Comments Template on Consultation Paper on Conflicts of Interest in direct and intermediated sales of insurance-based investment products		Deadline 1st December 2014 18:00 CET
Name of Company:	Nordic Financial Unions (NFU)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Confidential/**Public**
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-102-IMD@eiopa.europa.eu . Our IT tool does not allow processing of any other formats.** The numbering of the questions refers to the Consultation Paper on Conflicts of Interest in direct and intermediated sales of insurance-based investment products.	
Reference	**Comment**	
General Comment	Nordic Financial Unions (NFU) is the voice of the employees in the Nordic financial sectors. We are an organisation for co-operation between trade unions in the banking, finance and insurance sectors of the Nordic countries. Through our eight affiliated unions in Denmark, Sweden, Norway, Finland and Iceland we represent 150 000 members – a vast majority of the employees in the Nordic financial sectors.	
Question 1		
Question 2	NFU finds it important that all financial market players are subject to the same rules and supervisory, with consideration of National culture, practice and context. NFU therefore finds it appropriate that the rules under Article 21 of MiFID Implementing Directive are adapted and	

	applied also to the insurance-specific legal context and that it is consistent with IMD. Regarding article 21 there is a problem in terms of level of conflict of interest. In the strictest sense, it may be argued that any profit on behalf of the insurance company provides conflict with consumer interest, as that profit could have been used to lower prices further. There is, however, recognition that some level of profit is acceptable. It would help facilitate better understanding if future versions could provide better insights into how much profit is considered acceptable and where to draw the line.	
Question 3		
Question 4	Excessive sales targets emanating from performance measurements systems should be added to the basic structure within Article 21. What differs from, for example Art 21 (a), is that performance measurement systems do not have to be directly linked to a financial gain of the employee in terms of commissions or variable pay. Instead the results of the measurements can have an impact on the employee's position at the company and the future salary negotiations. Performance measurements can increase the sales pressure and the stress levels of the employees. With personal sales goals for the employees they can feel pressured to sell more products that are not in the best interest of the customers. The risk for conflicts of interest due to excessive sales targets is recognised in MiFID 2, Article 24 (10) « An investment firm which provides investment services to clients shall ensure that it does not remunerate or assess the performance of its staff in a way that conflicts with its duty to act in the best interest of its clients. In particular, it shall not make any arrangement by way of remuneration, sales targets or otherwise that could provide an incentive to its staff to recommend a particular financial instrument to a retail client when the investment firm could offer a different financial instrument which would better meet that client's needs. »	
Question 5	As written under Question 2, NFU finds that a level playing field is important and support that the rules are streamlinded with those of MiFID but still adapted to the insurance-specific legal context and consistent with IMD. In relation to the management of potential conflicts of interest, we	

	believe that one of the main ways of combatting conflict of interest is to address the high sales pressure finance employees are under. One way of doing this is to introduce qualitative measures such as customer satisfaction, rather than solely quantitative measures such as the number of products sold. Currently employees often have a stressful dilemma, either to abide by the rules but not meeting their targets set by the employer, or meeting their targets but not applying the rules. We find that a reference to excessive sales targets should be included in draft advice. It should be clarified who in the organization is responsible for the support of the compliance with the policy. If the board is responsible they should ensure that policies to identify potential conflicts of interest are developed, implemented and monitored.	
Question 6		
Question 7	NFU agrees with EIOPA to include ESMA's amendments regarding periodical review also for insurance intermediaries and undertakings. However, subject to that, the technical advice includes that the periodical review should not only be done by management but include the trade union representatives. This in order to ensure that policies are functional and that the most practical solutions are found, bottom up. As conflict of interest policies relate to the procedures and measures carried out by the employees, and as stated, for them to act honestly, fairly and professionally.	
Question 8	The aim with introducing an EIOPA opinion or guidelines concerning conflicts of interest must be to ease and simplify the implementation of IMD and the technical advice. Smaller undertakings, as well as employees, already have difficulties with the administrative burden of the new rules. Further administrative requirements risk decreasing the quality of advice and service to customers. NFU supports the proposal to address the issue of proportionality in the suggested guidelines or opinion if it would help the undertakings and intermediaries with providing them with guidance on how to implement the rules and enhance convergence of the implementation.	
Question 9	NFU agrees that the rules governing conflicts of interest resulting from inducements should be	

	aligned for the financial sectors in order to create a level playing field. Concerning the parts written by EIOPA on 'remuneration', we however propose to only speak about 'variable remuneration'. In our view, fixed remuneration for employees is usually not a concern for conflicts of interest or for negative incentives. We note that EIOPA writes on page 24 that targets and performance measures related to variable pay already is included in the draft Technical Advice. As written above, we also find it important that the concept of inducements covers not only variable remuneration but also excessive sales targets in general. There is a risk if solely the remuneration comes under scrutiny and not negative non-financial incentives linked to sales targets which also have implications for staff's career prospects. It must also be stressed that the EU secures social partners the right to negotiate pay via collective agreements as set down in article 153.5 of the Treaty (TFEU). The European Union and EU rules on pay cannot interfere with this right.	
Question 10		
Question 11	Inducements that are used for the benefits of the customers could for example be qualitative measurement systems instead of having sales target that create stress for the employees. The qualitative measures could for example cover customer satisfaction, rather than solely quantitative measures such as the number of products sold.	
Question 12	Performance measurement systems for employees work as inducements and can be counterproductive to customer protection and qualified advice. As the employee feels pressured to reach his/her targets it is likely that what is sold to customers may not be based on objective and sound advice from the employee. Personal goals on commissions-based products can create high pressure selling and increase the risk of breaking standards of ethics in the distribution system. The sales pressure at a company can also lead to a bad company climate/culture where the sales results between colleagues are made public and focus is placed solely on reaching sales targets. Extensive monitoring of employees also risks creating distrust between employers and employees. Instead employees should be measured by the quality of their work, overall results and customer relations.	

	Research done on performance measurement systems in Norway suggests that performance measured at team level is less likely to create perverse incentives than measuring at the individual level. Introducing team based measurements to replace individual performance measurements will reduce the risk of negative impact. There is also a need to introduce long-term rather than short term incentives. This can be done by ensuring that remuneration policies must be based on benchmarks, such as sales, not only from last year but as an average over a period of five to ten years.	
Question 13		