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NFU Response to Consultation on the harmonisation of securities law

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 the securities issuers and investors on the market, 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.

Q1: Do you agree that the envisaged legislation should cover the objectives described above? If not, please explain why. Are any aspects missing (please consider also the following pages for a detailed description of the content of the proposal)?

Yes, NFU agrees with the Commission that any piece of legislation should cover the principles mentioned in the consultation paper.

NFU has maintained the importance of all financial market players being subject to the same duties and controls. 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 investors 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.



NFU, 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 and products makes the task harder and less foreseeable for every part involved.

NFU also agrees with the Commission that without effective solutions in terms of legal arrangements, the likelihood of an effective cross-border financial market is diminishing. It is of crucial importance that all financial services providers are subject to similar legal arrangements in some form.

NFU therefore agrees with the Commission that conflict-of-laws arrangements, as well as substantive law arrangements, should be considered in this work, with a view to clarifying the current situation on the securities market.

This also includes the establishment of cross-border dispute resolution procedures in some form, be that through national courts or alternative options.

Q17: Will a principle along the lines set out above, under which the applicable law would need to afford an inferior priority to interests created under a control agreement, be appropriate and justified against the background that control agreements are not 'visible' in the relevant securities account? If not, please explain why.

Q20: Would a Principle along the lines described above pave the way for the national legal frameworks to effectively protect client securities in case of the insolvency of an account provider?

NFU agrees with the Commission that the principle of contractual freedom of the parties, allowing for changes in the order of priority, must not affect the rights of third parties.

The protection of the employees of a failing credit institution must always be ensured. The enforcement of this framework cannot be solely based on the economic interests of the customer or the tax-payer; the economic interests of employees must also be taken into account.

NFU, therefore, wants to point out specifically that employees of any finance institution must be considered to be creditors as well in this case, and should therefore also be addressed as such. If any compensation mechanisms or similar is to be introduced to safeguard creditors, these must also guarantee that no employees are left worse off than they would have been had the bank under resolution been wound up under the applicable insolvency law. This means that, among other things, the question of employees prioritized right to salaries and other means of remuneration in case of insolvency must be addressed.



Yours faithfully,
Nordic Financial Unions (NFU)

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