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## **NFU reply to FSB's consultation on Recommendations for consistent national reporting of data on the use of compensation tools to address misconduct risk**

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Nordic Financial Unions (NFU) is the voice of the employees in the Nordic financial sectors. Through our seven affiliated unions in Denmark, Sweden, Norway, Finland and Iceland represent 150.000 members, promoting their interests at the European level.

■ Q. 2

First it is important to stress that misconduct does not have to be connected to monetary compensation. The use of non-monetary performance measurement systems is widespread in the financial sectors and can also be a cause for misconduct. Employees are not foremost driven by financial incentives, but it must be acknowledged that there are other factors at stake, such as company culture, sales targets causing stress and pressure, promotions, scoreboards etc. Performance measurements can increase the sales pressure and the stress levels of the employees. With personal sales goals for the employees they can feel pressured to sell more products that are not in the best interest of the customers.

Another aspect of collected data is the difference between deliberate misconduct and unintentional acts, something that could be more clearly recognized by supervisors and firms. The distinction can be helpful when analyzing the root of the misconduct, if for example more training and information is needed as well as what type of remedial action is suitable. In this regard, NFU reacts on the increased demands on holding individual employees solely responsible for an act of misconduct. Certainly, there are cases where sanctions such as compensation actions are just, but we must not forget the responsibility of the company and management. Mis-selling as an example can often be traced back to working conditions. We know that the pressure on employees has increased and that employees are faced with extensive regulatory requirements and high sales targets as they are measured in their work every day. Add the downsizing of banks and layoffs to the equation and you find a situation where fewer employees are expected to manage higher regulatory requirements as well as their performance targets in a pressured working environment. NFU published [a report](#) this year on the effects of regulatory requirements on employees and their work life. The increase in regulatory requirements have impacted the employees in the Nordic financial sectors in terms of increasing workload and stress levels. It is evident that finance employees are pressured from two directions; regulation and management. As the regulatory

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requirements and time spent on compliance tasks have increased, no adjustment has been made regarding the demands management put on employees' performance in other fields, such as number of meetings and sales targets. It must therefore be avoided that individual employees are held solely responsible for a violation, which is encouraged by a tacit policy or a company practice that the employees have felt pressured to take on. The responsibility of management must not be neglected in this regard.

Data that could be of further interest are issues concerning communication, training and internal information on compensation tools. How is the use of performance measurement systems being communicated within the firm? It is crucial that all levels of employees and management know and understand why performance measurement systems are in place, what is being measured, the meaning of individual responsibility, ways of whistleblowing and how the firm complies with rules on personal data and integrity etc. It could also be of interest to map how a company works to ensure that all levels of the company understand and adhere to the same company culture.

Another piece of data that could be collected is the involvement and consultation with employee representatives at the company when developing these schemes. Employees are important stakeholders in the governance of a company as they have a long-term perspective as well as shop-floor experience, knowledge and expertise. Whether there has been consultation with employee representatives could therefore be an interesting aspect to consider when analyzing the outcome of the compensation tools.

■ Q. 3

Impediments to the use of these recommendations could be, as recognized by the FSB in the introduction, national law but also social dialogue and collective agreements. It is essential that firms and supervisors respect the right to regulate systems for pay and wages through collective negotiations covering all levels of collective bargaining, both centralized and local. All provisions on remuneration should be without prejudice to the right of the social partners to conclude and enforce collective agreements, in accordance with national law and customs.

Regarding "compensation adjustments" such as malus and clawbacks it is important that the rule should apply, as intended, only to identified staff with a certain level of salary and that certain small, non-complex institutions are excluded. It would be a high administrative cost for small and non-complex institutions to do ex post adjustments to an employee's compensation if this is regulated through collective bargaining.

■ Q. 8

There should be more emphasis on FSBs recommendation under A.2.4 as the performance measurement of employees does not have to be directly connected to

a financial gain but can instead have an impact on future salary negotiations and the employee's position at the company.

Sales pressure at a company can lead to a bad company climate/culture where the sales results between colleagues are made public and focus is placed solely on reaching sales targets. Extensive monitoring of employees also risks creating distrust between employers and employees. Instead employees should be measured by the quality of their work, overall results and customer relations. The overall company culture is crucial to consider in this regard.

In 2016 NFU published a study on performance measurement systems in the Nordic financial sectors and how measurements affect the work situation of employees and consumer protection. Almost half of the survey respondents in the study stated that performance measurement systems are perceived to decrease the quality of employees' work. This is highly worrying as it could have a negative effect of customer satisfaction, loyalty and trust in the financial sector. Secondly, 45 % of the respondents stated that performance measurement systems give incentives to sell or advice one product over another. From a consumer perspective, this is cause for concern. You can find the full report for download on our [website](#).

Another key issue is the development of increased monitoring, data collection and behaviour analytics at the workplace. It is therefore crucial that the collection of data does not interfere with personal data protection, privacy legislation, employment law or collective agreements. UNI Global Union has developed 10 guidelines/principles for workers' data protection and privacy that can be found [here](#). These principles could be of use for both supervisors and firms.

This risk of collecting data on employees is recognised by the European Economic and Social Committee in an opinion by group II:

" 4.11. Workers in digitalised forms of work organisation produce large quantities of personal data, which contain information relating to where employees do what, when and with whom. Besides creating opportunities for highly efficient work in seamless flows of information, this also enables intrusive practices of employee surveillance that jeopardise established standards of privacy at work.

4.12. Robust provisions concerning the protection of personal employee data are needed to protect established standards of privacy at work. European legislation on data protection should set high minimum standards and must not prevent Member States from regulating further. The EU data protection regulation currently being negotiated should therefore contain an "opening clause" allowing Member States to go beyond EU minimum standards."

(<http://www.eesc.europa.eu/?i=portal.en.ccmi-opinions.34826>)

NFU would also like to draw the attention of FSB to the Joint declaration on Telework by the European social partners in the insurance sector.

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The Joint Declaration reads “The employer is responsible for taking the appropriate measures, notably with regard to software, to ensure the protection of data used and processed by the teleworker for professional purposes. The employer informs the employee of all relevant legislation and company rules concerning data protection. It is the employee’s responsibility to comply with these rules.”

( <http://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5405>)