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Press and Communications

Press release

EBA agrees on definition of identified staff for remuneration purposes

The European Banking Authority (EBA) agreed on its final draft Regulatory Technical Standards (RTS) on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile. These identified staff will be subject to provisions related, in particular, to the payment of variable remuneration. The EBA will submit the draft RTS on 16 December 2013 to the European Commission. They are part of the EBA work on the Single Rulebook aimed at enhancing regulatory harmonisation in the banking sector in the European Union (EU).

The EBA draft Regulatory Technical Standards (RTS) look at remuneration packages for identified staff categories and aim at ensuring that appropriate incentives for long-term oriented and prudent risk taking are provided. This will ultimately contribute to supporting financial stability across the EU, as inappropriate incentives for management and employees -for instance, with disproportionate rewards on the upside and insufficient penalties on the downside- have often led to short-term oriented and excessively risky strategies.

These draft RTS propose a methodology for identifying staff that is consistent across the EU. They are based on a combination of qualitative and quantitative criteria and will have to be applied by all institutions subject to the Capital Requirements Directive (CRD).

While these common criteria ensure consistency and a level playing field across the EU single market, they may not cover all specific aspects of some institutions' risk profiles. The CRD requires that all staff having a material impact on the risk profile of an institution be identified. In line with its mandate, the EBA has focused on quantitative and qualitative criteria, whereas an internal self-assessment will still have to be carried out by each institution to ensure full compliance with CRD requirements.

As a general principle, staff shall be identified as having a material impact on the institution's risk profile if they meet one or more of the following criteria:

Standard qualitative criteria: related to the role and decision-making power of staff members (e.g. staff is a member of a management body, is a senior manager, has the authority to commit significantly to credit risk exposures, etc.).

Standard quantitative criteria: related to the level of total gross remuneration in absolute or in relative terms. In this respect, staff should be identified if:

- their total remuneration exceeds, in absolute terms, EUR 500,000 per year, or
- they are included in the 0.3 % of staff with the highest remuneration in the institution, or
- their remuneration is equal or greater than the lowest total remuneration of senior management and other risk takers.

Exclusion criteria: the draft RTS allow in justified cases, under additional conditions and subject to supervisory review, the exclusion of staff identified only according to standard quantitative criteria. In this respect, for staff with an awarded total remuneration of 500,000 EUR or more, institutions need to notify exclusions to the competent authority. For staff with a total awarded remuneration of 750,000 EUR or for staff included in the 0.3 % of the highest earners, a prior approval of exclusions is required. For staff with a total awarded remuneration of 1,000,000 Euro or more competent authorities need to inform the EBA about such intended exclusions before the decision is made. Institutions will have to submit the notification or application and demonstrate that the excluded staff on the basis of the business unit they are working in, as well as of their duties and activities have indeed no material impact on the institution's risk profile.

Background and next steps

A survey on the implementation of the Guidelines on Remuneration policies and practices published by the EBA in 2012 demonstrated that the percentage of staff being 'identified' still differs significantly from one jurisdiction to the other. Moreover, the criteria used by the different institutions for the identification of staff did not always consider sufficiently the impact on the institution's risk profile and therefore failed, sometimes, to appropriately identify staff members.

These draft RTS have been developed on the basis of Directive 2013/36/EU (CRD), which provides a mandate for the EBA to set out qualitative and appropriate quantitative criteria for the identification of categories of staff whose professional activities have a material impact on the institution's risk profile as referred to in Article 92 (2).

These draft RTS will be submitted to the European Commission for adoption and published on the EBA website on 16 December 2013. They will enter into force after their publication in the Official Journal of the European Union. The EBA will review the development of identification practices and the exclusion of staff in the course of 2015.

The final draft Regulatory Technical Standard is currently being prepared for publication and will be published on Monday 16 December 2013.