

**Consultation Paper
Draft
European Banking Authority
Guidelines No xxx/2011
On the remuneration benchmarking exercise**

THE BOARD OF SUPERVISORS OF THE EUROPEAN BANKING AUTHORITY

Having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹ (the 'Regulation' and 'EBA'), in particular Article 16 thereof,

Whereas:

- (1) Article 22 of Directive 2006/48/EC ('CRD'), as amended by article 1 point 3 of Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies², introduced requirements for data collection on remuneration practices.
- (2) Article 22, paragraph 3 provides that home member state competent authorities shall collect remuneration data, on the basis of the information disclosed by institutions in accordance with the criteria for disclosure established in point 15(f) of part 2 Annex XII of the CRD that refer to aggregate quantitative information on remuneration, broken down by business area. The same article provides that on the basis of this data, member states' national competent authorities shall carry out a benchmarking, whereby the data received shall be used to reveal year-to-year evolutions and to point to differences amongst groups that are headquartered in each jurisdiction.
- (3) Art. 22, paragraph 4 *in fine* provides for aggregation of this data and transmission to the EBA, in order for it to carry out a benchmarking, at a second stage, at the EU level. The data received by the EBA will be used to reveal year-to-year evolutions at an EU-wide level and to point to differences depending on where groups are headquartered.

¹ OJ L331, 15.12.2010, p. 12.

² Colloquially known as 'CRD III', OJ L 329, 14.12.2010, p. 3–35.

² Colloquially known as 'CRD III', OJ L 329, 14.12.2010, p. 3–35.

³ Including branches and subsidiaries considered in the consolidated figures of a parent institution

- (4) The provision of the relevant information at the EU level of consolidation is preferable as it would help avoid loopholes in the data collection, as EU-wide numbers can be gathered for the whole group and as it be ensured that reporting can be centrally organised in groups and consequently, can be communicated only once to the consolidating supervisor, while still covering a representative part of all local banking markets in the EU.
- (5) Annex V, Section 11, Point 23 of the CRD defines 'identified staff' as 'senior management, risk takers, control functions and any employee receiving total remuneration that takes them into the same remuneration brackets as senior management and risk takers (...), whose professional activity have a material impact on their risk profile. These criteria are further elaborated upon in section 1.1.3 of CEBS Guidelines on Remuneration Policies and Practices, published on 10 December 2010.

HAS ADOPTED THESE GUIDELINES:

Article 1 – Definitions

For the purposes of these Guidelines, 'significant institutions' means the combined group of:

- (a) large, cross-border banking groups, active in the EU,
- (b) all institutions deemed to be significant by national competent authorities.

National competent authorities shall communicate to the EBA the methodology used for this selection and indicate which percentage of their local banking market is covered in terms of total assets. The combined group should cover at least 60% of local banking markets³, or comprise at least the 20 largest institutions within a jurisdiction.

Article 2- Information to be submitted

2.1. Significant institutions shall complete and transmit to their national supervisory authorities, in relation to all their staff, the template provided in Annex 1 on a consolidated basis.

2.2. Significant institutions shall complete, in relation to their 'identified staff' only, the template provided in Annex 2.

³ Including branches and subsidiaries considered in the consolidated figures of a parent institution submitted to the consolidating supervisor.

Article 3- Level of consolidation of the information provided

The information mentioned above in article 2 shall be supplied by institutions on an EU consolidated basis.

Article 4- Frequency of reporting and remittance dates, and reference year

4.1. The information mentioned above in article 2 shall be submitted every year at the end of June.

4.2. The information mentioned above in article 2 shall relate to remuneration awarded for performance during the year preceding the year of remittance.

Article 5- Transitional arrangements

The first date for data submission shall be October 2011. It shall relate to remuneration awarded in 2011 relating to the 2010 performance year.

Article 6 – Date of application

6.1. Competent authorities applying these guidelines shall incorporate them into their supervisory practices, including where particular guidelines within the document are directed primarily at institutions.

6.2. Competent authorities shall undertake all the above steps to apply these guidelines by ... [date].

Done at London on xx [Month] 2011

Andrea Enria
Chairperson
For the EBA Board of Supervisors

ANNEXES

Annex 1- Template to be completed and submitted in relation to all staff

Annex 2- Template to be completed and submitted in relation to identified staff

ANNEX 1- Template to be completed and submitted in relation to all staff

Name of the institution/group:				
Business areas:	Investment banking⁴	Retail banking	Asset management	All other⁵
Total number of staff⁶	#	#	#	#
Net profits in year N⁷	€ mn	€ mn	€ mn	€ mn
Total remuneration⁸ in year N	€ mn	€ mn	€ mn	€ mn
Total variable remuneration⁹ in year N	€ mn	€ mn	€ mn	€ mn

⁴ Incl. corporate finance, private equity, capital markets, sales & trading.

⁵ This column should include staff that cannot be allocated to one of the designated business areas. In this case, institutions should add a footnote explaining in which business areas these high earners work.

⁶ The numbers of staff provided should be based on the institutions' performance year-end numbers.

⁷ Net profits shall be based on the accounting system used for regulatory reporting.

⁸ The amounts of remuneration provided should be gross numbers, including all costs for the institutions, except mandatory contributions to social security and comparable schemes.

⁹ Variable remuneration according to article 11 of CEBS Guidelines on Remuneration Policies and Practices.

ANNEX 2- Template to be completed and submitted in relation to identified staff

Name of the institution/group:				
Business areas:	Investment banking¹⁰	Retail banking	Asset management	All other¹¹
Number of identified staff	#	#	#	#
Number of identified staff in senior management positions¹²	#			
Number of identified staff in control functions	#			
Total fixed remuneration (including benefits) in Year N¹³	€ mn	€ mn	€ mn	€ mn
Total variable remuneration in Year N	€ mn	€ mn	€ mn	€ mn
Total variable in cash	€ mn	€ mn	€ mn	€ mn
Total variable in equity	€ mn	€ mn	€ mn	€ mn
Total variable in other instruments	€ mn	€ mn	€ mn	€ mn
Total amount of variable remuneration deferred in Year N¹⁴	€ mn	€ mn	€ mn	€ mn
Total deferred variable in cash	€ mn	€ mn	€ mn	€ mn
Total deferred variable in equity	€ mn	€ mn	€ mn	€ mn
Total deferred variable in other instruments ¹⁵	€ mn	€ mn	€ mn	€ mn
Amount of performance adjustment applied in Year N for payments in Year N or remuneration awarded in previous years.	€ mn	€ mn	€ mn	€ mn
Number of recipients of guaranteed variable remuneration in Year N¹⁶	#	#	#	#
Total amount of guaranteed variable remuneration paid in year	€ mn	€ mn	€ mn	€ mn

¹⁰ Incl. corporate finance, private equity, capital markets, sales & trading.

¹¹ This column should include staff that cannot be allocated to one of the designated business areas. In this case, institutions should add a footnote explaining in which business areas these high earners work.

¹² This is equivalent to the first and second category of Identified Staff as explained in paragraph 16 of the CEBS Guidelines.

¹³ Fixed remuneration according to article 11 of CEBS Guidelines on Remuneration Policies and Practices.

¹⁴ Cf. section 4.4.1 of CEBS Guidelines on Remuneration Policies and Practices for definitions of deferred and non-deferred remuneration.

¹⁵ Cf. section 4.4.2 of CEBS Guidelines on Remuneration Policies and Practices for definition of other instruments.

¹⁶ Cf. section 3.1.2 of CEBS Guidelines on Remuneration Policies and Practices for definition of guaranteed variable remuneration.

N				
Number of recipients of severance payments in Year N	#	#	#	#
Total amount of severance payments paid in year N	€ mn	€ mn	€ mn	€ mn
Total amount of discretionary pension benefits paid in year N	€ mn	€ mn	€ mn	€ mn