organisational unit. This should apply to all functions equally in line with the Solvency II Delegated Acts (article 271 (2)).
Article 23	§1	Insurance Europe agrees that the persons "effectively running the institution" or have other key functions should be "fit and proper". All those persons should be "proper" but, in line with the Solvency II Delegated Acts (Article 273 SG11 §3), "*the assessment of whether members of the administrative management or supervisory body are 'fit' should take into account of respective duties allocated to individual members to ensure appropriate diversity of qualifications, knowledge and relevant experience to ensure that the undertaking is managed and overseen in a professional manner*". Indeed, having a mix of people tailored to the specificities of individual IORPs and pension schemes, including representatives of members and beneficiaries is a normal practise in a number of member states. It therefore might be more appropriate to look at access to skills and experience across the board as a whole and in line with individual's effective duties.

	§2	It is unclear how the competent authorities can assess whether the persons who either effectively run the institution or who have key functions are “fit and proper” when there is no requirement to notify the competent authorities. Insurance Europe therefore suggests including a reference stressing that institutions shall notify the supervisory authority of any changes to the identity of the persons who effectively run the institution or are responsible for key functions, along with any information needed to assess whether any new persons appointed holding key functions are fit and proper.
Article 24	§2	There is no benefit in the requirement to disclose relevant information regarding the remuneration policy to the general public unless for listed institutions. However, this information should be transparent for those who will make the most use of it: the members and beneficiaries of the pension scheme. The requirement to disclose the remuneration policy will prove particularly complex to implement in the case of certain IORPs, for example corporate trustees, where trusteeship is assigned to firms rather than individuals. In this case, it is difficult to know which level of remuneration should be disclosed – should it be at senior management level or at lower management level.
	§3	It is very onerous to request a detailed remuneration policy that needs to be elaborated in delegated acts. In order to avoid confusion between the executive, legislative and supervisory powers, the use of delegated acts should remain limited to purely technical issues. Therefore, Insurance Europe suggests removing the call for delegated acts on remuneration policies.
Article 25	§1	Insurance Europe interprets this provision as a requirement on all institutions to have three key functions, including the actuarial function if applicable. However, a specific section should be introduced on the internal control system, describing the tasks of the compliance function, comparable to Article 46(2) of the Solvency II Directive. It should be defined at national level whether the responsibility for the compliance function should be attributed to a single holder of the function or be ensured as a collective responsibility. It should also be noted that depending on the nature, scale and complexity of the IORP, the proportionality principle should be taken into account. Furthermore, it should be possible for more than one function to be carried out by a single person or organisational unit. This should apply to all functions equally in line with the Solvency II delegated acts (article 271 (2)).

	§2	Insurance Europe suggests redrafting Article 25 (2) to indicate that institutions may allow the risk management function to be allocated to the same person carrying out the internal audit function, provided that: ■ This is appropriate with respect to the nature, scale and complexity of the risks inherent in the undertaking's business; ■ No conflict of interest arises for the persons carrying out the internal audit function; ■ The costs of maintaining persons for the internal audit function that do not carry out other key functions would impose costs on the undertaking that would be disproportionate with respect to the total administrative expenses. This approach is allowed under the Solvency II delegated acts (Article 271 (2)).
	§3	The person carrying out a key function in the institution should not need to be different from the person carrying out a key function within the sponsoring undertaking provided that any potential conflicts of interest are managed appropriately, and that , the IORP remains responsible for the function (i.e. they can outsource the functions to the sponsoring undertaking).
	§6	The provision requires that the risk management function, the internal audit function and the actuarial function inform the supervisory authority, if the administrative, management or supervisory board (AMSB), does not take proper measures to solve problems, which were reported to the AMSB before. However, an obligation to report directly to the supervisory authority would bring no real added value, since the management board already has to report all necessary information to the supervisor. This goes beyond the requirements in existing EU Directives (eg Solvency II, CRD IV).
Article 27	§2	This paragraph contradicts Article 25 (2), according to which only the risk management function shall be independent of the internal audit function, but other key functions can be carried out by a single person or organisational unit. Insurance Europe suggests redrafting Article 27 (2) to stress that institutions may allocate other functions to the person carrying out the internal audit function, provided that: ■ This is appropriate with respect to the nature, scale and complexity of the risks inherent in the undertaking's business; ■ No conflict of interest arises for the persons carrying out the internal audit function; ■ The costs of maintaining persons for the internal audit function that do not carry out other key functions would impose costs on the undertaking that would be disproportionate with respect to the total administrative expenses. This approach is allowed under the Solvency II delegated acts (Article 271 (2)).
Article 28	§1	Insurance Europe notes that the actual calculations of the technical provisions are not included in the list of tasks attributed to the actuarial function, and query whether this is intentional. We believe they *can* be a task of the actuarial function, and that it

		should be left to each undertaking to decide who should perform the calculation of the technical provisions. In cases where both the calculation and the validation of technical provisions are performed by the actuarial function, the undertaking should have in place processes and procedures to avoid conflicts of interest and to ensure appropriate independence. The degree of segregation of duties needs to be proportionate to the nature, scale and complexity of the risks inherent in the calculation of the technical provisions.
	§2	Insurance Europe suggests including "where appropriate", as not every institution will need to implement an actuarial function. This would align paragraphs 1 and 2.
Article 29	§1	Insurance Europe is supportive of the provisions on the risk evaluation for pensions in the Commission's proposal. However, it should be clarified that the Risk Evaluation for Pensions should be carried out for the institution as a whole, including its activities directly affected by the terms of the pension scheme. Additionally, proportionality should be taken into account to assess the security mechanisms. Furthermore, institutions should carry out a risk evaluation at least annually.
	§2	Insurance Europe suggests to add "where relevant" for the actions that the risk evaluation should cover.
	§2 (h)	Insurance Europe disagrees with the specific request to perform a qualitative assessment of new emerging risks relating to climate change, use of resources and the environment. This request is not in line with principle-based investment requirements, and is already covered by the requirement to document risks that have a material and sustained impact on IORPs.
	additional	The risk evaluation should not increase the capital requirements imposed on IORPs. In line with Solvency II Article 45 § 7, a paragraph indicating that the risk evaluation shall not serve to calculate the capital requirements should therefore be included.
Article 33	§1	Member States should not be able to "require" outsourcing. Outsourcing should be an IORP management decision solely. Any obligation to outsource parts of the IORP contradicts entrepreneurial self-determination. This would lead to distortions of competition and impede harmonisation between member states.
	§6	Informing the supervisor of the outsourced key functions should be sufficient. Informing the supervisor of any other outsourced function is too broad. Therefore, "any other activities" should be deleted or "where relevant" should be inserted.
Article 35	§1	This paragraph wrongly focuses on the design of the pension scheme rather than on the activities of the IORP (see the

		introductory part of this document). When an IORP carries risks as a result of products with guarantees offered under a DC scheme, it does not function as – for example – a UCITS. On the contrary, it will be subject to solvency rules according to Article 16 of the current proposal. It is unclear why under these circumstances the IORP should also be required to appoint a depositary as the funds are protected by other means than the depositary. For comparison, insurers are not required under Solvency II to have depositaries. Moreover, there may be regulatory overlaps if an IORP is required to have a single depository at all times. As an example, in a situation where the asset management function is outsourced to an asset management company, the asset manager might already have a custodian to ensure the safekeeping of assets. Another example is when the investment options include products with underlying investment funds. Such funds will in most cases already be subject to a requirement to have a depositary. Therefore, Insurance Europe suggests leaving it to member states to decide on the best approach for the safe-keeping of assets and oversight duties. Finally, the introduction of a single depositary will add additional operational risk, as it introduces another player in the chain. Depositaries may aggregate holdings for all their clients into a single block, which can increase risk to the funds. They may also hold client assets in nominee companies or other structures which are intended to be legally protected from third party creditors. This increases operational risk, as they would be reliant on the robustness of the legal analysis on which the structures are based.

Information and transparency (Articles 38 – 58)

Article 38	§2 (a)	Insurance Europe suggests adding "… updated, in line with the nature, scale and complexity of the IORP" to ensure consistency throughout the text.
Article 39	§4	Insurance Europe strongly suggests deleting this new requirement. Pension schemes are based on (private) agreements between the employer(s), employee(s) and the institution. For this reason the conditions of the pension scheme should not be made public. However, member states should ensure that the conditions of the scheme are available to members of the schemes, but they do not need to be included in an annual statement.
Article 40	§1	As a starting point, the information should not have to be expressed in a special document (PBS) in case the information is

		already provided by other appropriate means.
	§3	Not all "material changes" of the contract should be explained in an accompanying letter: ■ Increases due to investment returns or salary increase are natural and should not require an accompanying letter. ■ In cases where the members have previously been informed on changes in the scheme, an accompanying letter to a PBS would not be meaningful. Therefore, it should be stressed that under these conditions an accompanying letter should not be required.
Article 42		Limiting the information to a specific number of pages might actually contradict the objective of providing clear and comprehensible information to the scheme members. The length of the document will depend on many different factors (for example size of characters, language, etc.) and it is therefore artificial to pre-set a number of pages which may not reflect members' needs. It is important that the information is understandable and useful rather than subject to a specific format. This should always have the priority over regulating the presentation and amount of pages. Insurance Europe suggests deleting this article, and replacing it with a high level principle that the statement should be as concise as possible and include only relevant information.
Article 45	§1	Again, Insurance Europe questions whether there is a need to use the same title and format for information across the European Union. Moreover, the (translated) title could be confusing in some languages. We suggest deletion.
Article 46		An amendment is necessary in this article; indicating that it should be the retirement age included in the scheme that should be disclosed, but not the legal retirement age. These can be different ages and it is the scheme retirement age that is relevant to members in the context of their occupational pension provision.
Article 47	§2	This could be more useful for prospective or new members, but is not relevant on an ongoing basis.
	§3	In some member states, there are industry-wide collective agreements for pension schemes. This means that a member may stay in the same scheme even if he or she changes employers. It is difficult to see how this requirement can be met in a situation where an employee has changed employers one or more times.
Article 48		It is important that the information on the guarantees and security mechanisms is clear for the members and beneficiaries. However, not all information is relevant on an ongoing basis.

Article 49	§1	The level of costs, the balance and the contributions should be transparent for the scheme members. However, Insurance Europe suggests leaving it to the member states to decide how to define these in a way that is better adapted to the different pension systems and products offered by the IORPs in the member states. At the very least, it should be stated that this should be given only "where relevant".
	§1 (d)	The term "a target level of benefits" should be clarified, since there are several interpretations of this term amongst Member States. Also, comparing the balance of the previous and current years does not always add value for members. Instead, a current level of benefits and a suitable projection should be presented by the most appropriate means.
	§1 (f)	We support transparency of costs and charges. However annual statement information requirements should focus on *key* information for existing members. Defining how to break down charges at an EU level into various elements is more likely to confuse pension scheme members, and will distract them from the key information: their actual savings, and whether or not they need to save more towards retirement.
Article 50	§1 and §3	It should be decided at a national level which assumptions should be used in the projections, and whether additional projections based on different scenarios should be included. Furthermore, it should be clarified what is meant by "a target level of benefits", as there are several interpretations of this term amongst Member States. In addition, it is more appropriate to communicate projections on an annual, rather than a monthly basis or at least to leave this for Member States to adapt to what is suitable for their national system. Moreover, projections should be designed, regardless of the type of the underlying scheme. Finally, projections should not stipulate amounts for two years before or after the retirement age. This requirement is too restrictive and it is also unclear what is meant by the "retirement age", which may be flexible and impossible to know in advance.
	§2 and §4	It is important for projections to be realistic, so that information provided to scheme members is not misleading. Therefore whether or not future wages or inflation should be included in the projections should be decided at member state level. Additionally, it should also be possible to include future contribution increases, where known, in the projections.

Article 51		The PBS is not the appropriate document for detailed information on the investment profile of different options. In addition, information requirements that restrict the number of investment options presented cannot give a good idea of all the features of different investment options that might be offered under a scheme. An IORP acts differently from an investment vehicle and the investment options can differ from the options provided by investment funds such as UCITS. In certain member states the options may very well be insurance-like and include guarantees. Therefore the PBS is in any case not the appropriate document for detailed information on the investment profile of different options. Insurance Europe of course supports information requirements as such, but not in this restrictive form as there has to be enough flexibility to adapt the requirements to the design of the products. At the very least the words "where relevant" should be included in the article. It should also be made clear that this information is relevant to members before or after joining the scheme if the investment options can be chosen or changed during the membership, but not in an annual statement.
Article 52		The historical data does not give any indication of the future performance. Due to the long term nature of certain life insurance products, past performance could be misleading to members. At least where the IORP has taken over the risk of the pension promise in a DB scheme or where the IORP is acting as the funding vehicle of a DC scheme, it is not correct to talk about the past performance of a "pension scheme" or the objective and investment policy of a "scheme" (see paragraphs 1 and 2). These features rightly relate to the IORP and the products offered by the IORP.
Article 53		Member states should be allowed to request the inclusion of additional information that is relevant to national markets. It is currently unclear whether member states will have sufficient leeway due to already very extensive information requirements in the draft directive. For example, in Germany and Sweden many occupational pension schemes cover risks which are not always covered in other member states, and encompass for instance integrated occupational disability insurance or benefits for surviving dependants. Furthermore, Insurance Europe has the following concerns on the information included: ■ Paragraph (a): "and relevant legal acts of a general nature". This is irrelevant and too detailed. ■ Paragraph (b): the relevance of this information depends on the design of the scheme. Information on the possibility of a transfer should therefore be given before or at the time of joining the scheme and where relevant.

		■ Paragraph (c): "the annuity rate" should be deleted. As it is commercially sensitive this rate cannot always be published by the institution.
Article 54		Insurance Europe is concerned about the breadth of the power given to the EC to adopt extensive Level 2 measures under this proposal. Insurance Europe suggests deleting this article.
Article 55		The pre-enrolment information requirements should enable prospective or new members to compare the different pension products or investment options offered under a scheme. It could also provide guidance for those employees who have a choice regarding their enrolment. This could include, for instance, the pension promises and features covered by the IORP, the features of the occupational pension scheme and possible investment options and where relevant, information on the contributions and costs, a risk and reward profile and pension projections if the level of benefits is uncertain (or a corresponding illustrative example if personalised information is not available). In this context, the true risk profiles should be made transparent to prospective and, where relevant, current members: ■ Information on whether the IORP is allowed to reduce benefits or claim additional payments from the employer. ■ In case the sponsoring undertaking bears some of the risks: Information on how pension benefits are protected in case of the insolvency of the sponsoring undertaking. ■ In case the IORP bears some of the risks: information on how pension benefits are protected in case of the insolvency of the IORP. It makes more sense to give guidance which information should have been provided at a prospective level rather than the detailed draft provisions for on-going information. Especially since many of the proposed ongoing provisions are only relevant before joining or at the time of joining of the scheme. But given that pension systems differ in the member states, each component of the information to be given should be flexible enough to be adjusted in accordance to the national specificities of the pension schemes. In fact, an overly prescriptive level of detail in the directive could actually restrict Member States from giving information that matches the needs of the (prospective or new) members and beneficiaries in their respective systems. If the scheme member did not need to make a decision before joining the scheme, for example because the scheme is mandatory, relevant information should be provided shortly after the enrolment, including information on the existing investment options (please remark that costs are irrelevant for employer-funded mandatory enrolment schemes where no

		choices for underlying funds are needed).
Article 56		In many member states there is a difference between the legal retirement age, the age on which citizens can retire (early retirement) and the contractually agreed retirement age of the pension scheme. Therefore, Insurance Europe suggests that the proposal leaves flexibility to member states to define how and when the provider must report. In addition, schemes might provide additional information to prospective members, members and beneficiaries depending on the contractually agreed retirement age, and members should have the option to request additional information. Furthermore, members should be informed during the pre-retirement phase about the general consequences of different pay-out options. However, it is simply impossible for institutions to choose the most advantageous option for the member, as this is tantamount to providing regulated advice, and would require a profound knowledge of the member's individual situation, which is usually not available to IORPs. Therefore, the requirements should not go beyond a general obligation to inform about different options and consequences.
Article 58	§1 (b)	An IORP may be a provider under several pension schemes, not least as a provider of an investment option under several DC scheme. The annual accounts and reports of such an IORP may not be separated for these different schemes. In particular in the latter case it would not even be feasible to have separate accounts and reports. Moreover, there is no such requirement in article 31. The wording ", or where an institution is responsible for more than one scheme, those accounts and reports relating to their particular pension schemes." seems to be an error that has been carried forward through the consolidation of IORP I and IORP II and should therefore be deleted to avoid confusion.
	§1 (d)	"The assumed annuity rate" should be deleted. This rate cannot always be published by the institution as it is commercially sensitive. Furthermore, information on the duration of the annuity is important information and should not be "on-request" only.
	§2 (a)	The target level is already included in Article 49 (but this should not be stated in the on-going information).

Other issues (Articles 59 – 80)

Article 61	§2	Supervision based on a prospective and risk-based approach is not consistent with the current quantitative requirements. The supervision cannot be risk-based if the quantitative requirements are not risk-based. As such, it will not be possible for the supervisors to assess the risks appropriately.
Article 75		As indicated in the general remarks, more work is needed to develop appropriate quantitative requirements for IORPs. However, the regulatory framework for IORPs can only be complete if it includes risk-based quantitative requirements. Therefore, Insurance Europe welcomes the Commission to indicate a reasonable timeframe for the evaluation of the Directive and believes that in 2018 it should check on the progress made on the quantitative requirements.
Article 76		<u>Article 4</u> As stated in the general remarks, Insurance Europe requests a modification to the transitional measure which allows insurance undertakings to apply Article 4 until the quantitative requirements applicable to IORPs have been revised. The successive extension of this transitional measure should be under the regular EC scrutiny, which will retain the power to terminate the transition at the moment when the quantitative requirements of IORP II Directive enters into force. <u>Reinsurance of IORPs</u> Under the "Reinsurance" Directive 2005/68/EC, which is still in force today, member states can allow reinsurers to provide cover to IORPs. However, under Directive 2009/138/EC ("Solvency II"), which is due to apply from 1 January 2016, reinsurers seem no longer allowed to provide cover to IORPs directly. This potential development is unfortunate for reinsurers, IORPs and beneficiaries. IORPs can be exposed to a market and biometric risks. For instance, IORPs offering annuities may be exposed to sizeable longevity risks, for which it is essential that they get adequate coverage. Reinsurance, as a security mechanism for carriers of occupational pension schemes, has the capacity to add stability to the pension system by offering such coverage. Insurance Europe therefore suggests making an amendment to ensure that IORPs that currently make use of reinsurance can continue using reinsurance as a security mechanism for the benefit of the members and beneficiaries.

Insurance Europe is the European insurance and reinsurance federation. Through its 34 member bodies — the national insurance associations — Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies, monoliners, mutuals and SMEs. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers generate premium income of more than €1 110bn, employ almost one million people and invest over €8 500bn in the economy.