



REALKREDITRÅDET
ASSOCIATION OF DANISH MORTGAGE BANKS

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Directorate General Internal Market and Services
Unit G3
Securities Markets

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H 670 - ph

Call for evidence on review of Investor Compensation Schemes Directive (ICSD)

Dear Sir/Madam,

Thank you for your request for contributions pertaining to the captioned review. We welcome the possibility to comment on the basis for a possible modification of Directive 1997/9/EC.

Our general comment is that the directive should continue to focus on the core area of retail investor protection, and that we support an ICSD that remains focused.

Below please find our comments to your questions:

Scope - Investment services covered by the ICSD and loss events (article 1, point 2 and article 2 (2) of the ICSD)

Question 1: *Should the operation of multilateral trading facilities (MTFs) be excluded from the scope of the ICSD?*

Reply: We believe that MTFs fall outside what should be the core scope of the ICSD and support the exclusion of MTFs from the directive.

Question 2: *Would it be appropriate to include in the scope of the ICSD all investment firms seeking authorisation to the provision of investment services, although their authorisation would not allow holding client's assets?*

Reply: We believe that investment firms authorised to provide investment services but not to hold clients' assets should be kept out of the scope. The directive should continue to focus on loss of clients' assets.

Question 3: *Would it be appropriate to include in the scope of the ICSD all investment firms seeking authorisation to the provision of investment services, although they provide their services only to non-retail clients?*

Reply: We do not believe that non-retail investment firms should be included.

Question 4a: *Should investors be able to claim compensation in the case of default of the third party where their assets had been deposited?*

Reply: We believe this would expand the scope of the ICSD and that it is more important to keep the directive concise and focused on its main, core objectives.

Question 4b: *Should investors (such as UCITS or a UCITS unit holder) be able to claim compensation for loss of assets under the ICSD in those cases where the UCITS depositary or the institution which has been mandated to safe keep the assets, fail to perform its duty?*

Reply: *We have no comments at this stage*

Question 5: *Should loss events include also any losses suffered by (retail) investors as a consequence of the violation of conduct of business rules?*

Reply: *We believe that this should remain outside the scope of the ICSD. The ICSD should continue to be as straightforward as possible and an expansion as suggested would create an entirely new and intricate forum for legal disputes.*

The amount of compensation (Article 4 of the ICSD)

Question 6: *Do you agree with the idea that the amount covered by the ICSD should be adapted following the updating of the DGSD.*

Reply: *We do not believe the two directives are comparable on the point of amounts covered and hence we do not believe the amount should be adapted because of the update of the DGSD. To determine this, an analysis will have to be made.*

Funding of the investor compensation schemes (Recital 23 of the ICSD)

Question 7: *The ICSD does not harmonize the funding systems of the schemes. Should the ICSD provide for some general principles concerning the funding of the schemes?*

Reply: *In the absence of a very real and convincing study that shows benefits of such a policy, we do not believe such harmonisation is necessary and should be prioritized.*

The restrictions on the carryover of unpaid reimbursement debts

Question 8a: *Does the legislation of the Member State you know the best provide mechanisms aimed at limiting compensation schemes' obligations over time? If yes, how many clients saw their compensation unpaid as a result of such mechanisms.*

Reply: *No comment at this stage.*

Question 8b: *Should this kind of mechanism be prohibited?*

Reply: *No comment at this stage.*

The reduction of payout delay (Article 9 (2) of the ICSD)

Question 9a: Should the process of recognizing the eligibility of the claim be regulated for the purposes of the ICSD?

Reply: We believe this would make the ICDS more complicated without obtaining any real benefits.

Question 9b: Should, at least, a mechanism be introduced providing for provisional partial compensation based on a summary assessment of clients' positions?

Reply: We believe this would make the ICDS more complicated without obtaining any real benefits.

Question 9c: Irrespective of the harmonisation of their funding systems, should compensation schemes ensure that they have minimum reserve funds in order to comply rapidly with any immediate needs?

Reply: Compensations are not envisaged to be paid out immediately in any event, but after a thorough investigation, and thus we do not see any need for this suggestion.

Investment Risk

Question 10: Do you think special attention should be given to money market funds?

Reply: We have no comments at this stage

Question 11: Based on the concrete application of the ICSD do you see further issues other than the ones mentioned in the present document that might be of relevance to this analysis?

Reply: We have no comments at this stage.

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We thank you again for giving us the opportunity to comment on the workings of the ICSD.

Yours sincerely

Peter Holm

