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NFU Response to Consultation on legislative steps for the Packaged Retail Investment Products initiative

About NFU

Nordic Financial 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

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

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

The issue of retail financial services continues to be an important matter for the employees in the financial sectors, since the continuous development of products on one hand, and rules to govern the sales of these products on the other hand, directly affects the working life of the employees in the sector. In the aftermath of the crisis, the role of finance sector employees has been under scrutiny, and the issue of sales vs. advice has been high on the agenda. NFU strongly believes that the focus should be on the design of the financial products rather than the employees who are selling them.

NFU would once again like to highlight the fact that aggressive sales targets and merit rating systems are counterproductive to customer protection and qualified advice. One of the main issues is not whether any advice given should be compulsory or by request, but that any advice given should be objective. 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.

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 is 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. It is our 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. This of course also means that employers in the sector must take responsibility for ensuring that their employees have the competence and the time to provide this information to investors.

The training of employees to better be able to meet the needs of consumers is also something that was highlighted in the Commission Staff Working Document on the Follow Up in Retail Financial Services to the Consumer Markets Scoreboard, where it is acknowledged that "... in-depth training on the advantages and disadvantages of the products on offer should form a key part of their profession."

NFU would like to point out that any new tools must be designed to also ensure that employees' 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.

Question 1: Should the PRIIPs initiative focus on packaged investments? Please justify or explain your answer.

Generally speaking, NFU has maintained the importance of all financial market players being subject to the same duties and controls. This should naturally be the case when it comes to PRIIPs as well. NFU supports one regulatory model that will cover any type of actor.

Separate rules for different market actors, and different markets, increases market opacity and make it harder for investors to survey and evaluate different investment choices, as well as for employees to give proper advice and information. This makes especially sense with respect to the existing and ever-expanding interlinkages between different actors on the global financial market, as we have witnessed with regard to the latest financial crisis.

From that perspective, NFU agrees with the Commission that all products sold to retail customers as investments could, by virtue of the fact of them being sold as investments, be covered by the present initiative. Such an approach would have the advantage of clarity and

simplicity, at least from the perspective of the point of sale, and would by definition cover all retail investment business.

NFU therefore urges the Commission to develop a system where all retail investment products, regardless of their labeling, can be explained and assessed in a comprehensive and similar manner, thus ensuring a safe and reliable business environment for employees as well as consumers.

Such a system, that would be covering all investment products (including quite simple ones), must be adequately designed in order to find an appropriate level of information that suits all types products, without leading to a situation where a few common denominators are used to explain all types of products, thus missing out on the specificities and the risk factors for various products, once again opening up for information deficit in investment situations from the consumer perspective.

Should the development of such a system not be feasible, NFU supports the Commission in it's strive to target PRIPs with a specific regulatory regime, to supplement, where appropriate, those which already apply to investments in general. It must, however, be crystal clear to both the customer and the finance sector employee that are selling the product what disclosure rules apply to each product.

Question 13: Do you see benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective.

Yes, NFU agrees with the Commission that such a list should be developed in order to keep up with the innovativeness of the industry. Such a list would be a helpful tool for both consumers and employees in determining what disclosure rules apply to different products.

Question 15: Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

Yes, NFU agrees with the Commission that targeted adjustments to the UCITS, bringing it in line with MiFID, would be the most effective way of ensuring consistency in requirements across all PRIPs.

Question 17: Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

Yes, NFU agrees with the Commission that the main purpose of the KIID should be to ensure that key information is provided in a timely fashion and in a form which is understandable and useable by the retail investor, with the purpose of aiding investment decision making. The documents used for providing such information must not be overburdened with information which is not necessary for making an investment decision

Question 26: Are there any other broad principles that should be considered on content and format?

Generally speaking, especially in hindsight of the financial crisis, NFU would like to point out that clarity and transparency is vital also when it comes to bonus systems and incentive plans. This of course goes for all schemes on all levels. NFU generally supports employee share schemes, but when it comes to creating such systems for bonuses and remuneration, the involvement of trade unions and employees is important. Employee share schemes might be an instrument to motivate the employees to do a better job that will result in a better quality of service and advice to the customers, but it must be duly investigated what these schemes entail for the employees in terms of rights and obligations. In this respect, transparent product prices must also be introduced in the financial sector. It must be apparent to customers which agreements the financial institution has reached regarding product sales – including, for example, commission and other types of sales-related remuneration.

Question 27: Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

Yes, NFU believes that the responsibility for the preparation of a KIID should lie with the manufacturer. The main reason for this is that this solution will ensure that the content of the KIID for a specific product does not vary from case to case, as might be the case if this responsibility were to rest with intermediaries or distributors.

One specific PRIP, from one specific manufacturer, might in the second link of the sales-chain be distributed to retail investors by a number of different actors. If the responsibility to provide the KIID should lie with these various distributors, the content of the KIID might vary although the product originates from the same manufacturer, since different actors might not have access to exactly the same information or might interpret this information differently. This would mean that two examples of the same PRIP might be sold under different conditions, depending on who are selling them.

Ensuring that the manufacturer has the sole responsibility for the KIID would also be beneficial to the employees in financial institutions that are selling these products. If the key investor information is compiled and presented in a structured way and, most importantly, by a party



that is independent from the financial institution that is actually selling the item, there is less risk for a situation where the objectivity of the employees is questioned.

That said, NFU also believes that all structured investment products sold by financial institutions must contain a declaration. The declaration should be worked out by an authority consisting, for example, of representatives from the National Financial Services Authority, a National Consumer Council, a National Bankers Association and the National Financial Services Unions. The declaration must stipulate a rating of the product's complexity and risk, as well as a description of the type of customer at which the product primarily is aimed. It is important that such a declaration is objective and unquestionable and do not have a marketing purpose. The fact that such a declaration would be worked out by a neutral party would provide consumers with a trust-worthy support in the investment situation and would help restoring confidence in the financial industry and its products. Given the increasing interlinkage between the players on the financial markets it is of course vital that investors on all levels receive and understand the information given from product issuers as well as intermediaries.

Question 30: What detailed steps might be taken to improve the transparency of the social and environmental impacts of investments in the KIID for PRIPs?

Without going in to details on how such steps should be developed, NFU would like to point out that such information must be objective and relevant. A possibility to provide additional information on CSR matters etc. must not be an opening for the manufacturers of PRIPs to market their products with information that is hard to check or even misleading.

As pointed out under Question 27, NFU believes that this type of information also should be provided by a neutral party, such as social rating agencies or similar.

Yours faithfully,

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