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NFU response to the Public Consultation on Responsible Lending and Borrowing in the EU

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, NFU represents 155 000 employees in the Nordic financial market.

Specific remarks

Question 1: Do you have evidence of misleading or unfair advertising or marketing practices with regard to mortgage and consumer credit?

No. It is however important that such practices are sanctioned. Advertising and marketing material are the result of management decisions. If marketing material is used as training material for finance employees it would thus provide the basis for the provision of advice, and thus mislead the employees having an impact on the customers twice. It cannot be the task of the finance employees to question the marketing material provided by the company.

Question 2: What are your views on the development of risk guidelines?

The development of risk guidelines, and linked hereto, a risk classification of credit products is, indeed, a good idea. The guidelines should be developed according to product groups, and on the basis of provision of general information and advice to the customers. The task of developing and updating the guidelines should be done by an independent official authority in order to ensure a level playing field and install credibility about the risk guidelines. This task could be carried out by the national supervisory authorities on an ongoing basis to keep up with product innovation of the sector.

BUSINESS PRACTICES IN THE CONTEXT OF LENDING TRANSACTIONS

Question 3: In your view, are there certain (categories of) credit products that are inherently unsuitable for sale to retail borrowers? (buy-to-let, interest-only, self-certification mortgages and revolving credit) Would you welcome a set of standardized or certified credit products to be offered to consumers?

We cannot identify specific credit products that are inherently unsuitable for sale to retail borrowers. It is, however, important that complicated credit products are categorized according to risk in order to safeguard the retail customers. This could be combined with the categorizing of customers as is known from the MIFID rules. We would welcome a risk classification and certification of credit products offered to retail customers, but not a set of standardized credit products. We believe in a diversified and regulated finance sector with room for product diversity and product innovation to the benefit of consumers, industry and society in general. If all credit products were standard products it would destroy the free competition and lead to oligopolistic structures in the sector. The only competitive factor for standard products would be the price factor leading to a race to the bottom with regard to service and quality, and thus in the end also jobs.

Question 4: Do you consider that mortgage lenders and credit intermediaries should always perform creditworthiness and/or suitability assessments before granting consumer and mortgage loans? For mortgage credit, what are your views on the criteria to be used in assessing suitability such as loan-to-income ratios or loan-to-value ratios?

Yes, creditworthiness and/or suitability assessments should always be performed before granting consumer and mortgage loans. The creditworthiness could eventually be reassessed before granting a second loan during the validity of the first loan. The borrower (the retail customer) is obliged to provide all relevant information.

Question 5: How should the lender or credit intermediary demonstrate or document the adequacy of the creditworthiness and suitability assessment?

It is in the interest of the company that credit assessments are reliable in order to avoid potential losses. Therefore, the bank/mortgage institution should neither motivate employees with pay incentives for selling credit products nor should they make unreliable credit assessment. The customer's creditworthiness should always be thoroughly documented by obtaining objective information on his/her income and debt.

It is important that the companies encourage employees to provide good customer advice which also include training in how to turn down/decline a loan request by a retail customer.

3.2. Advice standards

Question 6: Do you think that these advice standards would be appropriate in an EU context? Are there others that should be considered? What would be the most appropriate means to introduce and enforce the application of advice standards? Please explain.

We certainly support the idea of introducing guiding principles on advice standards that could be implemented at national level and/or company level. The guidelines should contain instructions on both factual and ethical issues. The guidelines should cover all financial business areas such as it is the case with the Danish executive order on good conduct in financial companies (Bekendtgørelse om god skik for finansielle virksomheder) as mentioned by the Commission. With regard to enforcement of such advice standards we recommend that implementation at national level is made binding with the possibilities of imposing sanctions on the financial companies. The enforcement would also be improved considerably if finance employees receive proper training in how to fulfill the advice standards. Giving advice is indeed a discipline which requires the right personal competencies in order to deal with different types of personalities.

It should also be considered to work for EU certification of the competences required to provide adequate advice combined with a risk classification of financial products.

The Commission also refers to drawing up internal advice guidelines. Indeed, we believe it is a very good idea that companies draw up such internal advice guidelines together with employee and union representatives. This is very much in line with the proposal by UNI Finance Global Union that each financial company develops a charter on responsible sale of financial products agreed between management and unions. Such charters should make explicit, public and verifiable the principles being followed in advice, sales and marketing as well as in operating procedures and work practices.

Such internal guidelines could also include instructions to employees on how to decline a customer in the best way when turning down a request for a credit product. This also signals that it is good company policy to reject a request for a loan (even though it is a business opportunity), if the product is not suitable for the customer. A refusal often puts the employees in a very difficult situation, since the refusal would have important consequences for the customer.

In general, financial companies should be obliged to document and share with the customer the advice that has been given, in order to ensure compliance to advice standards and to prevent the marketing of unsuitable products and loans.

4. RESPONSIBLE BORROWING

Question 7: Apart from a focus on financial education, are there any measures that could be taken to encourage responsible borrowing?

Again the idea of risk classification of credit products, which will enable the customers to prepare for the information to be given by the institute, should be given attention, not least in order to clarify the co-responsibility for the reception of the information by the customer.

Products and information should be developed with respect to transparency for both the customer and the provision of advice. Here again, financial companies should provide written documentation of the advice given and share this documentation with the customer.

5. CREDIT INTERMEDIARIES

Question 8: Do you consider that the scope of the definition of Credit Intermediary as set out in the Consumer Credit Directive could also be applied to the mediation of credit not covered by that directive? Would it be appropriate to differentiate between full-time credit intermediaries and persons who offer credit intermediation on an incidental basis? Please explain why (not).

Yes, in order to ensure a sufficient consumer protection, as well as a level playing between service providers, it seems appropriate to expand the "Credit Intermediary" definition. As far as the question on distinction between full time and incidental intermediaries is concerned, with regard to consumer protection, it may be a good idea not to make such a distinction, or, at least make sure that the consumers are sufficiently informed of the difference between using a "full time" and an "incidental" service provider.

Question 9: Do you think policymakers should make distinctions between credit intermediaries in terms of the products they sell (mortgage, consumer credit, 'point of sale' credit)? Should credit intermediaries be treated differently in terms of the status of their relationship with lenders (tied versus untied intermediaries)? Please explain your answer.

Yes, distinctions should be made both between products and intermediaries. A mortgage loan is the single most important investment decision in most people's lives, and it should thus be treated differently than other credit products. Besides, both tied and untied credit intermediaries should be obliged to disclose to the customers their relationships with lenders, to provide for price transparency and predictability.

Question 11: Does the regulatory patchwork for credit intermediaries present a problem, in your view?

Regulatory patchwork often creates risk for regulatory loopholes, which should be avoided. Simplicity and comprehensiveness in regulation and sanctions on misconduct should be the guiding principles.

Question 12: What would be the most appropriate way to address potential conflicts of interest, particularly with regard to fee/ bonus/ commission structures? Should any measures in this regard apply to bank client-facing staff as well as intermediaries?

There should be no incentives linked to the sale of an individual product in order to avoid conflicts of interest. However, it should be allowed to reward the good employee and team results. In addition, bonus and incentive systems should be transparent, public, fair and sustainable and should encourage the provision of good customer service & advice as well as the long-term interest of the company.

As a general principle it should be stressed that the EU has no competence in questions regarding pay in accordance with article 137.5 of the Treaty. In other words the sovereignty of the national social partners and national collective agreements should be respected.

Question 13: What are your views on the registration and supervision of credit intermediaries?

All financial players should be subject to regulation and supervision to ensure a level-playing field. The registration of credit intermediaries is the precondition for supervision of their activities and should thus be supported, not least because credit intermediaries can play an important but sometimes overlooked role in the selling of credit products such as mortgage loans.

Question 14: What are your views on prudential and professional requirements for credit intermediaries (such as minimum capital, professional indemnity insurance, educational or professional qualifications)?

Credit intermediaries should be subject to similar prudential and professional requirements as in the banking and mortgage industry depending on the products they sell.

Question 15: How do you think the activities of credit intermediaries could be brought within existing complaints and out-of-court redress mechanisms?



By expanding the scope of the existing redress programs. The problems that arise in relation to credit intermediaries are closely related to the questions that are dealt with by the existing banking complaints schemes.

Yours faithfully

NORDISKA FINANSANSTÄLLDAS UNION (NFU)

The Confederation of Nordic Bank, Finance and Insurance trade unions

Allan Bang

President

Christina Colclough

General Secretary