

**EBA's consultation on
draft guidelines on the remuneration
benchmarking exercise
(EBA/CP/2014/04)**

AMAFI's answer

1. Association française des marchés financiers (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI has more than 120 members operating for their own account or for clients in different segments, particularly organised and over-the-counter markets for equities, fixed-income products and derivatives. Nearly one-third of its members are subsidiaries or branches of non-French institutions.

2. AMAFI welcomes the opportunity to comment on the proposed guidelines on the remuneration benchmarking exercise.

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3. As a general comment, AMAFI supports the scope of the benchmarking exercise, in line with the proportionality principle, resulting in not all institutions being subject to the data collection.

This approach is important because not all institutions present the same risks to themselves and the public in general due their differing organisations, businesses and sizes. Institutions, who are not listed and not accountable to a larger public than their owners due to their governance structure and the size and risks of their activities, should not be required to submit the same level of data. In addition, the granularity of the required data being high, smaller institutions with fewer employees would actually be disclosing the personal data of their risk takers, as guessing whose person's remuneration is indicated in a cell of the template would be easy for these firms. Such disclosure would effectively be in breach of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Application of the last paragraph of Article 450 to the data collection exercise conducted by the authorities is therefore essential: *"institutions shall comply with the requirements set out in this Article in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities and without prejudice to Directive 95/46/EC"*.

4. AMAFI therefore supports the targeting of firms representing at least 60% of a Member State's credit institutions and investment firms, measured in terms of aggregated assets. However, it considers that the scope of the 2012 exercise, which also gave national authorities the choice to select the 20 largest institutions in their country, should be maintained.

5. Proportionality is rendered even more important by the fact that the reporting is extended to all staff, whereas only risk takers' remuneration is currently regulated. Importantly, requiring detailed information for all staff is neither consistent with level 1 (see Q4 below) nor proportionate as regard personal data protection.

6. Another general comment refers to the fact that the Guidelines seem to have been prepared without giving consideration to investment firms. Even though it has been prepared with credit institutions in mind, CRD4 applies to investment firms, yet it does not seem that ESMA's Securities and Markets Stakeholder group has been asked for an opinion on this consultation paper.

Q1: Are the subject matter and scope of the Guidelines sufficiently clear?

7. Yes.

Q2: Are the scope of institutions to be included in the exercise and the process regarding this matter sufficiently clear?

8. It is clear but Article 75(1) of the Directive and 450(1) of the Regulation could be reproduced in the body of Title II, so that the reader does not have to refer separately to the Directive and the Regulation.

Q3: Is the scope of consolidation for the data to be reported sufficiently clear?

9. The requirement to report at the highest consolidated level is welcome, as it allows comparison between similar institutions and is efficient from an organisational and administrative point of view for institutions.

Q4: Is the information to be submitted to the EBA sufficiently clear?

10. The information required is more extensive than provided for by Article 75 of the Directive, which states that “ *Competent authorities shall collect the information disclosed in accordance with the criteria for disclosure established in points (g), (h) and (i) of Article 450(1) of Regulation (EU) No 575/2013 and shall use it to benchmark remuneration trends and practices. The competent authorities shall provide EBA with that information*”, where points (g), (h) and (i) of Article 450(1) of the Regulation only relate to “*categories of staff whose professional activities have a material impact on its risk profile*”.

Data related to the remuneration of all staff and data related to individuals remunerated EUR 1 million or more who are not risk takers are therefore out of scope of the level 1 text and EBA does not have the mandate to extend the scope of the data collection set in the level 1 text.

11. If the scope was maintained as proposed, institutions would have to gather and prepare another set of data compared to the one they currently make public. This is not consistent and would create additional costs for institutions especially since the granularity of data requested is not readily available in the existing information systems.

12. Extending the scope of this reporting to non material risk takers is not consistent with the Directive and will increase compliance costs, with no obvious benefits for stakeholders.

Q5: Is the template in Annex 1 appropriate and sufficiently clear?

Q6: Is the template in Annex 2 appropriate and sufficiently clear?

13. AMAFI understands the need to compare in as much detail as possible the remuneration granted by institutions. However, it is doubtful that the proposed range of businesses/functions will ensure comparison of comparables, whereas it is quite certain that obtaining this level of information will be time consuming and operationally complex.

Considering that getting this granularity of information for each entity in scope and for all staff will be difficult for groups and considering that a greater breakdown may not provide better comparability, on the opposite, AMAFI therefore suggests maintaining the breakdown used so far in the benchmarking exercise of 2012 (i.e. between the three main business lines and the category “other”).

14. As regard the breakdown between members of the management body in its supervisory functions and members of the management body in its management functions, such breakdown implies that firms’ information systems be able to distinguish between these two categories for each of the entities in scope of consolidation, which may amount to several hundred for large groups. This would be operationally very time consuming and burdensome, as this information is not readily available. Importantly, such information will have little meaning for comparison purpose: for some groups this piece of data will mix the remuneration of the management function of the whole group with the one of some very small entities, sometimes in low income countries (i.e. Africa), providing an aggregation that will have no information value.

15. Incidentally, if these categories were to be maintained, the differences between them should be made clearer: the footnotes should reproduce or reference the definitions in Article 3.8 and 3.9 of the Directive. In addition, a person can belong to both categories – it should be noted that in such cases, only one category should be populated for the person concerned. Furthermore, many members of the board do not receive remuneration but attendance fees. It should therefore be indicated for the sake of clarity that such fees are not to be disclosed in these annexes.

16. As regard corporate functions, they are defined in footnote 6 as functions that have responsibilities for the whole institution, e. g. human resources, IT. As the reporting is prepared on a consolidated basis, we understand that this only includes corporate functions exercising their

responsibilities at group level (i.e. for example the head of IT in investment banking would be reported under investment banking and not corporate functions). It would indeed be really cumbersome and difficult to isolate corporate functions in each line of business and each entity to report them as an aggregate.

17. Remuneration in asset management are governed by other Directives than CRD4, it is therefore highly questionable to include this business in the annexes, or at least it should be specified that the expectation for this business is limited to upper management who could fall under the CRD4 directive due to the group's approach.

18. Footnote 3 indicates which activities are included in investment banking: corporate banking should be added. This comment relates also to footnote 4 that indicates that retail banking includes total lending activity to individuals and enterprises, whereas an important part of this activity is conducted within investment banking. It should therefore be made clear that lending can be part of both businesses.

Q7: Is the template in Annex 3 appropriate and sufficiently clear?

19. Please see Q4 above: the scope of this Annex should be limited to material risk takers.

Q8: Are the reporting period, the specific amounts to be reported and the currency conversion sufficiently clear?

20. The situations in which currency conversion should be made and the exchange rate of the Commission for financial programming and the budget be used should be made more explicit to indicate that it applies to EU institutions that are located outside the Euro zone. As institutions in the Euro zone are subject to accounting reporting in euro, no such issue exists.

Q9: Are the indicated time periods sufficient to ensure that the data for 2013 can be collected in line with the updated Guidelines?

21. AMAFI is concerned that the guidelines will not be finalised (i.e. endorsed by each competent authority) by 31 August 2014, the date at which institutions should submit their report, due to the time needed to consider the comments received as a result of the consultation and the two-month period granted to competent authorities to notify whether they comply or intend to comply with these guidelines.

Even if it were, the time left for institutions to modify their systems in order to gather and compute these data would be too short. This is especially true if information on all staff has to be provided, as information systems are not in place to report on such persons who are not risk takers.

22. AMAFI suggests that the submission date for the first year of implementation should be the end of 2014.

Q 10: Do you agree with our analysis of the impact of the proposals in this Consultation Paper? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?

Yes.