Annual Report

European Federation
for Retirement Provision

EFRP 2006

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May 2007

2006

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Introductory words

In 2006 the European Federation for Retirement Provision (EFRP) celebrated its 25th anniversary.

Rather than sit on our laurels and look to our past, we marked this event by looking to the future. The speakers at our High Level Session "Pensions in the 21st century" – 20 June 2006 – spotlighted the profound strategic changes confronting workplace pension provision in Europe. If the EFRP is to retain its position at the vanguard of EU pension's policy development it must continue to deliver practicable solutions to difficult questions in a changing world.

EU enlargement with 12 new Member States was an historical event, stretching the capacity not only of the EU but also of our Federation. Therefore the General Assembly of the Members in October 2006 decided to establish the Central & Eastern European Countries Forum – CEEC Forum - to promote mutual understanding of pension systems across Europe. This is part of a wider exercise in which all Member States – old and new – begin to generate the common concepts and methodologies needed to address what are ultimately similar challenges. European citizens deserve that pension providers work together to ensure adequate and sustainable pensions.

In this respect, it is paramount that one of our main achievements, the IORP Directive, is properly implemented across Europe in a way that nurtures occupational pensions. The IORP Directive has been a catalyst for change in the Member States and is starting to have its effect in the field.

We are happy that companies, by exploring the possibilities for operating pan-European pension institutions, are trying to unleash the full potential of this Directive.

2006 saw a steep increase in activity in respect of the Draft Portability Directive. We support labour and pension mobility, but the proposed Directive needs radical restructuring to avoid unintended consequences on workplace pension systems.

Pensions remain at the top of the EU agenda. Not only State provided schemes but also private ones - with occupational schemes in focus.

In 2007, EFRP's main areas of work will be:

- the **CEEC Forum:** turning it to an efficient platform for exchanging information and identifying common issues relevant for private pension providers in the CEE region.

- the **Draft Portability Directive:** seeking to put this initiative in whole or in part "on hold" until the outcome of the "flexicurity" debate is clear. The proposal needs redrafting to make it compatible with the IORP Directive, limit its cost impact as well as the administrative burden.
- **Solvency II:** IORPs need their own solvency regime.
- **IORP Directive:** continue to ensure that its innovative text is respected and can deliver its full potential before any wide-ranging review is undertaken.
- continued action to remove **cross-border tax barriers** for dividend and interest payments to IORPs and for cross-border transfers of pension capital.
- **Financial services policy:** ensure that occupational pension provision retains its distinctive role.

We will also continue to work on a number of other EU issues relevant to IORPs on which the voice of pension funds and similar institutions must be heard.

On a final note, we would like to thank all our Members for their valuable input and support.

Jaap MAASSEN
Chairman

Chris VERHAEGEN
Secretary-General

Joaquín ALMUNIA
European Commissioner responsible for Economic and Monetary Affairs

Henrik BJERRE-NIELSEN
Chairman – CEIOPS

Sigisbert DOLINSCHEK
Secretary of State for Social Security, Generations and Consumer Protection, Austria

Józef NIEMIEC
Confederal Secretary – ETUC

Ieke van den BURG
Member of European Parliament

Thérèse de LIEDEKERKE
Director Social Affairs – BusinessEurope

1. EFRP celebrates its 25th Anniversary

Starting out as a network of friends who were all pension funds managers, the EFRP has grown into a well-established pan-European federation - the leading voice on workplace pensions in Europe. Rather than looking back, we celebrated our 25 years on 20 June 2006 by looking to the future.

Pensions in the 21st century was the central theme. We welcomed **high level speakers** from the three EU Institutions (Council, Parliament and Commission) as well as from the EU-level social partners (ETUC and BusinessEurope[1]) who were also joined by CEIOPS, the cross-border forum for Member State supervisors.

Each speaker presented his or her thoughts on **how Europe can best develop good pension systems** for the citizens in the years to come.

Mr. Joaquín ALMUNIA	European Commissioner responsible for Economic and Monetary Affairs
Mr. Sigisbert DOLINSCHEK	Secretary of State for Social Security, Generations and Consumer Protection, Austria
Ms. Ieke van den BURG	Member of European Parliament
Mr. Henrik BJERRE-NIELSEN	Chairman – CEIOPS
Mr. Józef NIEMIEC	Confederal Secretary – ETUC
Ms. Thérèse de LIEDEKERKE	Director Social Affairs – BusinessEurope

The presentation of each speaker is available at www.efrp.org

The session was also the launching path for an **EFRP video** illustrating the federations' achievements and challenges ahead.

The video not only underlines the **diversity** in workplace pension provision across Europe but it also conveys the **common goal** shared by all EFRP Members: good pensions for working people.

The video is available at www.efrp.org

1 Formerly UNICE

(l-r) Chairman, Jaap MAASSEN, welcoming Commissoner Joaquín ALMUNIA.

(l-r): A Danish delegation: Anne SEIERSEN, EFRP Board Member, Henrik BJERRE-NIELSEN, Director General Finanstilsynet and Erik ADOLPHSEN, Chairman Industriens Pensionsforsikring.

(l-r) Vice Chairmen, Peter LINDBLAD and Angel MARTINEZ-ALDAMA changing ideas with Jozef NIEMIEC, Confederal Secretary ETUC.

(l-r) Professor Wolf-Rüdiger HEILMANN, GDV, with German Member Association representatives Boy-Jürgen ANDRESEN, Chairman aba, and Klaus STIEFERMANN, EFRP Board Member.

(l-r) Lisa HAINES, Global Pensions, interviewing Christian BÖHM, EFRP Board Member

EFRP anniversary messages

1. **Globalisation, ageing societies and EU enlargement** mean both opportunities and challenges. These strategic issues affect pension systems. To cope with them Europe must **modernise its pension provision.**
2. EFRP promotes a **solid three pillar model** backed by a **sound financial system** and a **stable macroeconomic environment**. This model provides a natural hedge across the economic cycles.
3. The three pillar model must **reflect the diversity across the EU yet at the same time clarify the structure of a European pensions' model**. Agreeing a common model would send a clear signal to European citizens at large: Europe is securing your old age income.
4. Although no particular form of single retirement benefit system is inherently superior to another, recent research increasingly supports the view that **private pensions based on collectivity and risk-sharing are likely to outperform individual arrangements**. This insight is particularly relevant for delivering affordable and sustainable supplementary pensions.
5. A **balance** must be struck **between security and affordability.** Efficiency should make pensions more affordable yet there needs to be sufficient certainty that the pension promise will be delivered. What we see is that the regulatory burden on private pension providers is more skewed towards achieving unrealistic levels of 'security' than in delivering 'affordability'. Regulators have over-reacted to capital market events and, in fact, magnified their effects.
6. EFRP urges **Member States and EU legislators alike to implement the EU "better regulation agenda**" and to deregulate the pensions' regulatory framework. Deregulation in private pensions is badly needed to increase the overall efficiency of pension systems.
7. **Europe is changing**. Workplace pensions have undergone profound changes during the last decade. One **trend is the shift from defined benefit towards defined contribution schemes,** especially in the UK. In the **new EU Member States defined contribution pensions have been made mandatory** to top up state pensions that may themselves have undergone profound reform. These new systems deserve more attention to fit into the EU three pillar pensions model.
8. '**Brussels' policy impact is growing.** The EU strategies are undoubtedly contributing to convergence of national social protection policies including pensions – statutory and private ones. EFRP members are fully aware of this: if you want to shape policy at home you must start in 'Brussels'!

2. Keeping pace with EU enlargement - CEEC Forum

The introduction of the Euro was a major event in the recent history of the EU. But the EU-enlargement with ten new Members in 2004 and Bulgaria and Romania from 1 January 2007 is another historical and economic landmark.

The first contacts with the new EU Member States were limited and occasional. Further we noticed EU policy makers are insufficiently aware of the pension reform in the CEE region. Since EFRP could not afford to neglect the new course of history, the EFRP General Assembly of the Members decided – 26 October 2006 – to establish a Central and Eastern European Countries Forum: the CEEC Forum.

This initative indicates that the EFRP:

- is open towards new forms of private pension provision in the EU
- wants to promote secure and affordable pensions for working people across the – enlarged - EU.

The Forum aims to be an appropriate platform to:

- discuss issues common to CEE pension systems
- share experiences on pension systems
- decide what points could be taken to the EU level in Brussels for action
- promote common European values in pension systems.

Mr. Csaba NAGY, Chairman of the Hungarian Association of Pension Funds, accepted to act as **Chairman of the CEEC Forum.** He will represent CEEC Forum Members in the EFRP Board of Directors.

The CEEC Forum brings together representatives from private funded pension institutions, operating both mandatory and voluntary systems, from new EU Members that over the past decade have introduced multi-pillar pension reform. These include: Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, Romania, Slovakia and Slovenia.

The Forum is due to meet at regular intervals and is open to representatives from other CEECs that would like to join. The inaugural meeting is scheduled for 7 March 2007 in Bratislava.

3. IORP Directive

3.1 Strategic significance

The IORP Directive is the basic regulatory framework for funded pension providers with a workplace connection. If it works, it will deliver a liberal but effective prudential framework with a single licence that should bring economies of scale.

Its strategic significance goes beyond this:

- it acknowledges IORPs as specific financial services providers with their own set of rules.
- as the main regulatory element designed to address ‘second pillar’ providers, it also sits between EU rules on the ‘first’ and ‘third’ pillars.
- it is the first EU law relating to pension matters to recognise that financial services issues must dovetail with labour and social policy.

The challenge is to make sure that the ‘fit’ with other rules is clearly understood – whether this be in relation to solvency principles, asset management or portability.

3.2 Implementation

All Member States should have notified fully their implementing legislation to the European Commission by 23 September 2005. In fact only four of the (then) 25 Member States did so. By December 2006, this number had risen to 22 with two Member States, Italy and the United Kingdom[2], being referred to the European Court of Justice for incomplete notification.

One should be careful about treating full notifications as reflecting levels of real implementation, i.e. accurate and full implementation of the IORP Directive. Establishing correct implementation is complex but to some extent one can use indirect tests:

2 Case C-367/06 Commission v UK, was withdrawn at the beginning of 2007.

- Using Commission infringement proceedings as a negative indicator, we note that on 12 October 2006, it launched its first proceedings for incorrect implementation against the Czech Republic, Hungary and Poland – all States the Commission identified as having fully notified. The Commission insisted that regardless of whether a Member State had a system of funded occupational pension provision as part of its pension system, it had nonetheless to put in place the legal framework demanded by the IORP Directive.
- On the positive side of the balance, if cross-border cases being dealt with by supervisors may be used as an indicator, by the year's end between 30 and 40 were noted by CEIOPS members. Although most related to pre-existing cross-border activity, around a quarter appears to have been 'new' cases.

Both developments show that the single market logic is beginning to bite.

3.3 EU bodies seek solutions to emerging issues

Apart from enforcing compliance with EU rules, the **European Commission** also seeks to pre-empt such action by explaining its own understanding of those rules. This is why it continued to rework the '**interpretative guidelines'** its DG Markt had previously issued in 2005. Due to be released in 2006 their publication has been re-scheduled for the first half of 2007.

The EFRP gave input on a number of aspects including the nature of cross-border activity, issues in connection with multinational companies, funding implications of cross-border activity and the role of CEIOPS[3] in relation to the IORP Directive.

In 2006 the EFRP updated its **Legal Commentary** on the IORP Directive, first published in 2004, to reflect developments since then. However, since we wanted to take into account the Commission's latest version of its interpretive guidelines, we decided to delay publication until the Commission guidelines are issued.

In February 2006, **CEIOPS**, the trans-national forum for Member State supervisors, adopted the **Budapest Protocol** which sets out how Member State competent authorities intend to work together to supervise cross-border activity by IORPs. CEIOPS has signalled that it intends to review the Protocol towards the end of 2007.

Within CEIOPS' OPC[4], Member States are taking turns to present their own systems to each other. The OPC also discussed:

- the definition of social and labour law
- cross-border activity
- asset pooling
- funding requirements
- custodians and depositaries
- insolvency protection schemes.

Apart from the first infringement cases launched against Italy and the United Kingdom for non-notification, the **European Court of Justice** looked set in the *Robins* case to rule on the relationship between the IORP

3 Committee for Insurance and Occupational Pensions' Supervisors

4 Occupational Pensions Committee

Directive and an earlier Directive on protection of employee rights in the case of employer insolvency.[5] Even though the final judgment avoided addressing arguments submitted by the United Kingdom, Ireland and the Netherlands, the issue is likely to re-appear in discussions on solvency for IORPs.

3.4 Looking ahead

The EFRP's monitoring activity over 2006 led it to believe that implementation and review phases are beginning to overlap. What is emerging is a gradual adoption of positions by various EU bodies for what could be a quite extensive review of the Directive less than two years after the due date for implementation.

Getting the Directive in place took more than a decade of effort - getting it to work operationally will, we hope, be quicker but two years seems unrealistically short.

CEIOPS will continue with its analysis of specific aspects of the Directive by conducting surveys on how to calculate full funding levels, understand the concept of ring-fencing and how to deal with subordinated loans. This will culminate in a report on almost all key elements of the Directive later in 2007. A review of the 'Budapest Protocol' should follow shortly after. There are some indications that CEIOPS seems inclined to push for an extensive review of the IORP Directive to align it with insurance rules.

The Commission will begin reporting on national implementation later in 2007 and launch its review of the Directive – which should include a solvency review aspect - in 2008.

IORP Directive implementation issues

- **Correct and full implementation** of the Directive by Member States remains a **high priority matter**.
- Proper implementation includes **avoiding gold-plating** and ensuring that **cross-border provision of services is not only feasible but facilitated.**
- The Directive represents **a new generation of financial services regulation** – slim-line and principle based. Attempts to realign it according to earlier generations of financial services rules such as the insurance directives would be retrogressive.
- **CEIOPS** has a particularly **important role** in making the Directive work. Its fact-finding work on **issue identification** is also very important for the review phase, so it is imperative that the results of this work are **released to stakeholders** at the earliest possible opportunity for scrutiny.
- Before starting on a wide ranging review, the **Directive should be given sufficient time** to deliver its full potential.

5 Case C-278/05 Robins and others. Advocate General Kokott's opinion of 13 July 2006 raised issues about the interconnection between the IORP Directive and the nature and level of protection required by Article 8 of Directive 80/987/EEC on the protection of employees' pension rights in the event of employer insolvency. She argued for a high level of protection – although she accepted that the UK could not be held liable in this case for the loss in economic value of the pension rights. The Court's eventual judgment of 25 January 2007 did not follow her reasoning on the standard of protection required and it disregarded any linkage with the IORP Directive.

4. A Solvency Review for IORPs

4.1 EIOPC decision to conduct separate Solvency review for IORPs

On 5 April 2006, **EIOPC**,[6] the trans-national forum for Member State regulators, decided that IORPs would not come under the current Solvency II review for insurers. There was universal agreement by Member States participating in the discussion that at this point in time it was not feasible to include IORPs.

EIOPC invited the Commission to revisit the issue with the planned revision of the IORP Directive in 2008.

The EFRP warmly welcomes this decision.

Some of EIOPC' considerations

- substantial differences between IORPs and insurance undertakings
- wide range of diversity of IORPs across the EU
- any action taken should reflect specificities of IORPs
- a Solvency II process for IORPs might create instability in the markets if announced unexpectedly
- the IORP Directive is already harmonising several elements of prudential supervision
- experience of implementation of the IORP Directive is needed

6 European Insurance and Occupational Pensions Committee, the Level 2 Lamfalussy committee for occupational pension funds. EIOPC is the regulatory counterpart to CEIOPS – the supervisors' forum. EIOPC' role in relation to the IORP Directive is currently limited by the fact that the IORP Directive contains no provisions which give it a regulatory role. Nevertheless, it acts as a policy sounding-board on occupational pensions' issues for the European Commission.

4.2 Acknowledging the unique features of IORPs

In the run up to the EIOPC meeting of 5 April 2006, the EFRP tabled a position paper establishing the reasons why a different approach from insurance should be taken as to IORPs.

The elements unique to IORPs, their activities and their regulatory framework should be fully understood before taking action in this area. As is clear from the slow implementation of the IORP Directive many Member States are just beginning to come to grips with the nature and operation of their own systems.

To create a common, EU-wide framework also means understanding each others' systems as well as understanding the impact of the IORP Directive. At least the same level and consultation devoted to tailoring a Solvency II regime to fit insurers needs to go into creating a solvency regime for IORPs.

4.3 Looking ahead

The Solvency II project is being closely monitored by the **EFRP Working Group on Funding and Solvency**, chaired by Mr**. Wil BECKERS (NL),** EFRP Board Member.

This group will:

- assess the impact of applying mechanically the Solvency II regime for insurers to IORPs, and
- reflect on an IORP-specific regime having regard to the regulator's desire to introduce risk-based supervisory requirements as to solvency.

5. Draft Portability Directive

5.1 Draft Directive struggles slowly through the institutions

The EFRP has long supported **worker mobility** as a key element of a functioning single market. The limited powers of the European Union to legislate in this area explain why little had previously been done to remove barriers to worker mobility in the field of occupational pensions.

In our view, the **Commission proposal** of 2005 for a portability Directive **goes beyond what is needed** and comes dangerously close to treating workplace pensions themselves as the barrier to be eliminated. In addition, the **cost impact** of the proposed Directive has not been considered in full as it would reduce levels of workforce coverage instead of increasing them. It also suffers from a number of basic **design flaws** that cannot be resolved through the normal legislative process.

Originally envisaged for **adoption by Council** in **early summer 2006**, the Council's technical working group revealed **more and more difficulties**. In late 2006, this disquiet culminated in the so-called '**Finnish compromise**' under which most Member States favoured **dropping the transfer element** entirely and **focussing instead** on **acquisition**, **vesting** and **preservation**.

Unlike the IORP Directive where it had showed leadership, the **European Parliament** managed to assemble over 300 proposals for amendment but developed no clear positions.

5.2 EFRP moves from qualified support to serious reservations

During 2006, as the EFRP analysed the implications of the Commission proposal in greater depth and in the light of discussions in both Council and the European Parliament, the EFRP concerns began to grow. Whereas it had given a **lukewarm reception** to the draft directive in **October 2005**, our **more fundamental reservations** were reinforced during the year. Unusually for an EU proposal, the draft Directive began to draw increasingly intense criticism from national bodies dealing with occupational pensions. Apart from the

EFRP member associations, stakeholders such as trade unions - particulary from Scandinavia - and business representatives grew ever more sceptical about the wisdom of this new regulation.

In May 2006 the EFRP presented its views to the **European Parliament's Employment and Social Affairs Committee** – the main committee dealing with this file. The EFRP criticised the draft directive for

- not being founded upon a **meaningful cost-impact study**
- **overriding subsidiarity** and, in particular, threatening the role of the **social partners**
- **failing to recognise** that portability is a useful **auxiliary mechanism** but not an end itself
- **ignoring** differences in the **economic characteristics of different kind of workplace pension provision**
- **overlooking** the **interests of other stakeholders** and focussing narrowly on those of outgoing workers
- **lacking clear basic concepts** – phrases such as "**fair adjustment**", "**non-discrimination**" and "**transfers of rights**" were unclear and would invite ultimately the attention of the European Court of Justice.

Lack of progress between May and October meant that essentially the same message could be repeated to MEPs at the European Parliamentary Pensions Forum in October 2006.

The EFRP explained to the **European Commission** how a **'clean break' capital transfer provision** would avoid the problems caused by the Commission's unclear text. The difficulties surrounding the Commission's transfer article have probably 'inoculated' many Member States against transferability for the near future by convincing them that it is inherently complex. The Federation also alerted the Commission to difficulties with the **interaction with the IORP Directive** in relation to **cross-border providers** – an issue overlooked by almost everyone.

The Federation also regretted that many of the issues raised in 2006, particularly by the **Council's** Social Questions Working Party, had not been addressed before the Commission ever adopted its proposal. This could have been achieved via **greater stakeholder involvement** in which **technical options** rather than general policy objectives were discussed.

Portability – EFRP position

- Portability is a **desirable adjunct** to occupational pension systems but it must work through – not against – current systems of occupational pensions.
- We are still **not convinced** that the **economic case for this measure** has been made out. **Higher costs** mean **lower pension benefits** or **lower scheme coverage** or both.
- Portability rights must **not become absolute rights** of outgoing workers – the **interests of all other stakeholders** need to be taken into account
- Any European portability initiative must seek to **link up** rather than **harmonise** national systems.
- The **interaction with the IORP Directive** needs to be better thought through. Particularly **cross-border providers** need to know that the financial services rules supporting preservation will be those of the **home State** of the provider.
- The **progress** achieved over 2006, particularly as a result of the Council's technical work, could be best utilized if there were a **legislative pause** during which the draft directive would be **thoroughly reworked** from first principles. The outcome of the forthcoming **flexicurity debate** should also be fed into this analysis.

5.3 Looking ahead

Regrettably, EFRP activity on the portability Directive will continue to be an exercise in damage limitation unless the European Commission would try to build in a pause in the legislative process. This would allow everyone to capitalize on the work achieved in Council. It would also allow reciprocating the structure of the IORP Directive on the relationship between social/labour law issues and the financial services issues. Unless this link is clearly understood, cross-border pension provision will become even more complex which should be avoided in any event.

It may be that this will also allow the flexicurity debate to crystallise so that those insights can also be taken on board.

If the legislative pause is not going to happen, there is in any case a need to address suggestions that vesting should be immediate for everyone over 25 and that there be no retrospective effects together with ensuring an orderly transition.

The Commission has already indicated that it will re-table the issue of transfers. When this becomes imminent, the EFRP will argue for a more realistic and less invasive approach to be taken than that implicit in its first attempt.

6. Financial Services – Asset Management

IORPs are important financial institutions that play a prominent role in:

- channeling long term savings towards long term investments
- securing or facilitating the payout of life-long and safe pension income

In several Member States, IORPs are major financial vehicles for workplace pension provision. Some are keen to explore the full potential of the internal market for financial services and are looking for opportunities to operate pension schemes across border.

To discuss financial services and asset management, EFRP has established a Working Group on Financial Services and Asset Management, chaired by our vice-Chairman, Mr. Angel MARTÍNEZ-ALDAMA (ES).

6.1 White Paper on Financial Services Policy (2005-2010)

At the end of 2005, the EU Commission published a White Paper[7] setting out the framework for its financial services policy over the next 5 years.

The EFRP supports the EU Commission's approach of focussing on 'dynamic consolidation' instead of announcing another raft of new legislative initiatives. The EU Commission explicitly states that the legislative framework is in place. It is up to Member States now to implement it properly in the true spirit of achieving a single market for financial services. Enforcement of timely and correct implementation has become a priority for Commission services.

The White Paper does not explicitly address IORPs, as defined in terms of the IORP Directive. Nonetheless, EFRP finds it useful to table a number of comments from an IORP perspective.

7 COM(2005)929, 01.12.2005

- The review of the existing regulatory framework should also identify areas where adjustments could be made by Member States to their own regulatory frameworks without the need for EU level measures. The existing Lamfalussy machinery could encourage a more coordinated approach to emerge.
- The envisaged ex-post evaluation of the FSAP measures should include the IORP Directive. In particular, the EU Commission should assess the extent to which Member States have 'gold-plated' while implementing it. The evaluation should also look at the implications of the IORP Directive for the EU-12 new Member States.
- It should be recognised that workplace pensions involve a borderline with Member State social / labour law which has not been fully explored.
- The White Paper claims there is a need for increased awareness and direct involvement of citizens in financial issues as the state gradually withdraws from financing aspects of social security systems. Financial education has to be stepped up in every age category, especially with younger generations - but education alone will not be a panacea. The consequences of the transfer of risks to individuals can be mitigated if appropriate policy action is taken in favour of collectively funded systems.

6.2 Investment Funds

The EFRP provided **input from the demand side of the market** into this debate.

6.2.1 EU Commission Expert Groups help prepare the way for the White Paper

To identify the issues needed to modernise the UCITS Directives, the EU Commission established different expert groups:

- Expert group on Investment Fund Market Efficiency
- Expert group on Alternative Investment Funds
    - o Subgroup on Private Equity Funds
    - o Subgroup on Hedge Funds

The EFRP was represented by two observers in the Subgroup on Hedge Funds

- Mr. Robbert COOMANS (NL) ABP Investments
- Mr. Mag Gernot Karl HEITZINGER (AT) – SMN Investment Services

Expert Group Reports – EFRP Response

Investment Funds

1. correct interpretation of authorisation and notification rules is critical for facilitating provision of cross-border services.
2. investors should be fully informed to make a proper evaluation of the different investment products available on the market.
3. fund mergers should have no cost or tax consequences for the investor – cost savings should be passed back to the individual end investor.
4. pooling techniques should be clear and transparent for investors – cost savings should be passed back to the individual end investor.

Private Equity

1. private equity is an adequate asset class for IORPs. It is useful for risk diversification in the portfolio and also for enhancing overall investment returns – necessary to provide inflation-protected pensions.
2. the current mix of self-regulation and light-touch supervision is sufficient.
3. a short term supervisory approach in assessing the investments of long term investors such as IORPs is counterproductive and erodes value.

Hedge Funds

1. fulfil an understated role in terms of market efficiency and enhance market liquidity.
2. should be open to all professional investors – country-specific investment barriers are outdated and deliver no helpful prudential effects, often barriers are circumvented by using less efficient and less transparent constructions leading to sub-optimal returns.
3. additional regulation will drive hedge funds and some investors offshore and will limit the funds' innovative capacities.

6.2.2 White Paper on enhancing the single market framework for investment funds

In 2005 the EU Commission started to assess the effectiveness of the UCITS Directives. This exercise continued into 2006, ending with the publication of a White Paper on Enhancing the Single Market Framework for Investment Funds on 16 November 2006[8].

This policy statement of the European Commission charts the way forward for modernising the UCITS Directive as well as the operating environment of Europe's investment funds.

From the perspective of IORPs, the following remarks should be taken into account:

- the White Paper recommendation that investment fund managers develop annuity products might mean that the EU Commission is seeking to modify the activities of investment fund managers. IORPs are the specialist financial vehicles which combine the expertise of building up pension capital and payout life long and secure pension incomes.
- we agree that asset pooling should be a tool for pension funds – and at EU level there are no regulatory barriers to this. However, it is just one technique available to pan-European pension institutions.

8 COM(2006)686

- The EFRP welcomes the EU Commission statement in the White Paper that there are no compelling investor protection reasons for national regulators to interfere in financial transactions involving professional investors. IORPs are indeed qualified investors and are perfectly able to assess the risk and return characteristics of their investments.

6.3 FSAP Evaluation

The EFRP monitors with great interest the Commission's evaluation of the Financial Services Action Plan as the IORP Directive was one of the 42 FSAP measures.

On 25 October 2006 the EU Commission organised a Workshop in Brussels on the methodology it would use to prepare the second stage of the FSAP: an evaluation of its economic impact.

Mr. Tom BERENDSEN (ABP-NL) voiced the EFRP position on the matter. He recommended avoiding complexity and suggested:

- using a binary approach to better identify the impact of the FSAP from other factors
- focusing on a number of key indicators such as growth, inflation, budgetary deficit, employment, access to capital via primary and secondary markets, cost of capital.

7. Demographics

Mr. Joaquín ALMUNIA, EU Commissioner for Economic and Monetary Policy, speaking at our 25 years Anniversary High Level Session, said*: "Very often, the debate on ageing populations is presented in an unnecessarily alarmist manner with references to demographic time bombs. It is, however, important to remember that ageing is essentially a "good news" story for two reasons:*

- *firstly, it is mainly the result of people living longer, with the gains in life expectancy being mostly spent in good health;*
- *secondly, many Member States have already successfully modernised the social security systems to prepare for ageing populations. While much remains to be done, we can take heart from the knowledge that the challenges are surmountable* ***provided policy makers act in a timely and effective manner****."*

At EU Level, there were two major initiatives, the Commission's Communication and the Hearing of the Financial Services Committee (FSC) on ageing and financial markets.

7.1 EU Commission Communication

On 12 October 2006, the EU Commission presented its Communication "the demographic future of Europe – from challenge to opportunity"[9]. This document follows on from the 2005 Green Paper on Demographic Change.

The EFRP was pleased to see that comments it had tabled on the Green Paper had been taken on board in the commission's analysis of the consequences of ageing on pension policy.

The Communication states once again that under current policies overall public finances risk becoming unsustainable in several Member States. Some Member States require additional pension reforms:

- to make the State PAYG system sustainable

9 COM(2006)571

- to allow citizens to increase their retirement income via supplementary pensions

The EFRP fully agrees that in respect of supplementary pensions the level of coverage should be increased. The current level of contributions deserves policy attention for assessing the adequacy of later retirement income.

We regret that we cannot share the view expressed in the Communication that the increasing role of pension funds “raises questions about transparency and the quality of supervision”[10]. In our opinion the IORP Directive sets a high standard for prudential supervision which ensures full transparency through extensive reporting and information to be delivered to beneficiaries.

7.2 FSC Hearing on Ageing and Financial Markets

The EFRP participated in a Hearing of the EU Council – Financial Services Committee (FSC) - on the implications of ageing on financial markets on 25 September 2006.

Chaired by Mr. Jean-Paul SERVAIS, CBFA (BE), the FSC subgroup is tasked with examining policy issues related to ageing and financial markets[11].

EFRP strongly welcomes this EU initiative to better understand the implication of ageing on financial markets. Ageing calls for timely and well designed policy actions and an EU initiative might help Member States to put together the right policy mix to make sure that ageing remains a positive story.

EFRP recommendations to policy makers

Private pensions (2nd and 3rd pillar) need

- a long term stable macroeconomic framework
- efficient financial markets
- conducive prudential regulation
- clear policy choice for a three pillar pension system in the EU-27
- government communication that the State pension is one part only of overall retirement income

Workplace pensions (2nd pillar – wholesale) need

- better understanding by policy makers and regulators of differences in plan design
- increased coverage – assess whether a degree of compulsion is necessary
- specific tax support
- governance structure which:
  - ★ promotes the role of social partners
  - ★ balances interests of plan sponsors and beneficiaries

10 COM(2006)571, page 12

11 EU Economic and Financial Affairs Council meeting of 5 May 2006

8. Taxation

8.1 Common Consolidated Corporate Tax Base - CCCTB

On 2 June 2006, the EFRP participated in an **EU Commission** organised **Working Group of Member State experts** on the Common Consolidated Corporate Tax Base (CCCTB) to determine the extent to which the financial services sector should be subject to normal tax rules and, if not, why.

The CCCTB is a new EU project to allow corporate groups with companies established in at least two Member States the option of computing their group taxable income according to one set of rules – a common EU tax base with Member States responsible for setting the tax rates.

Part of the preparatory work for this project is to establish general principles of taxation and to establish if certain sectors or providers - particularly in the financial services sector - should be regarded differently from other, 'normal' commercial actors.

The initial Commission preparatory paper on tax and financial services contained a number of misperceptions about pension funds and the IORP Directive that the EFRP was able to correct – its concern being that these could have negative spill-over effects for policy areas other than tax.

The general view of the **Working Group appeared to be that pension funds should not be included in the CCCTB exercise.**

The idea that Member States understand tax in the same way but set their own rates sounds attractive and might in the future prove to be very helpful for pan-European pension institutions. However, tax is an area where each Member State still wields a national veto.

8.2 Dividend and interest paid to foreign pension funds

During 2006 the **European Commission** investigated the 26 complaints against 18 Member States which were lodged by the EU Direct Tax Group of PricewaterhouseCoopers together with EFRP on 2 December 2005.

In August 2006 the Commission advised the EFRP there was no reason to start an infringement case against Hungary following legislative changes that satisfied the Commission.

The decision of the Commission on the other complaints is expected in the first half of 2007.

Late in 2006, the **European Court of Justice** (ECJ) handed down an interesting judgment on discriminatory taxation on cross border investors. In **Denkavit**[12] the ECJ found that French tax rules regarding withholding tax on dividends as applied to a Dutch parent company receiving dividends from its French subsidiaries infringed Treaty rules on freedom of establishment (Arts 43 and 48 EC Treaty). The ECJ judged the French rules to be discriminatory because they did not impose a similar withholding tax requirement on comparable payments from a French subsidiary to a French parent company - thus financially disadvantaging equivalent arrangements with non-French companies.

12 Case C-170/05, Denkavit Internationaal BV and Denkavit France SARL v Ministre de l'Économie, des Finances et de l'Industrie, 14 December 2006

9. Statistics

Four countries (United Kingdom, Netherlands, Switzerland and Germany) continue to dominate the European supplementary pension landscape.

However, new Member States quickly are building up their mandatory funded private "pension savings pot" for future pension payments. As the contribution inflow is assured and if markets remain positive, the assets covering mandatory DC systems in those countries will grow significantly over the coming years.

The EFRP represents through its Member Associations approximately € 3,6 trillion of assets managed for future workplace pension payments.

The CEEC Forum represents approximately € 15,6 billion assets managed for future private pension payments (mandatory and voluntary systems) in the region.

9.1 Methodology

As from 2004, our yearly statistical survey reflects the diversity of the European pension landscape and distinguishes between mandatory and voluntary funded pension arrangements linked to paid work:

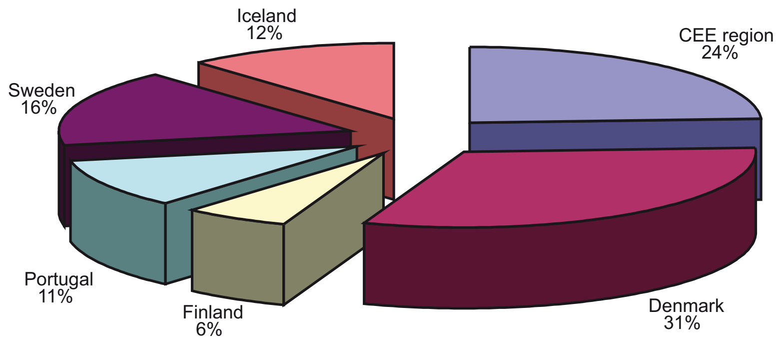
- **Mandatory schemes** are defined as funded private pension arrangements for which the "product characteristics" are set in the national social security law.
- **Voluntary schemes** are defined as funded private pension arrangements for which the "product characteristics" are negotiated by social partners or at company level within a legally defined framework.

9.2 Workplace pension provision – mandatory schemes

At the end of 2005, the value of mandatory funded pension arrangements operated by pension fund management companies was estimated at approximately **€ 127,15 bn[13].**

13 Excluding the assets held by life insurance companies in Finland and Sweden and the reserve assets held by AGIRC – ARRCO and similar supplementary PAYG systems in France.

Geograhical breakdown of assets



The assets held by pension fund management companies in the **CEE region** are spread as follows:

Assets million €	2004	2005	2006
Bulgaria	236,20	354,92	522,65
Estonia	158,00	297,00	475,00
Hungary	3.566,00	4.837,00	5.922,00
Latvia	68,70	117,50	181,60
Lithuania	36,90	117,62	262,74
Poland	15.353,50	22.301,40	30.248,16
Slovakia	-	234,18	745,93
Slovenia	-	683,00	-
Croatia	1.556,00	-	-
Kosovo	84,80	145,81	215,00

9.3 Workplace pension provision – voluntary schemes

At the end of 2005, the value of supplementary voluntary funded pension arrangements accessed through paid work is estimated by EFRP Members at € **3.837 bn**.

According to the organization of 2nd pillar pension market in the Member States, different financing vehicles are used: pension funds, book reserve systems, life-insurance companies.

At the end of 2005,

- € 2.887 bn. was managed by **pension funds**[14]
- € 291bn. was managed in **book reserves systems**[15]
- € 659 bn. was managed by **life-insurance companies** (*under-estimated as not all EFRP Members were able to report or estimate the assets held by life insurance companies for future workplace pension payments*)

The geographical split of **82 % of total assets of pension funds** is as follows:

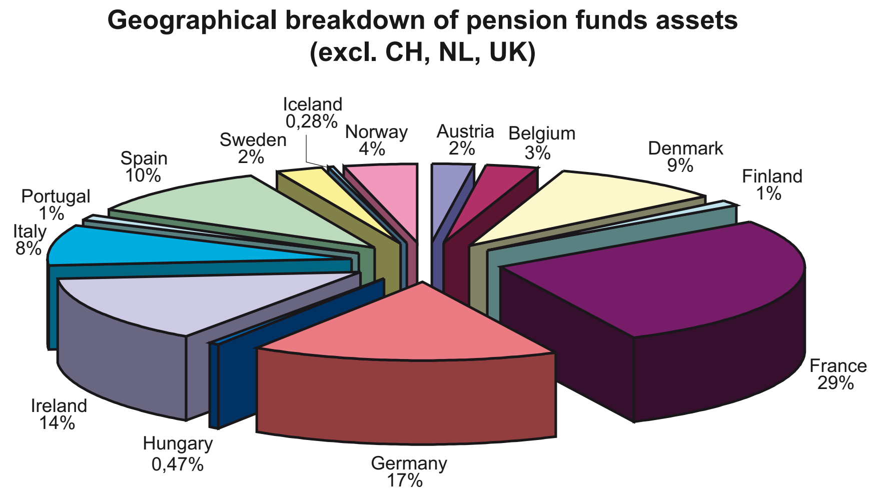
- United Kingdom (57% - or € 1.366 bn.)
- Netherlands (27% - or € 635bn.)

14 For France all reported second pillar pension assets are classified under the category "pension funds"

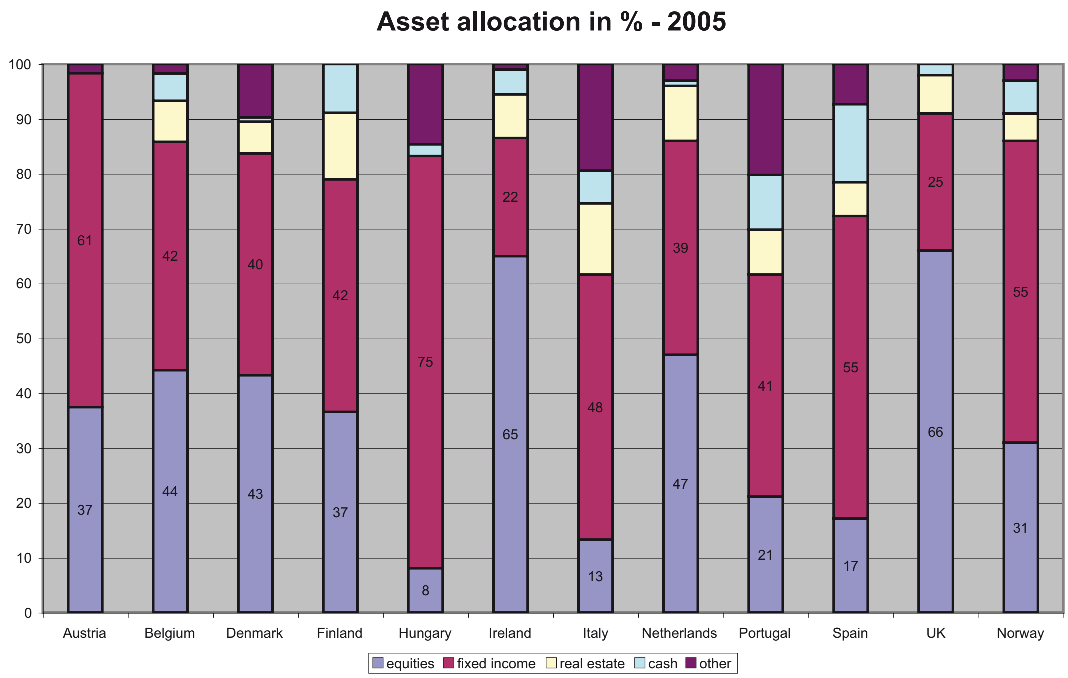
15 Germany (87%), Sweden (5%), Spain (4%), Austria (3%), Italy (1%)

- Switzerland (16% - or € 378 bn.)

The remaining 18% of total assets of pension funds is split between Member States as follows:



Pension funds in the UK and Ireland have a very high equity exposure, followed by the Netherlands, Belgium and Denmark. The other countries have a more conservative approach.



10. Institutional presence and public platforms

10.1 Institutional presence

The EFRP is represented in the following consultative / advisory bodies:

- Commission Pensions Forum

The EU Commission Pensions Forum is composed of representatives of Member State governments, the social partners and other bodies active in the pension industry. The Pension Forum is a platform for exchanging information about problems and development at Community level affecting pensions.

The EFRP is represented by:

- Mr. Jaap MAASSEN, Chairman EFRP
- Ms. Chris VERHAEGEN, Secretary-General EFRP
- Dr. Withold GALINAT, BASF Pensionskasse – DE

- CEIOPS Consultative Panel

CEIOPS is the trans-national forum for Member State supervisors. It seeks to develop a common understanding of the IORP Directive and is also tasked with creating the conditions for unproblematic cross-border membership. A key role is played by its Occupational Pension Committee (OPC) which has been chaired by Mr. Mihály ERDŐS of the Hungarian Financial Services Authority since 2001.

The **CEIOPS Consultative Panel** assists CEIOPS in the performance of its functions and, in particular, to ensure adequate stakeholder consultation.

The EFRP is represented by:

- Mr. Jaap MAASSEN, Chairman EFRP
- Ms. Penny GREEN, SAUL Trustee Company – UK

- **European Parliamentary Pension Forum (EPPF)**

The objective of the EPPF is to provide a platform for dialogue between the European Parliament and the pension industry community. Its primary aim is to disseminate knowledge in order to promote an informed debate on pension policy within the European Parliament.

The EFRP is a Member of the Steering Committee co-chaired by MEPs Ms. Ieke van den BURG and Mr. Othmar KARAS;

On 18 October 2006 the EPPF organized a session on 'Portability' at which all the key players presented their views.[16]

- **OECD Working Party on Private Pensions**

Over the years, the EFRP has developed excellent relations with the OECD. Although the OECD produces mostly non-binding guidelines and recommendations, in our opinion its work influences EU and Member State policy making .

The EFRP sits with observer status in the Working Group on Private Pensions and in the Taskforce on Private Pension Statistics.

- **IOPS (International Organisation of Pension Supervisors)**

The main goal of IOPS is to identify good practice in the field of private pension supervision. IOPS has around 60 members and observers representing approximately 50 countries and territories worldwide.

The EFRP has observer status in IOPS and attended the **Global Forum on Private Pensions** on 7-8 November 2006 in Istanbul. The conference mainly dealt with private pensions and their link with public pensions, supervisory requirements, DB/DC reform, longevity risk.

10.2 Public platforms

The EFRP is keen to move forward the debate on private pensions in Europe. We believe it is essential that the latest policy developments and industry solutions affecting workplace pensions are well debated and clearly understood.

The EFRP delivered key speeches in eight Member States. Without going into detail, the EFRP addressed mainly the Draft Portability Directive, implementation of the IORP Directive and the European pension challenges and developments.

The Chairman presented EFRP views on supervision of private pensions at a joint KNUIFE, IOPS and IAIS conference in Warsaw on 19 September 2006.

In 2006 the EFRP organised a **European Pension Funds Congress** in partnership with the Maleki Group.

We are happy to report that this first international conference in Frankfurt was well-attended with lively question and answer sessions. The following topics were covered:

- private pensions in the EU-10
- pensions and financial innovation
- risk-sharing in workplace pensions
- towards pan-European pension vehicles

16 Presentations are available at : http://www.eppensionforum.org/events.html

11. EFRP Organisation

11.1 Board of Directors[17]

Mr. Jaap MAASSEN, Chairman (NL) - Director of Pensions and Member of the Board of ABP

Mr. Angel MARTÍNEZ-ALDAMA, Vice-Chairman (ES) - Director General INVERCO

Mr. Peter LINDBLAD, Vice-Chairman (SE) - President Pensionsgaranti

Mr. Wil BECKERS (NL) - Managing Director DSM Pension Services BV

Mr. Christian BÖHM (AT) - Managing Director APK - Pensionskasse AG

Mr. Pierre BOLLON (FR) - Director General AFG

Mr. Patrick BURKE (IE) - Director of Investment Development Irish Life Investment Managers

Mr. Robin ELLISON (UK) - Partner Pinsent Masons

Ms. Anne SEIERSEN (DK) - Head of Department Forsikring & Pension

Mr. Klaus STIEFERMANN (DE) - Managing Director aba

CEEC FORUM REPRESENTING

Mr. Csaba NAGY (HU) - Managing Director OTP Private Pension Fund

17 As from 24/01/2007

11.2 Member Associations[18]

11.2.1 European Union

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18 As from 1/1/2007

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19 Observer Status

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20 Observer Status

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Association of British Insurers – ABI

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11.2.2 Non-EU Member Associations

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21 Observer status
22 Observer status
23 Observer status

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Association Suisse des Institutions de Prévoyance – ASIP

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24 Observer status

11.3 CEEC Forum Members[25]

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Estonian Association of Fund Managers

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KOSOVO

Kosovo Savings Trust

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25 Member list as from 28/02/2007

26 Observer status

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SLOVENIA

PRVA Pokojninska Družba d.d.

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11.4 Supporters' Circle

Since 1997 the EFRP Supporters' Circle has given individual companies the opportunity of keeping a closer eye on the developments taking place within the field of European occupational pensions.

By joining the EFRP Supporters' Circle individual companies have direct access to high quality information including the bi-monthly EFRP Newsletter. The Newsletter highlights current pension issues and is a very useful tool for keeping up to date. The EFRP is also very keen to set up projects with the industry to promote the pan-European pension market.

On 31 December 2006 the EFRP Supporters' Circle counted 24 supporters :

ABN-AMRO
ABN-AMRO Mellon Global Securities Services B.V.
AON Consulting
Blackrock Investment Management (UK) Limited
British Aerospace Public Ltd. Company
Capital Group International S.A.
European Treasury & Benefits Center Mars
Fidelity Institutional Asset Management
Fortis Bank NL
Goldman Sachs International
Hammonds
ING Group
Insight Investment
Linklaters
Maleki Group
Mercer Human Resource Consulting
Northern Trust Management Services Ltd
OYAK (Turkish Armed Forces Pension Fund)
PricewaterhouseCoopers Accountants N.V.
Schroders Investment Management International Ltd.
Standard Life Investments
State Street Bank GmbH
The Bank of New York
Towers Perrin

11.5 EFRP Secretariat

Secretary General:	Ms. Chris VERHAEGEN
Economist:	Mr. Jeroen CLICQ
Legal Counsel:	Mr. Roger KOCH
Office Manager:	Ms. Blerina PETRITI[27]
	Ms. Karen TEMMERMAN[28]

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efrp@efrp.org

www.efrp.org

27 Until end of December 2006

28 As from January 2007

About the EFRP

The European Federation for Retirement Provision represents various national associations of pension funds and similar institutions for pension provision. The EFRP has members in most EU Member States[29].

EFRP membership at large consists of institutions for occupational (2nd pillar) retirement; some of them also operating purely individual pension schemes (3rd pillar).

Most EFRP members in EU-15 are non-profit making associations. Members and beneficiaries are usually represented in their governance structures; many of them are managed on a paritarian basis between unions/employees and employers.

To address the concerns of Central and Eastern European Countries, the EFRP established the CEEC Forum in October 2006. Membership of this Forum is open to representatives of private pension institutions from EU-12 Member States that in recent years have introduced multi-pillar pension reform.

75 million EU citizens are covered for their occupational pension plan by EFRP Member Associations.

Through its Member Associations the EFRP represents approximately € 3,6 trillion of assets (2006) managed for future occupational pension payments.

29 EU Member States: Austria, Belgium, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Slovakia, Sweden, UK.
Non-EU Member States : Croatia, Guernsey, Iceland, Norway, Switzerland

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