

Response from the Italian Banking Association
to the EBA consultation document

**Draft Guidelines on the remuneration
benchmarking exercise**

May 2014

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Preliminary remarks

The EBA, with its consultation document, is updating the guidelines published in July 2012, adding the changes introduced by Regulation 575/2013 and by Directive 2013/36/EU.

The Italian Banking Association is grateful for the opportunity to contribute to the definition of the guidelines for compensation benchmarking exercise.

Apart from the update to take legislative provisions into account, the EBA has anticipated greater granularity of the information, making the task of corporate reporting more onerous and complex.

The *trade-off* between the value of a greater granularity of the information and the related burden for preparing the new tables should be assessed.

The consultation document predicts that the new reporting will regard the 2013 fiscal year and the data may be sent to the competent authorities by 31 August 2014. Then will be sent to the EBA by 31 October 2014.

The timeframe available to the intermediaries is too short to enable them reporting under the new provisions.

This consultation ends on 7 May 2014. The EBA will then publish the consultation findings and guidelines. At that point each of the competent national authorities shall introduce the guidelines in their own country, identifying the companies who will receive the reports.

The time left to the intermediaries for preparing the reporting is quite limited and insufficient for gathering such granular information and for making changes in their information reporting procedures

Therefore, it is hereby requested that the new reporting be prepared for **the first time with regard to the 2014 fiscal year**, still keeping the 31 August 2014 deadline for the transmission of the 2013.

In addition, it should be noted that the public disclosure provided by many businesses in their 2013 financial statements (published in early 2014), was set out based on previous legislative provisions, using the forms from the 2012 *Guidelines*. It would therefore be appropriate to avoid duplication of the burdens for 2013.

Response to the Consultation questions

Title I – Subject matter, scope and definitions

1. Subject matter and scope

1.1. *These guidelines provide further details about the information to be submitted to the EBA regarding the benchmarking of remuneration trends and practices by competent authorities under Article 75(1) of Directive 2013/36/EU1.*

1.2. *These guidelines provide further details about the benchmarking of remuneration trends and practices at Union level, the data to be collected for this purpose and the involvement of the competent authorities in the EBA's remuneration benchmarking exercise (the exercise) under Article 75(2) of Directive 2013/36/EU.*

1.3. *These guidelines are addressed to competent authorities and to institutions.*

1.4. *The terms defined in Article 4 of Directive 2013/36/EU or Article 4 of Regulation (EU) No 575/20132 have the same meaning in these guidelines.*

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

The subject matter and scope of the guidelines are sufficiently clear.

Title II – Scope of the data collection

2. Competent authorities' reporting requirements under Article 75(1) CRD

2.1. *Competent authorities should submit information collected to the EBA to benchmark remuneration trends and practices in accordance with the criteria for disclosure established in points (g), (h) and (i) of Article 450(1) of Regulation (EU) No 575/2013 as specified in these guidelines.*

3. Scope of institutions subject to the data collection

3.1 *Competent authorities should ensure that the benchmarking of remuneration practices covers at least 60% of the financial sector formed by credit institutions and investment firms in each Member State expressed in terms of aggregated total assets of institutions as of end of the calendar year.*

3.2 Where a coverage of 60% cannot reasonably be ensured by the competent authority itself, for example because the market is dominated by subsidiaries of EU parent institutions located in a different Member State and these EU parent institutions would not be included in the benchmarking exercise, competent authorities may alternatively submit information for up to the 20 largest institutions within the Member State.

3.3. Competent authorities may include in their national benchmarking exercise additional institutions they deem significant or relevant for obtaining a representative and diverse sample of institutions in terms of size, business models and risk profiles, or any other institution where they deem it necessary to collect data on remuneration for supervisory purposes.

3.4 Competent authorities should inform the EBA annually about the institutions that they consider should be part of the EBA's benchmarking exercise. This can be done by informing the EBA about any changes compared to the previous year. As far as possible, changes to the sample of institutions should be avoided to ensure a stable sample. Based on the information received, the EBA will establish a list of institutions from which competent authorities should collect data. The list will be provided to the competent authorities in good time before the collection of data from institutions.

3.5 Competent authorities that have included subsidiaries in the list of institutions should review the list provided by the EBA to ensure that the data is not part of the consolidated data that will be collected. If the subsidiary is included in the scope of consolidation of an institution included in the EBA's benchmarking exercise, the competent authority should ask the EBA to remove the subsidiary from the list of institutions so that data for this subsidiary is only submitted as part of the consolidated data collected.

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

The selection criteria of the institutions for the benchmarking exercise – performed by the competent authorities – is clear and confirms what was provided for in the 2012 guidelines.

Compared to previous guidelines, the communication process for intermediaries involved in the exercise was given in detail, anticipating the transmission, by the competent authorities, of only the changes compared to the previous year.

We agree it would be appropriate to ensure that the sample of businesses used for the reporting be as uniform as possible.

We agree with provision 3.5 "*If the subsidiary is included in the scope of consolidation of an institution included in the EBA's benchmarking exercise, the competent authority should ask the EBA to remove the subsidiary from the list of institutions so that data for this subsidiary is only submitted as*

part of the consolidated data collected”.

4. Scope of consolidation and reporting of data

- 4.1. *The exercise is conducted at the highest level of consolidation as set out in Part One, Title II, Chapter 2, Section 1 of Regulation (EU) No 575/2013, i.e. the EEA consolidation level, covering all subsidiaries and branches within the group whether established in a Member State or in a third country. The scope of collecting data on remuneration should be the same as the scope for the application of the consolidated own funds requirements.*
- 4.2. *The institution that reports the supervisory data of the group at the highest EEA level of consolidation, and which is responsible for meeting the requirements of Article 450 of Regulation (EU) No 575/2013 on a consolidated basis, should complete and transmit the information described in these guidelines to the competent authority responsible for the exercise of supervision on an EEA consolidated basis.*

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

The scope of consolidation for the data to be reported is sufficiently clear and confirms the 2012 guidelines.

Title III – Requirements regarding the format and frequency of the reporting for the remuneration benchmarking exercise

5. Information to be submitted and submission dates

- 5.1. *Institutions included in the exercise should submit the following data to the competent authority referred to in paragraph 4.2 by 30 June each year:*
- a) *the template provided in Annex 1 containing data regarding the remuneration of all staff;*
 - b) *the template provided in Annex 2 containing information on the remuneration of staff whose professional activities have a material impact on the institution's risk profile¹ (identified staff);*
 - c) *the template provided in Annex 3 containing information on individuals remunerated EUR 1 million or more per financial year (in accordance with Article 450(1)(i) of Regulation (EU) No 575/2013).*
- 5.4. *Competent authorities may collect additional data for their national benchmarking exercise.*

5.5 *Competent authorities should submit the data required for the EBA's benchmarking exercise to the EBA by 31 August each year using the EBA remuneration benchmarking reporting system.*

Q4 a) Is the information to be submitted to the EBA sufficiently clear?

The annexes to be drafted shall be updated taking into account the provisions introduced with the regulation 575/2013 and anticipating the greater granularity of the information.

The granularity proposed is excessively onerous for the businesses and that it could create a lack of uniformity of organisation among the different intermediaries, thereby not favouring the quality of the information gathered. For example, among the Corporate functions those departments, such as Human Resources, which bear responsibility for the entire company, are included. These, however, in some cases could be included in the "independent control function". Even in the case of the MB, the Supervisory function and the Management function distinction could create uncertainty (see below).

Therefore, it is requested that the structure proposed be simplified or that the breakdown by business areas in the 2012 guidelines be confirmed. For example, while reporting separately the "Independent control functions", for coherence and simplicity it would be advisable to report together the "Corporate functions" and "All other".

Only the variable "number of heads" should be considered, eliminating the variable FTE, as provided for High Earners.

If the current information breakdown is confirmed - for the purposes of proper compilation and to ensure uniformity at a European level - it would be necessary to specify what is meant by management body in its oversight function and governance body in its managerial function.

Members of the Board of Auditors (or Oversight Committee for those who adopt a dual regime) should be included in the MB Supervisory Function and members of the Board of Directors (or Management Committee) in the MB Management Function. In addition, as concerns the management body in its management function it should be specified that only executive administrators are included.

It is necessary to specify the meaning of Corporate function: for example, Human Resources and IT are indicated in the notes. For a banking group, the group's Human Resources and IT departments act all across the entire group, whilst those departments in companies that are a part of the group are transversal for each individual company. Are these to be nevertheless included within the scope of Corporate function?

In the document provision 5.4 was inserted, which permits the competent authorities to gather additional data for its own national exercises. If the

objective is that of ensuring comparability of the information on a European level, the information requested must be the same as what is requested by the EU. It is felt that the provision that the national authorities add to the requests would be an additional burden, generating disparity of treatment and would not further the creation of a *level playing field* on a European level.

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

For the purposes of personnel allocation among the different aggregates it is requested that it be specified - as provided for in the high earners consultation - that if personnel are assigned to more than one function then it should be that person's prevalent function or activity that is referred to. Each employee shall be indicated only once and the remuneration components shall be allocated to the same area where that employee is employed and they shall not be broken down into the scope of different areas. As concerns members of the management bodies, it should be clarified that the reference is to the person ("head") and not to the position held in the different management bodies. When considering positions held, consistency with the data published in fiscal year financial statements could be compromised.

As concerns the "number of members (Headcount)" the temporal reference should be specified, as provided for the determination of the "total number of staff in FTE (year end numbers)", hoping that it will nevertheless be possible to simplify by counting only the "heads".

Total remuneration indicate the gross values, including all costs for the institutions except for social security contributions and comparable schemes.

It should be specified, in a note in the table, that variable remuneration concerns the reporting year.

It should be clarified the definition of "independent control functions" especially as regards the concept of "independent" (and in light of this request, within the scope of reporting on high earners, where it seems to have a different meaning from "control functions").

As concerns Note 10 annexed to the table, a clarification is requested on what is meant by "mandatory contributions by the institutions to social security and comparable schemes," which are excluded from total remuneration, for the purpose of avoiding differences of interpretation on a European level.

For the purpose of avoiding differences in interpretation, please, detail as far as possible, the items to be considered for the determination of the total remuneration.

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

As concerns the “number of members (Headcount)” it should be specified the temporal reference, as provided for the identification of the “total number of staff in FTE (year end numbers)”.

The Identified Members in senior management positions represent, pursuant to Article 3 (1) point 9) “top management”, the physical persons who exercise executive functions in an entity and who are responsible for daily management of that entity and who answer to the management body; it should be necessary to clarify the criteria for the identification of this staff.

Please, clarify what is intended by “Total amount of variable remuneration deferred in year N” – meaning the confirmation that it refers to the deferred part of the incentive awarded for year N (therefore part of “Total variable remuneration” above) or, alternatively, that it refers to the previous years deferrals vesting in year N.

A new variable has been introduced concerning deferred remuneration assigned in previous years, which shall be indicated separately. Is deferred remuneration, pertaining to previous years but paid within the year, within the scope of this variable?

It is also requested that an item be provided for that records the deferred value from previous years paid within the year separately.

There is no indication whatsoever of the deferred remuneration for at least 5 years paid in instruments to which it is possible to apply the discount rate; it is requested that an item be inserted wherein this component is indicated in order to assess the application of the provision contained in the Directive.

In notes 10 and 11, “proportionate regular pension contributions”, is mentioned; what precisely is meant by this? Is this the company contribution to the corporate pension fund? It would be appropriate to request a clarification of this meaning.

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

A note should be inserted in the Annex 3 that details the reference to end-of-year data to identify the “number of members (Headcount)”.

6. Reference year of submitted data and currency conversion

6.1. *Data should comprise fixed and variable remuneration awarded for performance during the financial year preceding the year of submission of the information.*

- 6.2 Remuneration awarded based on multi-year accrual periods that do not revolve on an annual basis should be fully allocated to the financial year in which the remuneration was awarded.
- 6.3 The information to be provided on ex post adjustments, including clawback and malus, refers to the application of these arrangements for remuneration already awarded. These amounts should be reported separately¹ and should not be deducted from the amount of variable remuneration reported.
- 6.4 Only the amounts of variable remuneration awarded in the reporting year that are deferred should be reported as deferred remuneration. Deferred variable remuneration for previous periods should be reported separately².
- 6.5. Data should be submitted using accounting year-end numbers in euro. All amounts should be reported as full amounts in euro (e.g. 1 000 000 should be reported as one million euro). Where remuneration is awarded in a currency other than euro, the exchange rate used by the Commission for financial programming and the budget for December of the reporting year should be used³.

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

The reporting period and the specific amounts to be reported are clearly detailed.

The indications provided in this paragraph should be transformed into notes of the tables, so that the figures to be recorded are more clearly detailed.

Regarding 6.2, it should be better specified what is meant by "*do not revolve on an annual basis*"; it is assumed that this has to do with systems where the new multi-year plan begins only when the previous plan ends.

Then for the other multi-year plans ("*revolve on an annual basis*") the remunerations shall be recognised proportionally over the different fiscal years to which they pertain.

7. Data quality

- 7.1. *Competent authorities should check the completeness and plausibility of the data reported by each institution participating in the exercise.*
- 7.2. *The EBA will perform additional data quality checks and may request specific data quality checks to be performed by competent authorities.*

Title IV – Other provisions; date of application

8. Repeal

8.1. *The EBA Guidelines on the remuneration benchmarking exercise (EBA/GL/2012/04), published on 27 July 2012 are revoked with immediate effect.*

9. Transitional arrangements

9.1 *Data relating to the performance year 2013 should be submitted by the institutions to competent authorities by 31 August 2014.*

9.2 *Data relating to the performance year 2013 should be submitted by the competent authorities to the EBA by 31 October 2014.*

10. *Date of application*

10.1. *These guidelines shall apply from [1 July 2014].*

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

The document provides that the data be transmitted to the competent authorities by 31 August 2014 and to the EBA by 31 October 2014.

The timeframe available to the intermediaries is too short to enable reporting under the new provisions.

The consultation ends on 7 May 2014. The EBA will then publish the consultation findings and guidelines. Then the competent national authorities shall introduce the guidelines in their own country, identifying the companies who will receive the reports.

The time left to the intermediaries for preparing the reporting is quite limited and insufficient for gathering such granular information and for making changes in their information reporting procedures.

Therefore, it is hereby requested that the new reporting be prepared for **the first time with regard to the 2014 fiscal year**, still keeping the 31 August 2014 deadline for the transmission of the 2013.

In addition, it should be noted that the public disclosure provided by many businesses in their 2013 financial statements (published in early 2014), was set out based on previous legislative provisions, using the forms from the 2012 Guidelines. It would therefore be appropriate to avoid duplication of the burdens for 2013.

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

1. *The EBA is updating existing Guidelines for which an impact assessment has already been carried out. The changes concern additions made in Directive 2013/36/EU and Regulation (EU) 575/2013 and clarifications on how figures*

should be reported based on the experience gained from the previous data collections. The Guidelines also take into account that the requirements for variable remuneration and disclosure of remuneration have changed, e.g. it is now possible to discount variable remuneration provided it is paid in instruments which are deferred for at least five years or the reporting of high earners in separate payment bands.

2. The baseline scenario for the impact assessment includes the existing EBA Guidelines and the changes to the additional disclosure requirements introduced by CRD IV. All Member States are currently fully compliant with these Guidelines. The impact of the intervention is measured in terms of the additional data required under the proposed EBA Guidelines. The impact assessment does not take into account additional data that may be collected by the competent authorities and is limited to the marginal effects of the updated Guidelines compared to the baseline scenario.
3. The Guidelines were clarified based on questions received during the previous data collections. A clearer definition of the data will potentially reduce the costs of the data collection as data corrections will be limited, and will increase the quality of the reported data.
4. The Guidelines now include an additional template for the collection of data regarding high earners for institutions included in the sample. The collection of all these data within the data collection exercise regarding high earners was considered, but this option was not retained as this exercise results in aggregated figures, while the benchmarking data refer to a specific institution. This reporting requirement is a direct result of Regulation (EU) No 575/2013, and therefore the cost impact is not due to compliance with the Guidelines.
5. The number of data fields in the updated templates has roughly doubled. This is to ensure an appropriate granularity of data and consistency with data collected for high earners regarding the categories used. Some costs will be triggered for the adoption of the reporting systems. The use of a different reporting structure to that used for high earners was considered, but since the institutions would have to implement additional reporting structures and the data would not be comparable, this option was not retained.
6. Regarding the added business areas a couple of options were considered:
 - Option A: introducing business lines similar to those defined under the standardised approach for operational risk.
 - Option B: maintaining the structure of the data as far as possible and introducing a more granular collection of the data included in 'other areas'.
7. Option A would have required introducing new mapping criteria for all staff and would have provided for a more granular approach regarding the data collected. The costs for mapping the data would have been higher compared to Option B. Option B allows the data collected for 2010-2012 to be compared with the data collected in the future as the main reporting structure is maintained. The institutions only need to develop additional mapping routines regarding the staff so far reported under 'other areas'. Option B singles out the most relevant business areas and separates business areas from the support function. For these reasons, Option B was retained to allow the use of the existing historic data for benchmarking purposes and to limit the costs for the implementation of these Guidelines.

8. *Additional information concerning fixed remuneration and the instruments in which it was paid will be collected for an analysis of the remuneration practices, in particular the changes in the reported figures after the cap on variable remuneration came into force and some institutions started to pay out 'allowances' in shares.*
9. *The overall cost impact is limited to the institutions participating in this exercise and the competent authorities collecting the data and submitting them to the EBA. The reporting structure needs to be completed (i.e. the new elements need to be included in the template) and staff need to be mapped into the appropriate companies. This will result in a one-off cost for implementing a system and some ongoing costs for the re-categorisation of staff changing positions and new joiners.*
10. *The benefit is that staff and their responsibilities are more appropriately mapped into distinct categories, enabling a more in-depth analysis of remuneration trends in different areas of institutions.*

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?

The changes introduced in the consultation document stem from the new provisions in the Regulations and the Directive. To these will be added the interventions that the EBA deems necessary considering the experience of gathering the same data in the previous two-year period. The EBA considers that the increased granularity of the information improves the quality of the information gathered and possibly will reduce the costs for reporting.

The burdens introduced by the increased granularity of the information represents a one-off cost for implementation of the system; an ongoing cost for reclassification has been highlighted in the event that the personnel change position or job title. An additional one-off cost regards the relative evaluations of the new definitions of the requested remuneration data. For example, Notes 10 and 11 in Annex 2 are different from those found in the 2012 EBA Guidelines (where the CEBS text of December 2010 was referred to) and the impact arising from the innovations introduced could incur initial system implementation costs.