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NFU Response to the Public consultation regarding further possible changes to the Capital Requirement Directive ("CRD")

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

A large number of the questions asked by the Commission in the consultation paper are dealing with matters that are largely oriented towards the financial industry, 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 7: Do you agree that all parameters should be transparently set at European level, possibly in the form of Technical Standards by the EBA where parameters need to reflect specific sub-categories of retail deposits?

NFU is of the opinion that this type of parameters should not only be transparently set at European level but should also reflect the need for a level playing field in the finance sector. NFU agrees with the Commission that it is wise to put this task on the EBA to ensure that it

can be properly and continuously updated and revised, rather than including it in the Directive itself.

Question 9: Comments are sought on the scope of application as set out above and in particular on the criteria referred to in point 17 for both domestic entities and entities located in another Member State.

Regardless of how this issue is solved in the end, NFU would like to point out that liquidity support or intra-group asset transfers must be accompanied with proper safeguard mechanisms, but not only for shareholders and creditors. It must be absolutely certain that any funds transferred from one entity to another do not lead to a situation where reduced profits for companies are balanced with reduced personnel costs.

It is also highly important that any such transfer is accompanied with proper information and consultation procedures in relation to the employees of the company in question.

It must also be ensured that asset transfers are 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 such measures would be linked to bonus or incentive programs.

Question 10: Should entities other than credit institutions and 730K investment firms be subject to stand-alone liquidity standards? Should other entities be included in the scope of consolidated liquidity requirements of a banking group even if not subject to stand-alone liquidity standards (i.e. financial institutions or 50K or 125K investment firms)?

The global financial crisis has shown that there is a need to ensure that all financial markets, products and market participants are regulated in a fair and thorough fashion, thus ensuring a level playing field and sound competition. The supervisory authorities in the European Union must enhance their international cooperation, and ensure that all companies are supervised according to the same criteria, wherever they are based. International supervision standards must be regularly updated to keep up with new requirements and with the innovativeness of the industry.

Question 12: Comments are sought on the different options and in particular for how they would operate for the treatment of intra-group loans and deposits and for intragroup commitments, respectively. Comments are also sought as to whether there should be a difference made between the liquidity coverage and the net stable funding ratio.

See reply under question 9.

Question 13: Do stakeholders agree with the conclusion that for credit institutions with significant branches or cross-border services in another Member State, liquidity supervision should be the responsibility of the home Member State, in close collaboration with the host member States? Do you agree that separate liquidity standards at the level of branches could be lifted based on a harmonised standard and uniform reorganisation and winding-up procedures?

Question 14: Comments are sought on the merit of using harmonised Monitoring Tools, either in the context of Supervisory Review or as mandatory elements of a supervisory reporting framework for liquidity risk. Comments are also sought on the individual tools listed in Annex III, their quality and possible alternatives or complements.

Regarding monitoring and supervisory tools, NFU has previously stated that in our opinion, governmental supervision is not the only viable way to go. From the employee perspective, ensuring sound and efficient “whistle-blowing systems” would be one measure that would be appropriate. Whistleblowing is, indeed, about ensuring that early warnings from the bottom and up will reach the competent supervisory authority which should have the power, the mandate and resources to follow-up on the warnings and, where necessary, investigate the entire company.

Whistleblowing would not only ensure a fast and efficient “point of entry” for national supervisors, but also providing employees with a measure where their concerns are taken seriously. This could be done in a way where the national supervisor consults with employee representatives in a suitable fashion, be it through anonymous “hot-lines” or scheduled, consultative meetings with trade unions. It is important to stress that for employees to be able to provide this information in an orderly fashion, the national supervisors must be able to create reliable systems for this, which are not filtered by a strong director or board of directors.



Another matter that needs to be discussed in this context is board-level representation for employees. In many European countries, board-level representation for employees exists, and is also considered a valuable asset to the companies. The company gets an insight on how different issues are perceived from the employee perspective, and the employees get an overview on what the company is doing and how. A board-level representative can provide, from a supervision perspective, very valuable insights, since he/she is not only involved in the decision-making of the company, but also has access to direct information on the situation in the company from the employee perspective. Also, being elected for the board by a different group of people than the rest of the board members, employee representation ensures a bigger versatility of independence in the board.

NFU is of the opinion that board-level representation needs to be strengthened across Europe, in order to provide employees with an insight regarding the status of the company. For instance, we believe that board members elected by the employees should be trade union members in order to ensure that the person is supported by an effective network and has links to all employees in all parts of the company.

This would not only serve the supervision authorities well, but also provide the company as well as the employees with important input regarding the operations of the company.

Promoting good corporate governance within financial institutions is, indeed, an area that deserves further attention. An important area could be to describe the competences of the board of directors in relation to the strategic challenges faced by the financial institution. This should be done on a revolving basis, e.g. in the annual reports of the institution, thus enabling the AGM, relevant authorities and other stakeholders to evaluate whether the board of directors has the suitable competences for the business plan of the financial institution. This must not, however, lead to any impingements regarding employees' right to board level representation.

Yours faithfully,

NORDISKA FINANSANSTÄLLDAS UNION (NFU)

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