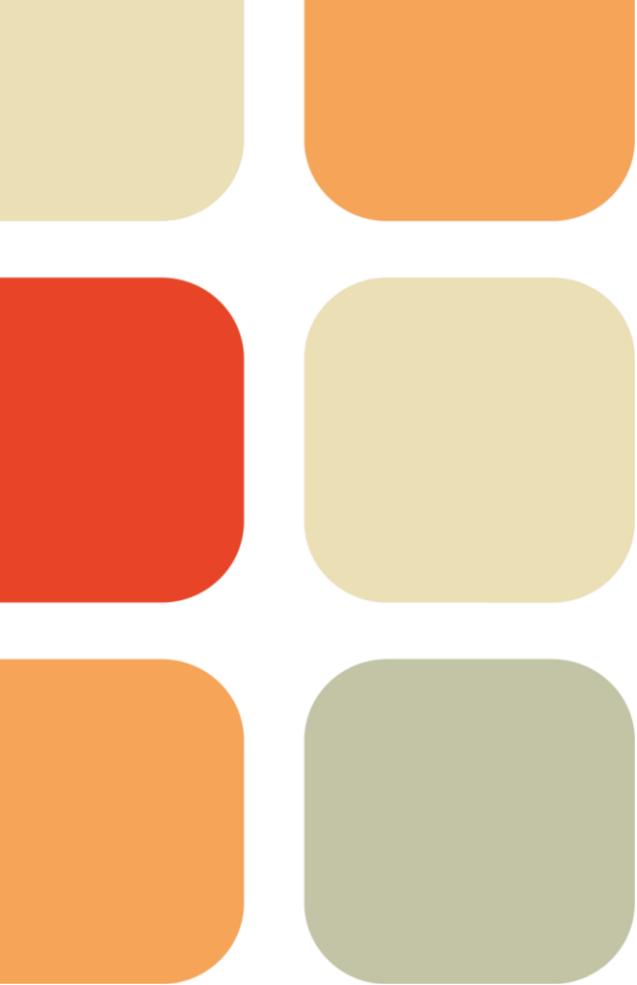




Financial supervision workshop 2018

“Panel discussion on the use and purposes of enforcement actions”

Fredrik Nordström, Fondbolagens förening



Financial Supervision

- from the perspective of the supervised

Fredrik Nordström, CEO

Stockholm August 2018

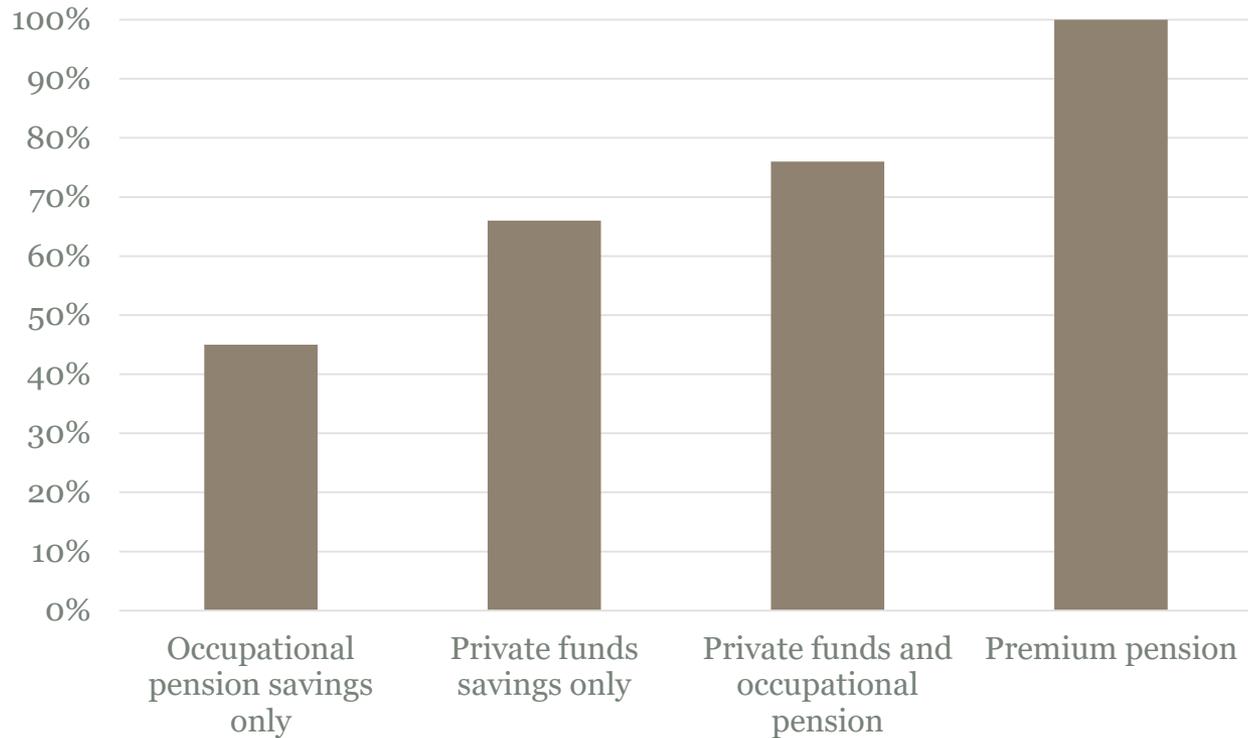
Fondbolagens förening

SWEDISH INVESTMENT FUND ASSOCIATION



Investment funds - a consumer product

Share of Swedes with fund savings



Observations

1. The Mission – too much room for interpretation
2. Guidance – can not replace the map
3. Communication – risk of unintended consequences

The Mission

- Market Confidence
- Financial Stability
- Consumer Protection
- Strengthening consumers through financial education

Consumer Protection and Strengthening the Consumer through financial education

- Special report on
 - Experiences from supervision regarding consumer protection
 - Assessment of risks for consumers
 - Report on actions taken or that may be taken and the need for new regulation

- Consult with the Consumer Protection Agency
 - Overlapping competences

The Consumer protection approach "Communicative supervision"

- "Principles based regulation need communication"
 - What does strengthening the consumer mean?
 - Product evaluation and recommendations?
 - Definition of value for money?
- Is it really a principles based regulation?

The Consumer protection approach

- pretty close to market intervention

”Duty of Care”

- ”...companies selling (complex, high risk or high fee products) have a greater challenge to **explain** – certainly to the consumer, but also to FI in the supervision – in what way the choice of that product would be in the interest of the consumer”

”Strengthening the consumer”

- FI judge customer value for money - ”Savers would have been better off saving in index funds” (based on comparisons with a fictitious index fund)

Example of problematic communication (SvD Debate article)

- Regarding Active/Passive funds
 - ”Get what you are paying for” (not get what was sold)
 - ”Active funds underperform their index so therefore it’s room for further price reductions” (?)
 - ”The board should review [...] if the product is worth its price”
 - “[...] It shows that the fee is of great importance. The burden of proof to demonstrate that actively managed funds are a better option for savers [than index-funds] lies with the fund companies.”

Swedish Consumer Agency

- Mission

The Consumer Agency is the Consumer Agency for Consumer Affairs and is responsible for:

- 1) **the consumer protection regulations within the scope of the authority's responsibility are followed**
- 2) consumers have access to information and guidance on consumer rights and obligations as well as other information that allows them to make informed choices if no other authority has that task
- 3) strengthen consumers' position in the market through contacts with private actors and in that work implement industry agreements and efforts in standardization.

“In our efforts to conclude industry agreements we have close contacts with industry and various industry organizations.”

Guidance – yes please, but...

- Regulations issued by supervisor have benefits
 - Scope and objective defined by law
 - Prescribed procedure including remittance
- Communicative supervision - the FI way
 - Not necessarily based on law – ”customer value for money”
 - No remittance procedure
 - Not appealable
 - Can be changed
 - Sometimes contradicts authorisations
- Organization might affect output
 - Competence and economies of scale on one side but lack of duality on the other

Communicative supervision "rule of law"- issues

- Risk of statements with low quality when not based on formal report
- Unclear cut between opinions and regulatory assessment which might result in legal uncertainty
- Lack of possibility of appeal can result in compliance risks
- As sanctions can not be used, criticism must be sweeping and cross-border. It affects the reputation and possibly the use of services from law abiding companies.
- If the problems were serious the supervisor should propose changes in the legislation rather than stating an expectation.

Communicative supervision is not binding - so why should we care?

- Legal clarity – necessity for any part of a market economy
- Decreasing confidence for financial services – “unbanking” with negative effects on personal finance and the efficiency of the economy
- Public expectations on consumer protection might be higher than the actual regulations. When supervision do not deliver on the expectations it might decrease the confidence of the Supervisor

Conclusions

- Reformulate the mission in the government instructions
- Guiding needs the same quality as regulating
- Develop a two way dialog instead of one way communication
- Base communication on a formal report
- Organize the supervisor to ensure duality
- When expressing "expectations" – be certain that they will be obeyed

