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NFU Response to the Public consultation on a review of the Market Abuse Directive

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 detailed and technical 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, as well as some important societal issues.

Coordination - filling the gaps and harmonization

NFU has maintained that experience has shown that the wide spread uncoordinated, national measures, such as ring fencing etc. by the national authorities in combating the crisis has

demonstrated severe adverse effects for the European financial sector and all the stakeholders. Therefore it is of the utmost importance to ensure common approaches to mitigate future crisis.

Thus, NFU is generally in favor of “filling the gaps” in coverage of the Market Abuse Directive as well as introducing more harmonized standards. A single rule book with reduced national discretions will give the best conditions for combating and investigating market abuse, since this will reduce the risk of forum shopping by market “predators”.

In the light of the globalised structure of the financial markets, this also demonstrates the necessity for an increased international cooperation, leaving as few loop holes as possible.

Question 11: Power of the competent authority to delay disclosure of information in case of emergency lending assistance

The recent crisis has shown that absolute clarity is important in relation to the role of the competent authorities. This is, indeed, also the case when such an authority deems it necessary to delay disclosure of inside information in case of solving a grave condition of a financial institution, when there are possible implications for systemic risks and financial stability.

Due to the potential impact on an entire industry and, indeed, society as a whole, NFU believes that in such a case the decision on delaying information disclosure should not solely rest upon the shoulders of the financial institution. Therefore, NFU supports the suggestion that the competent authority has the right and duty to make such a decision.

It might be added, that when and if such a provision is included in the framework Directive 2003/6/EC, this will also cover companies outside the financial sector. This seems quite appropriate, since some Member State companies in other sectors also may have an impact on economic stability.

Question 14: Other suggestions

On several occasions, NFU has pointed out, when commenting on different Commission initiatives that the employees are in some respects in a unique position in relation to ensuring that the competent authorities are made aware of adverse developments, which constitute a serious threat to financial stability or to market confidence. From the employee perspective, ensuring sound and efficient “whistle blowing systems” could be an appropriate measure, also in relation to disclosing e.g. market abuse practices. Whistle blowing is, indeed, about ensuring that early warnings from the bottom and up will reach the competent supervisory authority that should have the power, the mandate and resources to follow-up on the warnings and, where necessary, investigate transactions, markets or companies.



Whistle blowing would not only ensure a fast and efficient “point of entry” for national supervisors, but also provide employees with a measure where their concerns are taken seriously into consideration. This could be done in a way where the national supervisor consults with employee representatives in a suitable way, 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.

Yours faithfully,

NORDISKA FINANSANSTÄLLDAS UNION (NFU)

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