



NFU's response to the European Commission's call for evidence "Need for a coherent approach to product transparency and distribution requirements for "substitute" retail investment products?"

About NFU

The Confederation of the Nordic Bank, Finance and Insurance Unions (NFU) is an organisation for co-operation between trade unions that organise employees in the banking, finance and insurance sectors in the five Nordic countries. At present, eight trade unions are affiliated to the NFU, two in Denmark, two in Finland, two in Sweden, and one in each Iceland and Norway. Through these trade unions, the NFU represents 160 000 employees on the Nordic financial market.

General remarks

Most of the questions asked by the Commission in the call for evidence are dealing with matters that are largely oriented towards the business side of retail markets, and hence not for NFU to comment specifically.

The questions and the overall discussion under section 2 in the call for evidence is however of great trade union interest, such as product disclosures and factors which influence promotion and sales of various products.

NFU comments

Our opinion is that a multitude of choices among retail investment products should be available, but customers should not be pressurized in any way. Good advice should include information on the complexity of the products as well as the long-term impact of financial decisions. Many customers seek a long-term relationship based on continuous good advice and confidence and want financial institutions that put the interest of the consumers first.

However, the employees must be given the time and opportunity to transfer this knowledge. Aggressive sales targets and merit rating systems are counterproductive to customer protection and qualified advice, and the Finance industry employers need to take responsibility for this conflict between sales and advice.

In conjunction with promotion of various products, compensation arrangements (bonuses or primes related to the sale of a specific product) might be a strong incentive for the salesman-employee to sell or privilege a product. If the wage of an employee is tied to any kind of compensation arrangement, the employee will have a strong incentive to privilege the sale of these products. When it comes to creating systems for bonuses and remuneration, the involvement of trade unions, workers organisations and employees is important. This might be an instrument to motivate the employees to do a better job that will result in a better quality other service and advice to the customers, but only if the bonus system makes it possible for the individual employee to give an adequate and responsible legal advice to the customer.

As stated above, aggressive sales targets and merit rating systems are counterproductive to customer protection and qualified advice. There are many examples where the line between (objective) advice and sales has been effectively eradicated, mainly due to an ever-ongoing shift in companies' remuneration/bonus systems.

The problem is two-folded; firstly, there are simply not enough time for the employees in the finance industry to explain the meaning of the different products offered by the company, and secondly, since the remuneration of the employees are increasingly linked to their sales targets, the objectivity of the employees in a situation where advice is given stands the risk of being questioned, which will lead to a very unsatisfying work situation. There are examples of predatory lending where the remuneration of bank employees is connected to the sale of credit cards, which in turn has led to an increase in bankruptcy among the consumers. Bank workers want to be rewarded for good service, rather than for selling ever-increasing levels of debt to customers.

This leads to another major issue in this context – the quality of the information and advice given, which is closely linked to the issue of training and staffing that was mentioned earlier. This question will continue to be at the core of consumer education, since the complexity of the products on the market in constantly increasing. Given this increasing complexity, it is of the utmost necessity that roles, risks and responsibilities are made crystal clear to all parties involved.

The NFU is of the opinion that the quality of services to the consumers will depend upon the level and content of training offered to employees, and that not only competent, but also sufficient personnel will be the key to success.

Jan-Erik Lidström
General Secretary



NFU response to the Consultation of the European social partners on the revision of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

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General remarks

NFU would like to draw the Commission's attention to the reply sent by NFU's affiliate, the Swedish Financial Sector Union, as well as the joint reply sent by the unions in Nordea, Danske Bank Group and IF. These unions represent some of the best practices in the said companies, which could be of great interest for the future work with the revision of the directive.

Additionally, NFU would like to highlight a number of specific matters that are of particular importance to the employees NFU represents, namely the employees in the banking, finance and insurance sectors in the five Nordic countries.

Content of the planned community initiative

1.1. Concepts of information and consultation

NFU would like to emphasise how consultation is understood in the Nordic context. A consultation should be interpreted as a mandatory exercise instigated on the initiative of the employer before any major changes in the company, regardless of the nature of the change.

The consultation procedure shall ensure that the enterprise presents the EWC with sufficient information with the aim of getting a response which the enterprise will take into account before making the relevant decisions.

The legal framework

In the opinion of NFU it is of crucial importance that the EWC agreements are applied and respected in practice. It is necessary to address some of the legal uncertainties that have arisen in practice, which in some cases has led to lack of respect of the role of the EWC in circumstances where the employees indeed needed a voice to raise their concerns.

In accordance with recent national rulings regarding consultations (British Airways, Gaz de France), the revised Directive should ensure that any decision taken without proper consultation should be declared null and void by national courts or the European Court of Justice. If management decides not to act in accordance with the opinion expressed by the EWC during the consultation, the EWC should have the right to a further meeting with management with a view to seeking agreement before the decision is taken.

1.2. Content of subsidiary requirements

NFU wants to point out that employers will only gain from a well functioning EWC. Hence the provision in paragraph 4 in the subsidiary requirements for meetings without management should be amended to provide for network meetings for the employee representatives. These meetings should encompass all representatives and experts involved in the EWC, and be arranged at least once per year on the initiative of the employees. These meetings could work as networking and educational meetings, focusing on increasing the knowledge of the national labour law systems concerned as well as an exchange of experiences regarding employee influence structures. In accordance with paragraph 7 in the subsidiary requirements, the management should cover the costs for these meetings. NFU also supports the idea presented by the Commission to increase the number of ordinary meetings in the subsidiary requirements from one to two.

1.3. Role of trade union organizations

In its proposal for revision, the Commission states that it would appear appropriate to recognize explicitly the special role which trade union organizations can play in negotiations and support for European works councils. NFU of course supports this idea. It should however be pointed out that it is crucial that the members of the EWC truly represent the employees of the company concerned, and should therefore, as a general rule, be employees in said company. The members should be appointed by trade unions representing a majority of the employees in the country concerned in accordance with national procedures. If this is not the case, the employees of the company should elect or otherwise appoint the representatives in a well-documented procedure, ensuring the legitimacy of the representatives.

1.4. Role and competence of employees' representatives

Though it has been emphasized many times before, it should also be noted that proper training – including language training - is the precondition for any effective progress within the EWC's.

2. Measures designed to resolve problems encountered in the practical application of the Directive and to rectify gaps in legal certainty

Confidentiality

The revised directive must ensure that the European legislation on information and consultation for workers is properly applied. Today, too often US SEC rules are used to withhold information from employees.

Thus, legal provisions allowing management to withhold information from the EWC or defining them as confidential should be interpreted narrowly, and the burden of proof should rest with the company. The EWC agreement should clearly define objective criteria on this taking account of applicable legal provisions. Employee representatives should be aware of the appeal procedures that are provided for by law. Employee representatives should have the right to transfer confidential information to the body which appoints/elects them and to officials in their union as well as other legal advisers, provided that they inform the recipients at the same time that the information is confidential and may not be disclosed to anyone else.

3.2. Transnational competence of European works councils

NFU agrees with the Commission that the Directive establishes a right to information and consultation on transnational issues. Transnational issues should however be interpreted broadly, taking into account that seemingly national issues may well have indirect transnational effects. In line with SE legislation, NFU is of the opinion that the EWC should be responsible for all issues that are not strictly limited to a particular country. In principle, decision-making of the top management level should always be regarded as transnational. The burden of proof that an issue is not transnational should rest with management. This also means that the EWC should have the right to demand information and consultation on issues that the EWC judges may have transnational implications presently or in the future.

This position is not in contradiction to the general position of the trade union movement; namely that collective bargaining is the responsibility of the national trade unions. Merely, the point is that some issues affect the enterprise at national as well as transnational level – and need to be addressed accordingly.



NFU response to the Consultation on (i) a draft Directive / Regulation with respect to the authorisation, operation and supervision of credit rating agencies (CRAs) and (ii) on policy options to address the problem of excessive reliance on credit ratings.

About NFU

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General remarks

NFU strongly supports the initiative by the Commission. There must be an end to the current world oligopoly of rating agencies. Rating agencies should not work on the development of financial products and subsequently issue a creditworthiness rating for the same products. Such conflict of interest is damaging. We need independent rating agencies that do not (can not) carry out rating on the basis of economic interest.

We agree that it is necessary that methodologies and models used by the credit rating agencies are regularly reviewed in order to be able to properly reflect the changing conditions in the underlying asset markets.

Regardless what option related to the authorisation process and the supervisory architecture is chosen, it is necessary to create a mechanism to ensure the effective enforcement of the provisions of this foreseen act of legislation. NFU fully agrees with the Commission that strong coordination among national regulators will be needed to ensure an efficient supervision and sanctioning system in Europe inspired by a partnership culture between national regulators operating in a network of regulators.

In relation to the idea of establishing a Community Agency, NFU is of the opinion that within Europe at least one public rating agency should be established. It is important that the supervisory authorities are given swift and continuous information about the state of affairs regarding the operations by Credit Rating Agencies established within the Community. Therefore a system must be put in place where rating agencies are rated themselves. A



supervision mechanism without an early warning system will most likely turn out to be toothless, since the damage might already be done. The current financial turmoil has once again shown us how dysfunction in these markets has immediate effects on other areas of national economies. We need a body to monitor the monitors, to ensure the compliance with financial trends. This could be done through the introduction of independent/public rating agencies. If the ratings of an independent rating agency differ from the ratings of a profit driven institution, it might be an indication that the rating methods of the latter needs to be examined.

The consultation document on policy options to address the problem of excessive reliance on credit ratings includes a proposal requiring that all published ratings include 'health-warnings' informing of the specific risks associated with investments in these assets. NFU is, as pointed out above, of the opinion that an independent European rating agency could also provide "health-warnings" regarding the rating agencies themselves.

The consultation document on policy options to address the problem of excessive reliance on credit ratings also notes that the Capital Requirements Directive places particular importance on external credit ratings in the context of securitisation exposures. According to the consultation document, the Commission is already developing concrete measures to make sure that banks look 'beyond' the ratings.

In this context NFU urges the Commission to take note of the fact that any change in requirements for finance institutions also means changes in requirements for finance sector employees. The quality of services to customers will thus depend upon the level and content of training offered to employees. Furthermore, not only competent, but also sufficient personnel will be the key to success. When revising legislation, the Commission should also ensure that Finance industry employers take responsibility for updating and maintaining employees' skills.

Yours faithfully

NORDISKA FINANSANSTÄLLDAS UNION (NFU)

The Confederation of Nordic Bank, Finance and Insurance trade unions

Jan-Erik Lidström

General Secretary



NFU reply to the Communication from the Commission on Temporary framework for State aid measures to support access to finance in the current financial and economic crisis – HT 1559

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General remarks

To NFU it is important that the measures to combat the financial crisis provide for a level playing field. State aid in terms of deposit guarantee schemes, loans or any other measures aiming at restoring the confidence in the industry should not be subject to interpretations in the EU Member States, since any differences in these measures will provide for competitive advantages for some and disadvantages for others. Regardless of what level is chosen, it must be the same for all actors in the European economy and for the finance industry in particular.

Unequal state aid, even in a short term perspective, will in the long term perspective be likely to cause shifts in customer adherence and thus affect the profitability of companies. NFU has previously stated that enforcement of competition law cannot be solely based on the economic interests of the customer; the economic interests of employees must also be taken into account. State aid measures cannot lead to a situation where reduced profits for companies are balanced with reduced personnel costs. NFU does not oppose customer mobility, but this should not be induced by political decisions on state level.

NFU would also like to point out that it is of crucial importance in terms of restoring confidence in the industry that any state aid measure, regardless of its nature, is not used for executive remuneration in any form. The "greed factor" undermines the general trust in companies and financial companies in particular, and further mistrust will only follow if state aid measures would be linked to these bonus or incentive programs.



Another issue is the question of risk capital and the Commissions' strive to enhance risk capital availability by raising the threshold for state aid measures from EUR 1,5 million to EUR 2,5 million. This is to be introduced through a temporary derogation to the Community guidelines on state aid to promote risk capital investments in small and medium-sized enterprises. NFU is of the strongest opinion that what the State economies, the finance industry and the European society in general needs is not more risk, but less. It is risky lending that has caused the financial crisis and to raise the bar for these amounts, and subsequently the bar for how and when the distribution of state aid regarding risk capital needs to be disclosed, is counterproductive.

Yours faithfully

NORDISKA FINANSANSTÄLLDAS UNION (NFU)

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NFU response to the Consultation on the European Union strategy for the Baltic Sea region

About NFU

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General remarks

Firstly, NFU strongly supports the initiative for a European Baltic Sea Strategy. The strategy's four main objectives are all very important. However, since NFU represents employees in the finance and insurance sectors, we will focus below on objective 3.2 and 4.

Secondly, coming to the question of the strategy's objectives, they should be specific in order to maximise output. It is good that the Commission wants to focus on results rather than recommendations. The tasks that lie ahead in the region are far too challenging to let the strategy become a watered down, indistinctly formulated document. Instead, focus has to be sharp and directed towards the most pressing issues.

Thirdly, the goals of the Baltic Sea Strategy should be fully in line with the Lisbon Strategy's Employment Guidelines for 2008-2010. All three main headings in the Lisbon strategy have direct bearing on the Baltic region, and are crucial for long-term social and economic sustainability.

NFU Comments

3.2. 'To make the BSR a prosperous place'

The financial sector is an integral part of both current and future prosperity in the region. At the same time, the financial crisis is upon us and the real economy is coming to an abrupt slow-down and possibly even recession. In order to overcome the problems of the current financial crisis, the financial markets in the region need to be put under a better regulatory regime. The orientation of the financial systems must turn away from short-term profits and focus more on long-term financial stability. This includes measures for transparency, supervision, rules on capital adequacy and pay systems for managers, as well as regulating the activities of credit rating agencies and protecting consumer interest.

Another important issue if the BSR is to remain competitive in the future is better balance between work and family life, and this goes for employees in the finance sector as well as for the region as a whole. To this end, the modernisation and expansion of social protection systems in many countries in the region need to be strongly promoted. The strategy needs to call attention to the benefits of these systems for overall productivity and economic progress. Modern and universal welfare systems are also crucial for the region's future ability to attract and retain an educated and high-skilled workforce. In this regard, the question of welfare systems relates also to objective 3.3 of the Commission's consultation, 'to make the BSR an accessible and attractive place'.

The strategy also needs to support the formation of stronger social partners in the region. In countries where social partners are weak, governments should be encouraged to take their views more into account. Strong social and labour market dialogue can be vital for a region's long-term competitiveness, as we can clearly see in the Nordic countries. The strategy needs to point out the benefits of employee influence on corporate decision-making, as well as of a democratic working life in general. Given the historical heritage some of the region's countries share in regard to labour market organisations, special emphasis needs to be placed on sharing modern and up-to-date knowledge of labour market systems and practices, and how they can contribute to economic prosperity in general.

4. Governance

The Commission suggests that the strategy could push for to implement fully existing EU legislation. This is a very good idea – existing EU finance and labour legislation needs to be implemented further. This goes not least for the third anti-money laundering directive, which if implemented in the whole of the BSR region not only contributes to better governance but also to the goal of increased security as stated in objective 3.4, as protection for employees is also included in the directive. Legislation for the protection of workers is needed if the region is to become and remain a safe and secure place, which is why the directive needs to be implemented in its entirety.

It is essential also that the strategy supports the full implementation of the directive on European Works Councils in the region. This is particularly important with regard to the finance



sector – a high level of restructuring is a perennial feature of the finance industry, and safeguarding mechanisms for employee influence on decision-making is therefore of high importance. Well functioning EWC:s is beneficial also for employers. There is no contradiction between better rights for employee information and consultation on the one hand and employers' interests on the other – on the contrary, they are mutually reinforcing.

When it comes to better cooperation, a central issue is increased cooperation between finance inspection authorities in the different member states, as well as between other supervisory and regulatory bodies of concern. Increased cooperation, both horizontally and vertically, is crucial in order to prevent future financial crises.

Yours faithfully

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