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NFU Response to Commission Consultation on countercyclical buffers

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.

2. Would the approach for dealing with internationally active banks set out in paragraphs 12 to 20 help ensuring a level playing field between domestic and foreign (located in other Member States and third countries) banks? Could there be an incentive for regulatory arbitrage since credit institutions may gain benefits from booking exposures in jurisdictions with lower capital add-ons? Which of the three alternatives reduces the chances of regulatory arbitrage? Are there other ways in which potential regulatory arbitrage could be mitigated?

Regarding the proposal by the Commission, NFU is of the opinion that there is a risk for regulatory arbitrage since credit institutions may gain benefits from booking exposures in jurisdictions with lower capital add-ons.

As the Commission is pointing out, the countercyclical capital buffer will work by allowing each Member State to use judgment to extend the size of the minimum buffer range established by the capital conservation buffer.

To NFU it is important that the measures to combat the financial crisis provide for a level playing field. Measures aiming at restoring the confidence in the industry should not be subject to interpretations in the EU Member States, since any differences in these measures will provide for competitive advantages for some and disadvantages for others. Regardless of what level is chosen, it must be the same for all actors in the European economy and for the finance industry in particular.

NFU agrees with the Commission that there is a need for consistency of buffer decisions, in particular within the EU. NFU is of the opinion that measures like these should be set on a pan-

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European level in order to ensure a level playing field between countries and products. A solution based on national systems with openings for voluntary exemptions are counterproductive to the overall ambition of EU to promote an integrated and harmonized financial market within the whole of EEA.

NFU agrees with the Commission that measures like these buffers are likely to diminish the reliance on public funding for financial sector companies in crisis situations but, as with other capital requirement measures, the funding of the buffers will lead to heavier economic burdens on financial sector companies, and the cost for such measures is likely to be borne by the customers of the company. Unequal capital add-ons will in the long-term perspective, therefore, be likely to cause shifts in customer adherence and thus affect the profitability of companies. NFU has previously stated that enforcement of competition law cannot be solely based on the economic interests of the customer; the economic interests of employees must also be taken into account. These measures cannot lead to a situation where reduced profits for companies are balanced with reduced personnel costs. NFU does not oppose customer mobility, but this should not be induced by political decisions on state level.

5. Should decisions for the counter-cyclical buffer be made transparent, explained and communicated to the market? Do you see a role for the ESRB in this regard? Please explain the reasons for your reply.

Yes, all decisions that will affect the financial institutions on the market must be communicated in a thorough and transparent fashion. NFU agrees with the Commission that clear communication of buffer decisions is a key element in promoting accountability and sound decision-making.

NFU also agrees that, if risk assessments and the buffer decisions would be based on the authorities' assessment of the current outlook for economic and financial conditions, it is essential that the objectives of the buffering mechanism are clearly defined and the reasons behind buffer decisions made transparent and communicated efficiently to the market.

As previously stated, measures like capital buffers will in all likelyhood entail heavier economic burdens on financial sector companies, and the cost for such measures is likely to be borne by the customers to the company.

If should therefore also be clear to all stakeholders what such measures means, and what it means for product pricing.

9. Should the counter-cyclical buffer apply to all exposures or be limited to certain types of exposures and if yes which? Please support your answer with reasons.

10. In your view, should investment firms be excluded from the counter cyclical buffer capital requirement? Please support your answer with expected costs and benefits.

As previously indicated, 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. All companies and products must be treated according to the same criteria. International supervision standards and capital requirement measures must be regularly updated to keep up with new requirements and with the innovativeness of the industry.

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 customers 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, including investment firms.

We, therefore, want one regulatory model that will cover any type of action and any type of company; to have separate rules in separate pieces of legislation for different types of companies makes the task harder and less foreseeable for every part involved. NFU also 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.

Yours faithfully,

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