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## **NFU Response to the Consultation Paper on the UCITS Depository Function**

### **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 160 000 employees in the Nordic financial market.

### **General remarks**

Some of the questions asked by the Commission in the consultation paper are dealing with matters that are largely oriented towards regulators and investors on the market, and hence not for NFU to comment specifically.

In our reply, we have focused on matters that will, from our perspective, have an impact on employees in the finance sector now and in the future.

### **Question 1-10:**

NFU does agree with the Commission that it is not appropriate to have a less stringent approach regarding retail investors than for professional investors. In the wake of the financial crisis, the confidence in the financial market has been severely shaken, and investors on all levels must be reassured new tools are being developed to look after their interests.

NFU also agrees with the Commission that a more detailed and transparent regulation regarding UCITS and, in particular, depository's function might be helpful in order to straighten some of the question-marks regarding scope of liability and duties, since the complexity of the products on the market is constantly increasing. Given this increasing complexity, it is of the outmost necessity that roles, risks and responsibilities are made crystal clear to all parties involved.



This said, NFU would also like to point out that finance sector employees all over the world have been heavily hit by the crisis, and these new tools must be designed to also ensure that their interests are being looked after. NFU therefore 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.

**Questions 15-17:**

NFU believes that in the case of delegation of duties by a UCITS depository to a third party, clarification of the conditions is necessary. This is especially relevant if the parties to the delegation agreement are located in different Member States. Likewise, it seems appropriate to consider introducing supplementary due diligence obligations on the depository.

**Questions 18-19:**

NFU has maintained the importance of all financial market players being subject to the same duties and controls. This should naturally be the case for UCITS as well. NFU supports one regulatory model that will cover any type of actor. Separate rules for different market actors increases market opacity and make it harder for investors to survey and evaluate different investment choices, as well as for employees to convey proper advice and information. This makes especially sense with respect to the existing and ever-expanding interlinkage between different actors on the financial market. As previously mentioned, it is obvious that the confidence in the financial system is at very low levels and needs to be restored as soon as possible. As one further step on the road to restoring this confidence, the operation of UCITS as well as UCITS depositories should be included in the scope of the ICSD.

NFU would however like to point out that it is of crucial importance in terms of restoring confidence in the industry that any tax-financed compensation 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.

Yours faithfully

NORDISKA FINANSANSTÄLLDAS UNION (NFU)



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