



NORDISKA FINANSANSTÄLLDAS UNION

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NFU response to the consultation Call for evidence on Investor Compensation Schemes (Directive 1997/9/EC)

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 155 000 employees in the Nordic financial market.

General remarks

NFU welcomes the Commission's call for evidence in the review of the Investor Compensations Schemes Directive. In the midst of the financial crisis, all measures aiming at restoring confidence in the financial markets and ensuring their long-term stability and reliability are urgently needed.

Some of the questions asked by the Commission in the consultation paper are dealing with matters that are largely oriented towards market participants and investors, 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 finance sector employees now and in the future.

1) Should the operation of multilateral trading facilities be excluded from the scope of the ICSD?

The Commission states that questions have been raised on whether the ICSD is adapted to all types of new services covered by the MiFID and notably to the management of MTFs (multilateral trading facilities), whose transactions do not fall under the scope of the MiFID rules. Even MTFs operated by market operators are not required to be members of an investor compensation scheme.

NFU has previously stated the importance of all financial market players being subject to the same duties and controls. This should naturally be the case for MTFs as well. 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. This makes especially sense with respect to the existing and ever-expanding interlinkage between different

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actors on the financial market. The operation of multilateral trading facilities should thus not be excluded from the scope of the ICSD.

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

As the Commission rightly states, the turbulent situation that follows in the wake of the financial crisis brings with it an increased risk for malpractice and misconduct. At the same time, confidence in the financial system is at very low levels and needs to be restored as soon as possible. To this end, it is NFUs opinion that losses caused by the violation of conduct of business rules should be included in the definition of loss events in the revised Directive.

NFU would however like to stress that it is crucial that the definition of violation of conduct of business rules takes the employee dimension into account. The Commission states that the issue may relate to losses suffered as a consequence of unsuitable advice. Finance sector employees must not be made to bear the bulk of the responsibility in this context. It is the employers who are responsible for providing the employees with enough time to give suitable advice and transfer the relevant knowledge on different investment alternatives to the customers. Focus should lie on responsible advice and not aggressive sales targets. This aspect has to be taken into account when discussing and defining the violation of conduct of business rules.

6) Do you agree with the idea that the amount covered by the ICSD should be adapted following the updating of the DGSD?

The Commission states that the original level of compensation in the ICSD was in line with the one established under the Deposit Guarantee Schemes directive. In the interest of a level playing field as well as foreseeable and reliable financial markets, the rules on amounts of compensation should, as far as possible, be harmonised. NFU thus agrees with the idea that the amount covered by the ICSD should be adapted to the updating of the DGSD.

7) The ICSD does not harmonise the funding systems of the schemes. Should the ICSD provide for some general principles concerning the funding of the schemes?

Different funding systems have consequences for companies as well as investors when operating across borders. The need to adapt to different funding arrangements entails costs for financial institutions, and any change in requirements for companies naturally also means changes in requirements for finance sector employees. NFU would therefore ask the Commission to estimate the transition costs of introducing general principles concerning funding of the schemes, in order to provide for as simple and cost-effective a solution as possible. NFU supports the idea of a level playing field to provide for sound competition, but it must not lead to a situation where increased costs for companies are balanced with reduced personnel costs.

Yours faithfully

NORDISKA FINANSANSTÄLLDAS UNION (NFU)

The Confederation of Nordic Bank, Finance and Insurance trade unions

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