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NFU Response to Consultation on the Review of the Insurance Mediation Directive (IMD)

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.

A 1. Do you agree with the Commission services general approach outlined in the box above? Should information requirements as contained in Article 12 of the IMD be extended to direct writers taking into account the specificities of existing distribution channels?

Where applicable, yes. It must, however, be ensured that these information requirements does not lead to a situation where the customer is "drowned" in information, but rather receives information that is relevant for making an investment decision. It must also be ensured that these information requirements does not collide with rules on employee protection as outlined in Art. 27 in the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

A 3. In the context of the information requirements for the mediation of insurance products other than PRIPs, do you think that the possibility for Member States to impose stricter requirements should be maintained? Please provide reasons for your reply.

Generally, NFU believes that measures like these should be set on a pan-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 and/or additions are

counterproductive to the overall ambition of EU to promote an integrated and harmonized financial market within the whole of EEA.

If stricter information requirements would lead to heavier economic burdens on insurance companies and intermediaries, the cost for such measures is likely to be borne by the customers of the company. Unequal requirements would then, in the long-term perspective, be likely to cause shifts in customer adherence and thus affect the profitability of companies. Such exemptions cannot lead to a situation where reduced profits for companies are balanced with reduced personnel costs.

That said, NFU believes that there might be differences in the European insurance markets that could justify discrepancies to some extent. Insurance products can look very different in different countries, and therefore a possibility to have stricter requirements might be suitable. In that case, the Commission must continuously monitor how these stricter requirements are implemented on national level and what effect they have on the internal market in terms of competition.

A 4. In the context of the information requirements, do you think a definition of "advice" should be introduced? Please provide reasons for your reply.

Without taking a stand on whether a definition of "advice" should be introduced in the IMD or not, NFU would like to propose a tool to supplement oral or written advice stemming from a selling company. NFU believes that all products sold by financial institutions, including insurance companies, 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 Insurance Association and the National Insurance Sector 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 would also make crystal clear the respective responsibilities and commitment of the intermediary on the one hand and the investor on the other. 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 inter-linkage 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.

B.4. How can the transparency of remuneration in the sale of non-PRIPS insurance policies be improved for all participants involved in the selling of insurance products, taking into account the need for a level playing field?

B. 6. What conditions should apply to disclosure of information on remuneration?

B. 7. What types/kinds of remuneration need to be included in the information on remuneration?

Generally speaking, especially in hindsight of the financial crisis, NFU agrees with the Commission that clarity and transparency is vital when it comes to remuneration, bonus systems and incentive plans. This of course goes for all schemes on all levels. When it comes to creating systems for bonuses and remuneration, such as sales incentives and employee share schemes, the involvement of trade unions and employees is important. Employees represent an independent, long-term interest in the company, and the participation of employees in remuneration committees is likely to ensure a sustainable approach to remuneration.

The role of employees in the risk management of financial companies has been acknowledged in the Commission's regulation proposal on OTC derivatives, central counterparties and trade repositories, COM(2010) 484/5, Art. 26. As pointed out above, NFU is of the opinion that the same goes for employee participation in remuneration committees and other internal organisational bodies.

NFU believes that transparent product prices must be introduced in the insurance sector. It must be apparent to customers which agreements the company has reached regarding product sales – including, for example, commission and other types of sales-related remuneration. General information on these agreements should be given in relation to each specific insurance or investment product in the sales moment.

That said, NFU believes that there must be a sound balance between this transparency, the working situation of the individual employee and the information necessary for the consumer to make an investment decision.

Rules on remuneration transparency and conflicts of interest do not necessarily apply to direct sellers at insurance companies in the same way as to insurance intermediaries. If a customer seeks out an insurance company to buy a product it must be quite obvious that the seller will be not only promoting the products of said company, but is also paid by that company to sell these products. The same situation applies if the customer is contacted by the insurance company.

One must also, as pointed out above, take into account the integrity aspect of the individual employee. A system where each transaction is broken down to specify the exact amount of remuneration that the individual seller will receive is too far-reaching. Such a system will not aid the consumer further in making an investment decision, but might be putting the employee in a situation where he/she will have to defend his/hers salary to the customer.

NFU believes that there is a need for a consistent approach on European level on how to clarify the role of insurance intermediaries and the possible conflicts of interests that might apply to

the relation between an insurance company and an insurance intermediary. NFU supports a more uniform application of the principles on conflicts of interests, since the entire industry suffers if only a small proportion of the actors on the market divert from the common standards.

Since the Commission touches upon the subject of remuneration in conjunction with sales in the consultation document, NFU would once again like to point out that the issue of the European legislator regulating remuneration is of particular interest to the Nordic countries, since this regulation may impose restrictions on the right to free collective bargaining.

The social partners can, and must be allowed to, assume the responsibility of sound and sustainable remuneration principles. NFU strongly supports the idea of remuneration policies and practices that are transparent and fair, but believes that remuneration policies should be left to the social partners to decide upon, since pay is, according to art. 153.5 in the Treaty on the Functioning of the European Union (TFEU), not for the EU to deal with.

This has also been acknowledged in Recital 14 in the European Parliament legislative resolution of 7 July 2010 on the proposal for a directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations (see below).

Recital 14: The provisions on remuneration should be without prejudice to the full exercise of fundamental rights guaranteed by the Treaties, in particular to the provisions of Article 153(5) of the Treaty on the Functioning of the European Union (TFEU), general principles of national contract and labour law, applicable legislation regarding shareholders' rights and involvement and the general responsibilities of the administrative and supervisory bodies of the institution concerned, as well as the rights, where applicable, of social partners to conclude and enforce collective agreements, in accordance with national laws and traditions.

It must therefore be made clear that any provisions regarding remuneration policies in financial institutions, including insurance companies and insurance intermediaries, do not apply to remuneration policies and provisions agreed in collective agreements.

C 1. In order to guarantee a real level playing field between all participants involved in the selling of insurance products, to what extent should the current IMD requirements also be applicable to direct writers and their employees? Please, specify which particular requirements should apply and reflect on the particularities of direct sales with examples (how, where, under what circumstances, etc.)

NFU agrees with the Commission that a level playing field should be achieved for all market participants in order to enable the proper assessment of different investment choices. The idea of a level playing field of course also goes for products that are similar in their nature.

As pointed out under question A 1, NFU believes that the information prerequisites in IMD, where applicable, could well be appropriate for direct writers and their employees. The professional requirements concerning knowledge and ability in the current IMD could also be applicable for direct writers and their employees (also see under question E 1).

C 4. Should a website or a person who just gives information about insurance fall under the scope of the IMD? How could the boundaries be more clearly defined in respect to insurance intermediation?

Not all information can be seen as advice as outlined in the IMD, especially if there is no profit to be made for the provider of the information. General information on the concept of insurance, or non-profit comparisons between different insurance products, should not be encompassed by the IMD.

E 1. What high level requirements on the knowledge and ability of all participants involved in the selling of insurance products would be appropriate in view of the existing differences in the applicable qualification systems in Member States?

The training of employees to better be able to meet the needs of consumers is 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."

In this context NFU proposes the establishment of a certification or authorisation for financial advisors, including insurance company employees, with a view to ensuring that products are only sold by staff that are properly trained and have a thorough understanding of the products including their long term implications for customers.

Such a certification exists in some countries, but there is no legislation of that kind on European level. A certification would lead to a more foreseeable working situation for the employees in the insurance sector, since it will be clear what is expected of them and on what grounds.

Such a certification would need to entail the development of competence policies and training schemes, which acknowledge every individual employee's rights to continuous development through regular training and support to achieve the professional qualifications required to uphold a position as financial advisor. A high degree of education and training would provide the advisors with the proper tools and knowledge for providing good customer service.



A certification, taken together with empowered and well-informed consumers, would also be positive for the stability of the financial system itself, leading to a stronger industry and more employment opportunities.

A certification of this kind will have to be developed in close cooperation with the social partners, to ensure a bottom-up approach.

Yours faithfully,

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