

**EFAMA response to  
CEBS Consultation Paper on Guidelines on Remuneration Policies and Practices  
(CP42)**

EFAMA welcomes the opportunity to respond to CEBS Consultation Paper on Guidelines on Remuneration Policies and Practices (the '**Consultation Paper**'). EFAMA is the representative association for the European investment management industry. EFAMA represents through its 27 member associations and 45 corporate members approximately EUR 13 trillion in assets under management of which EUR 7.5 trillion was managed by approximately 52,000 funds at the end of June 2010. For more information about EFAMA, please visit [www.efama.org](http://www.efama.org).

**Scope of the CEBS Guidelines on Remuneration Policies and Practices**

The Capital Requirements Directive ('**CRD**') only applies to credit institutions and investment firms and not to asset managers managing UCITS and AIF. Asset managers will also not be part of the "institutions" subject to the CEBS Guidelines on Remuneration Policies and Practices (the '**Guidelines**').

EFAMA Members welcome this limitation of scope of the Guidelines. Credit institutions have a different business model and activities than asset managers. Because of the different nature of the asset management activity the same systemic issues of excessive and imprudent risk-taking which have arisen in the banking sector do not apply in the asset management industry.

While EFAMA members agree with the promotion of effective risk management through appropriate principles on remuneration in the Guidelines, they feel that remuneration structures in the asset management industry should not have as main objective the promotion of effective risk taking as asset managers by definition do not take risk against their balance sheet but instead manage client portfolios in accordance with detailed rules agreed with their clients. Instead rules for the asset management industry need to address the specific issues arising out of the activities of the asset managers.

EFAMA Members therefore fully agree with the limitation of scope in the Guidelines and welcome the elaboration of the specific rules for UCITS Management Companies in the UCITS Directive and for alternative investment fund managers (AIFM) under the Alternative Investment Fund Managers Directive (AIFMD).

### **Proportionality Principle**

EFAMA Members managing individual portfolios under MiFID will fall under the scope of the Guidelines. Because of the limited scope of their activities when compared to other institutions within the scope of the CRD a proportionate application of the Guidelines is required.

We also urge CEBS to consult CESR regarding the rules applicable to MiFID firms as their business model is different from banking.

EFAMA appreciates the strong emphasis on the proportionality principle throughout the Consultation Paper. The possibility to apply the rules not in a strict manner to all staff but proportionally is crucial because not all staff members within one institution or between different institutions have in their activity the same impact on the risk profile of an institution or its products.

### **Specific nature of asset management activity**

Asset managers act as principals, managing their clients' assets on their clients' behalf, in the clients' name and in accordance to the clients' instructions. The clients' assets are segregated from the own assets of the asset manager and from other clients' assets. Managing the clients' assets does not affect the assets of the asset manager, but entails operational and reputational risks.

The reputational risk is one of the most sensitive issues for asset managers. The reputation of the asset manager is based on a good performance and track record in managing clients' assets in the longer term. It follows from this business model that the long term interests of the asset manager must be aligned to the interests of the clients.

Existing regulatory provisions on remuneration policy for UCITS management companies take this business model into account and address conflicts of interest instead of effective risk management. They provide that the remuneration policy of a UCITS management company has to align the interests of the UCITS Management company with the interests of the UCITS it manages (Article 14 of Directive 2009/65/EC).

### **Commission work on remuneration for UCITS Management Companies**

It has been announced by the European Commission in the past months that the UCITS Directive will be amended shortly in order to include legislation regarding remuneration. EFAMA Members welcome the elaboration of rules which will take into account the specific

business model of the asset management industry and strongly suggest that the Commission proceeds with a consultation in this regard.

### **ESMA Consultation for the implementation of the AIFMD**

Art. 13 of the AIFMD requires ESMA to ensure the existence of guidelines on sound remuneration policies for AIFM which comply with the principles set out in Annex II of the AIFMD. In this context, ESMA shall cooperate closely with the EBA.

In the framework of the elaboration of guidelines on sound remuneration policies for AIFM, EFAMA Members request that a genuine consultation of the remuneration principles be conducted by ESMA which should allow to take into account the specificities of the asset management activities as compared to the banking business model.

### **Group Companies**

Many EFAMA Members are part of groups of companies. In the framework of financial groups it is important not to apply remuneration standards relevant for the parent undertaking in the same manner to all subsidiaries but to pay due regard to possibly diverging requirements for other group members belonging to different sectors or jurisdictions. EFAMA Members welcome that the Guidelines take this into account.

Appropriate requirements must be taken into account when applying remuneration policies and practices for each type of sector. The group parent institution should oversee the remuneration policies, practices and procedures for each type of sector within its group and should ensure that each sectoral institution complies with its particular set of regulation. For investment fund managers, the sectoral remuneration provisions will be included in the AIFMD and UCITS Directive.

### **Implementation Timetable**

The Consultation Paper provides of an implementation of the proposed Guidelines by firms and supervisors by 1 January 2011. This leaves the industry and the supervisors less than 2 months for the implementation although the Guidelines themselves are not yet finalised.

EFAMA Members fear that this extremely short implementation timetable will not allow an appropriate implementation. It will not allow to achieve the same result of effective risk management as could be achieved if firms were provided with a longer period within which to develop remuneration policies which adequately address the requirements. EFAMA Members

suggest to include a suitable transitional period within which compliance with the guidelines shall be achieved and urge ESMA to provide for sufficient transitional periods when elaborating guidelines for the fund management industry.

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