20 April 2009

Feedback to the public consultation on

High-level principles of Remuneration Policies (CP23)

1. In March 2009 CEBS published a consultation paper (CP23) on its principles on remuneration and invited interested parties to comment on the set of guidelines. The consultation period last for one month and ended on the 3rd April 2009. Twelve responses were received, all of which were published on the CEBS website. A public hearing was held on the 20 March 2009.

2. Taking the comments into account a new version of the principles has been worked out.

3. The following is a summary of the main comments made in the public consultation presented in a feedback table (Annex 1) which includes the CEBS' responses.

Annex 1

Feedback table on CEBS' consultation paper on High-level principles of Remuneration Policies (CP23): analysis of the public responses and suggested amendments

	Topic, reference	Comments received	CEBS' response	Amendments to the text
General comments				
1	Principle of subsidiarity	National responses in implementing principles in this area are more appropriate especially in the context of Article 153 (ex 137) of the EU-Treaty consolidated version and with the principle of subsidiarity. Principles could be considered at EU and International level to address possible weaknesses in remuneration practices but considers that those principles should remain high-level and should be restricted to managerial functions, risk-takers and control functions.	Given contradictory comments, we have kept the scope as before	None
2	Implementation of principles	Need for clarification still exists regarding the nature of these principles and the degree to which they are subject to supervision: While some requirements are highly important to these principles (e.g. "Any policy should aim at aligning personal and company objectives with a view to a long-term"; first paragraph of page 2 of the Draft High Level Principles) they could prove difficult for supervisors to apply in practice.	Further work to be discussed by CEBS with regards to implementation. This is also stated in the introduction to the principles	None
3	Implementation of principles	The context how principles may affect current employment contracts has to be taken into consideration. The industry also suggested that these principles should not have a direct impact on individual employment arrangements. Contracts signed before the adoption of these high level principles might contain provisions on remuneration that are not totally in line with these principles. Taking into consideration that companies have incentives to keep the best qualifications in their institutions, sufficient flexibility should therefore be granted to financial institutions in order to deal with these contracts. A sufficient grace period during which the company would need to comply with the new principles could	Agreed. A sufficient period to align existing contracts should be granted	Paragraph 1 has been extended to include a sentence granting additional time to implement the principles for existing contracts.

		solve this problem, the industry suggested.		
4	Principle of proportionality	Application of principles should be implemented on a principles and risk based way. Not every principle should apply in the same way to every firm. A proportionality principle should apply. Regulators should not adopt a 'one size fits all' approach, as substantial differences in business practices have to be taken into account (such as differences between investment banks and retail banks or large and small banks).	Agreed	The idea of proportionality is introduced in the scope in paragraph 3.
5	Scope	The focus on remuneration structures and risk management should not only stay with the remuneration of top executives and traders. Remuneration structures and incentive systems for employees at lower levels play a major systemic role in risk management and are a potentially destabilising factor in financial markets. Recommendations on remuneration in the financial services sector should explicitly cover employees in sales and advice functions in financial institutions at all levels. Incentive structures for employees in sales and advice functions should encourage good customer services and qualified advice and not only sale of products. Remuneration structures should not be linked to individual sales targets.	This was always the intention. In light of contradictory comments received, we did not further highlight this fact.	None
6	Scope	Prudent supervision should oversee that remuneration structures at all levels – including sales and advice functions – are appropriate and risk conscious. Authorities should be able to penalise inappropriate practice.	Implementation and possible sanctions will be further discussed by CEBS	None
7	Scope	There should be structured dialogue between unions in the finance sector and supervision authorities at all levels to address these matters and other internal practices affecting companies' risk management and the stability of the financial system.	This is a matter for the respective national supervisory authorities	None
8	Scope	Charters on responsible sale of financial products should be developed by each financial institution and to be agreed between management, unions and other stakeholders.	This is a matter for the respective national supervisory authorities	None
9	Scope	It is important that the principles steer the practices at the common	The idea of proportionality is	The idea of

		level and that the reward practices are not regulated too much in detail. When adopting the principles into practice, consideration should be given to the different size and operations model of the service providers in the financial sector. The sufficient flexibility should be granted when adopting the principles. At the same time, it should naturally be taken care that the principles ensure the level playing field.	important and has now been reflected in the principles	proportionality is introduced in the scope in paragraph 3.
10	Scope	Principles should correspond to standards set at the global level and avoid competitive distortions for EU banks. In the fourth paragraph, CEBS states that further consideration will be given to how the supervisory review and evaluation process (SREP), which includes an assessment of all risks to a company, can address those risks emanating from the remuneration policy. Within this process supervisors will consider the range of measures, available under Pillar 2, to address and mitigate these risks. Based on the present principles, the industry considers it important to develop standards for supervisors on how to judge the remuneration system at several categories of banks. The industry would like to recall that the remuneration systems for retail banking are different from those employed for e.g. corporate and investment banking (CIB). Therefore, it would be appropriate for CEBS to identify where remuneration is particularly risk-related and relevant from a supervisory perspective so that banks can develop appropriate answers. At the same time, it would also be important to develop standards on how to incorporate them in the SREP process, including the determination of possibly a penalty under Pillar 2.	The proportionality of the principles addresses the comment regarding the different nature of banks. SREP comments are useful and will be considered with regards to the future work to be undertaken by CEBS.	The idea of proportionality is introduced in the scope in paragraph 3.
11	Scope	The industry commented that in most Member States, the remuneration of the vast majority of employees in the banking sector is clearly defined by national collective agreements and sector agreements. Thus it is important to avoid jeopardising the balance of agreements negotiated between unions and employer representatives.	The high-level and proportionate nature of the principles should not cause any problems in this regard. Additional time has been granted to re-structure existing employment contracts should that be necessary.	The idea of proportionality is introduced in the scope in paragraph 3. Paragraph 1 has been extended to include a sentence granting additional time to implement the principles

				for existing contracts
12	Scope	There is a need for general principles on remuneration structures to ensure notably that they are consistent with good risk management as regards the firm's business and overall risk tolerance. When elaborating such principles, attention should nevertheless be paid to the very competitive nature of the financial markets and to the European or even global level at which most of the firms operate. It is hence essential that: - Firms operating in the financial industry remain able to recruit and retain the best competences/skills and not be put at a disadvantage compared with other businesses less (or not) regulated in respect of remuneration but able to attract skilled people from financial firms. - Any approach needs to be highly coordinated at the international level by regulators and supervisors.	The high-level and proportionate nature of the principles should not cause any problems in this regard. Through coordination with global institutions (FSF), we hope to have avoided any un-level playing field issues. AT CEBS level, further consideration will be given to implementation aspects.	None
13	Scope	The principles are intended to be implemented by all financial institutions, which is good to preserve a level playing field but also creates a risk that the diversity of the firms concerned is not considered, whereas remuneration practices vary a lot among them depending on their businesses or their size, notably as regards their capacity to set up stock options programmes.	The idea of proportionality is important and has now been reflected in the principles	The idea of proportionality is introduced in the scope in paragraph 3.
14	Scope	Industry also drew attention to the potential interaction between European-based principles or any future European legislation and some social provisions of national laws which may restrict or even hinder the firms' ability to modify their current pay arrangements.	The high-level and proportionate nature of the principles should not cause any problems in this regard. Additional time has been granted to re-structure existing employment contracts should that be necessary.	The idea of proportionality is introduced in the scope in paragraph 3. Paragraph 1 has been extended to include a sentence granting additional time to implement the principles

				for existing contracts
15	Scope	On paragraph 2 of the consultation paper, the industry shares the view that guidelines should be oriented towards senior employees, other risk-takers and managers. However, it seems neither realistic nor efficient to extend the scope of the remuneration policy to all levels of the organisation and all categories of employees. The focus should not be on employees (and on their levels or categories) but rather on the positions or businesses that expose the firm to significant risks, keeping in mind that the fundamental objective of these principles is the reduction of systemic risk. In particular, firms should be permitted to adopt a risk-based approach instead of having to consider indiscriminately all employees of the firm. It means that it is mainly employees who are in a position to create, manage or control risks, whatever their levels or categories, who should fall within the scope of the principles.	Given contradictory comments, we have kept the scope as before	None
16	Scope	The need for banks to retain highly qualified staff and the need also not to undermine Europe's competitive position also should be taken into consideration. It is important to consider a consistent application of principles in remuneration principles, not only restricted to the banking industry. Principles should be considered at EU and International level to address possible weaknesses in remuneration practices but those principles should remain high-level and should be restricted to managerial functions, risk-takers and control functions. As high-level principles in this area are targeted to adequately address risks for the financial institution, only those functions and categories of employees which exposed the financial institutions to financial risks linked to the performances of market instruments, should be taken into account.	Given contradictory comments, we have kept the scope as before Through coordination with global institutions (FSF), we hope to have avoided any un-level playing field issues. AT CEBS level, further consideration will be given to implementation aspects.	None
17	Scope	Shareholders are briefly mentioned in the introduction. Shareholders and especially private shareholders - who by definition are minority shareholders - have too often the experience that corporate governance in listed companies leaves too many decisions and too much	As stated, shareholders are briefly mentioned. In light of comments received that not all banks necessarily have shareholders, we have not	None

		power in the hands of the elected or the employed officers. It is important that the governance systems define a role and responsibility to the owners of the firms. Management must respect the owners - i.e. the private shareholders and the institutional investors - and invite them to take part in the decision making at the Annual General Meeting. The owners must accept the invitation and the responsibility and take part in the decision making process. Shareholder representation in committees preparing decisions on remuneration policy and election of officers could be such a forum.	further elaborated on this aspect. For listed companies, and their rights and responsibilities towards shareholders, as mentioned in a footnote to the document, the respective firm should consult other texts.	
18	Scope	The industry supported the principles-based approach and recognition that ultimate responsibility for remuneration policy lies with financial institutions and, where appropriate, their shareholders. The industry is of the opinion that references to risk takers and senior employees should be removed as it requires definitions to be provided on these terms which would not be helpful. As an example every employee is a risk taker in the organisation, clearly though the levels of risk they that any individual takes will be dependent on their role.	It was always the intention to include all employees in the scope of these guidelines. In light of contradictory comments received from the industry, we did not further highlight this fact or remove the particular focus on major risk takers.	None
19	Scope	The industry believes that an approach focusing on an overall reform of remuneration policy, as proposed by CEBS, risks diverting attention from the fact that only some parts of remuneration policy concerning specific categories of staff, specifically high bonuses paid to top executives and some traders, are at the core of concerns as regards inappropriate compensation incentives. Furthermore such a broad-brush approach would be unfair towards the largest part of the staff of financial institutions, who cannot be blamed altogether. Policy and regulatory reactions targeting remuneration issues should specifically focus on inappropriate compensation incentives.	Given contradictory comments, we have kept the scope as before	None

20	Scope	The industry agrees with CEBS that "the responsibility for the policy rests ultimately with the institutions themselves and, where applicable, the shareholders". Therefore, the principles of contractual freedom and of non-interference in the determination of the amount and structure of remuneration must be preserved. CEBS should also acknowledge the interference of the application of the proposed principles with national labour legislation and regulations. Furthermore, the EC Treaty does not establish Community competencies as regards the determination and level of remuneration (Article 137 EC Treaty).	The high-level and proportionate nature of the principles should not cause any problems in this regard. Additional time has been granted to re-structure existing employment contracts should that be necessary.	The idea of proportionality is introduced in the scope in paragraph 3. Paragraph 1 has been extended to include a sentence granting additional time to implement the principles for existing contracts
21	Scope	The principles stated by CEBS should be aimed at remuneration strategies defined contractually or linked to job titles / positions / roles and incentive policies etc. As high-level principles in this area are targeted to adequately address risks for the financial institution, only those functions and categories of leading managerial personnel whose decisions could potentially lead to expose the financial institutions to financial risks linked to the performances of market instruments, should be taken into account. All in all, not all employees and activities within a financial institution should be addressed by these principles.	Given contradictory comments, we have kept the scope as before	None
22	Scope	With respect to the foregoing, the industry observed upon reading these regulations there is a vast range of application, which could effectively involve the entire company. • Besides evaluating the difficult and costly application of this regulation, it is worth highlighting that the current corporate Code of Self Discipline provides indications exclusively for the "top members" of a company concerning remuneration. • Regarding the above, an excessive dilation of the range of application of this regulation, such as that proposed by CEBS, as previously mentioned would render the regulation difficult to apply, without producing any effective benefits concerning the management of risks on a corporate level, due to the fact that the undertaking of significant risks	Given contradictory comments, we have kept the scope as before	None

		is performed at the highest levels of the organisation. • Based on the principles considered, the industry proposes limiting the range of application of these regulations concerning remuneration policies to professional figures that have top executive positions or that are characterised by a high level of risk-taking, and whose incentives – owing to the nature of their work – is actually sometimes linked to short-term performances, and limiting the application of these regulations to "Directors" and not a wider range of personnel. It is also less complex to insert risk control measures in the long-term incentive policies that are connected to the company rather than business lines or individual performances.		
23	The role of Remuneration Policies	The industry suggested introducing some words about the role of remuneration policies in the context of a bank's system of management and planning: A sustainable policy towards risk is, in the first place, implemented by means of a bank's system of management and planning (setting also the institution's business objectives, risk strategies and risk profile). A bank's remuneration policy is not a stand-alone issue but closely related to the (risk) management, control and planning system, in particular where there are variable elements of remuneration (e.g. performance related). Thus, as remuneration policies are complementary to bank's system of planning and (risk) management, it has to be assessed whether they support the major goals as defined by those systems. In fact, the goals, as set by the bank's system of management and planning have to be implemented into the bank's remuneration policy in a consistent manner so that remuneration incentives support the efforts for achieving those goals. Thus, the bank's management and planning system, defining the bank's business objectives throughout all business lines and for all units and members of staff is the "core system", from which all subordinate	CEBS believes that the general principle (i) makes this point sufficiently clear	None

		systems, such as remuneration policies, get their input.		
24	Implementation of principles	Compliance with the principles on remuneration should be addressed by supervisors exclusively under Pillar 2, within the supervisory review and evaluation process. Thus, it would be welcomed if this were made more explicit when describing the scope of CEBS' high-level principles.	Implementation and possible sanctions will be further discussed by CEBS	None
25	Policy response	Industry noted that while inappropriate compensation policies have played a role during the current crisis, they were by far less relevant than other factors. Therefore the industry calls for the policy response to reflect this relative importance of reforming compensation policies in the light of the broader policy and regulatory review currently undertaken in response to the crisis. It is essential to be pragmatic and realistic about the impact of remuneration policies on improving risk assessment and behaviour.	The nature of the principles as being high-level and proportionate in application should sufficiently address this comment.	The idea of proportionality is introduced in the scope in paragraph 3.
26	General comment on incentive structures, sales targets and performance related pay	Remuneration and incentive systems for employees at all levels should be realistic and fair. They should be based on long-term and sustainable business goals. They should be risk conscious and should not be based foremost on increasing short-term revenues. They should always be accountable and disclosed for independent assessment. The fixed part of the salary should be high enough to make a decent living. Bonuses should be used to reward good performance and not be an implicit part of the salary. Incentive structures for employees in sales and advice functions must reward good customer services and qualified advice – not only sale of products. Incentive systems should encourage coherence between the products sold by the financial institution and the risk profile of the individual customer. Conflicts of interests, roles and responsibilities of employees must always be clear in a sales situation. Consumers should be informed of any commission, bonus, incentive or remuneration implications that the	CEBS believes these principles address those comments.	None

		employee might receive as a result of selling a financial product. Sales targets must be reasonable and achievable not to put finance employees in a dilemma between selling products and giving good advice. They should not be linked to remuneration structures, nor to individual performance of the employees. Excessive sales targets cause high levels of stress on employees and must be avoided. Employees should not be disciplined, lose their job or not receive a salary increase solely because they have not met their sales targets. Sales targets should be determined by management through consultation with employees and union representatives. Variable pay and bonus systems should always be built on transparent rules and objective criteria. Bonus and performance related pay systems should include quality targets in addition to quantity targets. Qualitative measures such as cooperation, compliance with procedures and training of others should also be rewarded.		
27	General comment on negotiating criteria for pay policies	Criteria for all kinds of performance related pay should be negotiated in collective agreements between management and union representatives in the company. Trade unions should have the right to monitor the implementation of the remuneration policies. Remuneration policies must always respect the autonomy of the social partners and the primacy of collective agreements.	The high-level and proportionate nature of the principles should not cause any problems in this regard	None
28	General comment on training and financial education	Measures should be taken to ensure sufficient and continuous training of employees to keep up with the increasing complexity of the financial products they sell. Employees must have a full understanding of the products they sell in particular in terms of the implications for customers. Standardised global principles on the competences required to sell financial products work should be developed. Employees in the finance sector play a decisive role in financial	This is a valid concern, but CEBS feels remuneration principles are the wrong place to address such issues.	None

		education of consumers. A code of conduct on financial education should be developed to guarantee prudent circumstances allowing advising and education of costumers. This could be in cooperation with the OECD and ILO.		
29	General comment on directors' pay	Variable pay schemes for executives should be kept at reasonable levels. The portion of variable pay should in no case be more than the fixed component. Prudent and risk-conscious behaviour should be encouraged, rather than short-term revenue generation and excessive risk-taking. Bonus payouts should be a mixture of shares and cash and staggered over several years to link bonuses to long-term success. The vesting periods of share-based compensation should furthermore be extended and bonus claw back provisions should be established. There should be more independent and knowledgeable people on the board's remuneration committee of a financial institution, including employee representatives to ensure all stakeholder interests are addressed. Criteria for executives pay models should be the result of a negotiation between representatives of shareholders and unions or a sectoral agreement.	CEBS believes the principles address those comments.	None
30	Remuneration structures, supervision and risk management	The prevalent perspective on supervision only works from the top-down. It should be complemented by a bottom-up approach that puts the factor "employees" into the equation of financial regulation, supervision and risk management. To assess a company's business model effectively, it is essential to take account of internal operating procedures and actual practice with the resulting motivations and constraints for employees. Financial supervisors and companies must ensure that these factors promote rather than hinder regulatory objectives and excellent customer service. Such a mechanism would provide an inside view of what is happening supplementary to that provided by senior management and auditors. It would be an additional element for enhancing checks and balances as well as early warning systems at all levels. Emerging problems could	CEBS feels remuneration principles are the wrong place to address these issues.	None

		thus be known earlier and dealt with more effectively. Employees are in the best position to provide information about finance companies day-to-day practices. The information provided to the supervisory bodies at all levels, and used as a base of its risk assessments, should systematically include experiences and information on the negative and positive impact of internal operating procedures and actual practices as assessed by finance employees. These elements must be included in risk assessment to ensure an effective risk warning taking all factors into account. Internal operating procedures and practices to take into account are: • regulation and practice on remuneration and incentive systems as well as working conditions, including workload; • regulation and practice on the marketing of financial products, including sales targets and sales practices (e.g. on credits); • training of staff in regulatory compliance and understanding financial products • regulations avoidance through product and practice innovation; • identification of new risks and trends; • breaches of compliance. As a general principle, stakeholders, including trade unions from the finance sector and consumer associations, should be involved in financial oversight mechanisms at national, regional and international level to allow regular exchanges on these topics. A structured dialogue must be in place to ensure systematic gathering of information from all relevant parties. Supervisors and regulators should set out guidelines and regulation on the above-stated issues (para. 19) to minimise risks deriving from inappropriate procedures and practices in companies. They should give regular reports on implementation and compliance by financial institutions. If compliance is insufficient, sanctions should be imposed in line with the measures suggested by the de Larosière Group (para. 17). Procedures should be established to identify and fight against breaches of regulatory standards, regulations avoidance, undue risk taking and		

		unsustainable business practices. This should include: • developing a legislative framework to protect “whistle blowers” for reporting breaches to regulators and supervisors; • creation of an ombudsman at company level or across the industry to whom staff can report breaches and who will follow-up on them (ombudsmen for corruption might be a model).		
31	A charter on responsible sale of financial products	To minimise risks deriving from inappropriate business practices, each bank and insurance company should have a charter on responsible sale of financial products. The charter should make the company’s principles on selling its products and services as well as relevant work practices explicit, public and verifiable. A key objective is to stop predatory sales practices and excessive risk taking. At the centre of the financial business should be excellent customer service. Principles to be addressed by the charter include: • practices on the marketing of financial products, including sales targets, conflicts of interest, roles and responsibilities of staff in a sales situation; • remuneration and incentive systems as well as working conditions (including workload); • training of staff; • financial education. Such a charter should be a commitment by the company as a whole – management and individual employees. A member of the top board of directors should be in charge of its implementation. The charter should be formulated and agreed between top management, trade unions and workers’ representatives. It may also involve other stakeholders such as consumer associations. The implementation of the charter should be monitored by a department at the group-level or a company ombudsman. It should be supervised by a committee bringing together key stakeholders, including management, shareholders, consumer associations, unions and workers’ representatives as well as public institutions. Regular reports should be published on the charter’s implementation. They should also include a description of actual sales practices, including relevant elements of individual remuneration and incentive systems as well as sales targets.	CEBS feels remuneration principles are the wrong place to address these issues	None
32	Risk management and regulatory	Standards for financial supervision and regulation as well as risk assessment procedures within companies should be updated constantly	CEBS feels remuneration principles are the wrong place to	None

	measures	to keep up with new requirements and the innovativeness of the industry. Responsibility for regulatory compliance and risk management at company level should be vested in a member of a company's top management. A high-level of consumer protection at national and international level should be ensured by law, guaranteeing that financial institutions provide any customer with qualified and proper advice based on her or his interests. Regulation should specify for top-level decision-makers in financial institutions, including pension funds, that fiduciary duties entail pursuing a long-term and sustainable business strategy and avoiding undue risk-taking and a focus on short-term profits.	address these issues	
Specific comments on general principle i.				
33	Framework for the remuneration strategy	The framework for the remuneration strategy determined by each institution should allow a sufficient margin for accommodating variable components of remuneration as well as interdependencies between negative business-developments and individual remuneration. From this perspective the industry sees that the objective of regulation is to identify a "range of good practices". Although the industry subscribes fully to the long-term perspective that should be inherent to remuneration policies, this should not be interpreted as preventing altogether the possibility to make use of individual objectives and agreements, for instance for motivating staff members through variable remuneration structures towards targeted short-term objectives.	It is not the intention of the principles to prescribe a certain form of remuneration. By including a principle on the appropriate balance between variable and base pay, the principles acknowledge the role variable pay can play in achieving targeted short-term objectives. CEBS therefore believes the comment is already addressed in the principles	None
34	Control functions	Efficient and independent control functions are a core component of good risk management. Hence, management should ensure that control functions are effectively positioned within the firms to be able to fulfil their duties effectively. In particular, risk management professionals need to have sufficient weight in relation to the front office teams. This weight is undoubtedly a result of their competence and skills (that a	The principles have been further clarified by listing what is meant by control functions. CEBS believes that the issue of empowerment is already	Further clarification of what is meant by control functions has been introduced in paragraph 2, in principle

		proper remuneration can attract), but also and primarily of the support and importance they are given by the upper management of the firm. Consequently, focusing on the appropriate level of compensation of these professionals is less important than ensuring they are properly empowered by the upper management.	addressed in principles (iii) stating that "A commercial business unit should not be able to determine remuneration of control functions as this would create a potential conflict of interest".	(i).
35	Management level	Principles could be considered at EU and International level to address possible weakness in remuneration practices but considers that those principles should remain high-level and should be restricted to managerial functions, risk takers and control functions. As high-level principles in this area are targeted to adequately mitigate risks for financial institutions, only those functions and categories of managerial personnel which led to potentially expose the financial institutions to financial risks linked to the performances of market instruments, should be taken into account. The specificity around senior management and risk takers should be removed.	Given contradictory comments, we have kept the scope as before	None
36	Financial firms and their clients	Industry expressed that this principle is only related to the financial firm, not to the clients. During the last year many clients have experienced problems with the consequences of the advice they had received from the financial firms in the years up to the financial crisis. It is important that the managers of the financial firms feel responsibility towards their clients. And the remuneration systems and policies should not encourage that clients take excessive risks or take risks that they do not understand fully.	As CEBS, any principles can only apply to firms within our scope.	None
37	Overall remuneration policy in line with business strategy and risk tolerance	Industry representative suggested clarifying that it does not require that complex objectives (e.g. demanding reflections on company cultures, ethics, etc) are set for every single employee in his daily business. While the goals set for certain senior management are by definition complex, in the opinion of the industry it is sufficient if the goals for lower staff levels are set in the light of company objectives (e.g. culture, value, avoidance of excess risk) and that general guidelines (in particular	The nature of the principles as being high-level and proportionate in application should sufficiently address this comment.	The idea of proportionality is introduced in the scope in paragraph 3.

		compliance) are respected. While it may be desirable that employees have a good understanding of the company's general objectives, the objective will be best achieved when they have clear goals and rules to stick to. The specific goals and objectives of a bank need to be established in such a way that the risk situation of the whole business is adequately managed, independent of which hierarchy level they have been formulated. A management system that provides proportionate target corridors and other action margins for all hierarchy levels, will avoid assuming unreasonable risks.		
38	Definition of "control functions"	Industry representative suggested clarifying that "control" functions to which CEBS refers to are those carried out by the specific, independent control and audit units and not simply those senior staff member (e.g. Head of Unit). The current drafting could lead to misunderstandings and contradictions with what is set out in principle iv (measurement of performance as a basis for remuneration).	The principles have been further clarified by listing what is meant by control functions.	Further clarification of what is meant by control functions has been introduced in paragraph 2, in principle (i).
39	"Long-term results"	Industry also expressed certain concerns as to the definition of what is long-term with regard to financial results. The term is very extensible and can have various degrees of importance, considering the wide rang of areas of operation of financial institutions. For example in the trading section a conservative interpretation could be counterproductive, as the remuneration of traders is generally very variable. It could lead to a real conflict of aims with regard to the short-term motivation effects of variable remuneration. The deferral of bonus payments over many years on the basis of ex-post-evaluations would, moreover, lead to unmanageable situations for institutions with a long term business model, such as promotional banks. In banking the sale (placement of loans) is separated in time from the realization of its financial results. In the activity of promotional banks the time gap is especially long. By the time a loan with a duration term of 20 years becomes entirely repaid it can easily happen that the employees will not be working at the same place anymore. Moreover measuring the long term performance is highly complex. This is why industry suggests that the deferred component of the remuneration should be linked to the financial results realized in the current year and the deferred due date not longer than 3	CEBS has clarified principle (v) to clarify the link between the deferred component and long-term performance by introducing the notion of a 'reasonable time horizon'. This would preclude companies from awaiting the 20-year performance of a housing loan before paying out the deferred payment.	The principle (v) has been amended in the second paragraph to include the notion of a 'reasonable time horizon'.

		years. In certain business areas risk ratios could be included as a factor in calculating the bonus to take into consideration the long term risk.		
40	Clarification of "encouragement to risk taking"	The boundary of "encouragement to risk taking" is however not clear enough. The meaning of money as a spur varies for different people in different situations. Also other things, such as ambitions, may cause excessive risk-taking under favourable circumstances. Supervisory function and precautionary measures connected merely to financial factors are not necessarily sufficient, but special attention should be paid to the efficiency of bonus systems, follow-up of performance and to proactive risk management.		
41	Paragraph 1	In the first section following principle i. there is reference to "avoid conflicts of interest". The industry holds that it would be more realistic to substitute the term avoid with "manage" or "mitigate".	Agreed	Wording has been changed accordingly
42	Paragraph 2	In the second section industry suggested to specify in brackets which control functions the references are being made to and therefore, industry suggests modifying the beginning of the sentence as follows: Control functions (such as Credit Risk Management, Market Risk Management, Operational Risk Management, Compliance Function etc.).	Agreed	Further clarification of what is meant by control functions has been introduced in paragraph 2, in principle (i).
43		Industry noted the fact that remuneration strategies, although correctly "not in relation to the performance of the business units they control" are however able to attract resources qualitatively fitting for their delicate mission.	CEBS feels the current principles do not suggest the contrary.	None
44		While compensation should generally be based on performance, incentives should be aligned with sustainable shareholder interests, company-wide long term profitability and not encourage excessive risk taking.	CEBS feels the current principles address this comment.	None
45		Incentive based remuneration should have a significant deferred component (where a significant bonus is paid) reflecting the company's	CEBS feels the current principles address this comment.	None

		overall results and long-term achievement.		
46		Industry expressed an urgent need for the requested remuneration policy or, moreover, a corresponding sustainable "remuneration strategy" and to particularly underline the need of synchronizing the latter with pivotal corporate values. This will at the same time allow a wide array of possible arrangements – e.g. concerning the ratio between base pay and bonus elements as well as participation of employees in negative corporate performance trends. Hence, the regulatory scope can only be confined to identifying a "range of good practices". Pursuant to principle (i), a remuneration policy must not violate the institution's long-term interests. Whilst, at first glance, this simple requirement may appear trivial, it might easily be misunderstood during the interpretation. In the final analysis, the practice of MBO (management by objectives) on an exclusively individual basis must remain possible, or, moreover, it must remain possible to create short-term financial incentives (in the form of variable pay elements) for attainment of specific, short-term performance goals by employees. Very often, time is of the essence. For instance when entering a market, it shall and must remain possible to take account of this principle. In this case, long-term corporate performance would only be an indirect driver.	It is not the intention of the principles to prescribe a certain form of remuneration. By including a principle on the appropriate balance between variable and base pay, the principles acknowledge the role variable pay can play in achieving targeted short-term objectives. CEBS therefore believes the comment is already addressed in the principles	None
Specific comments on general principle ii.				
47	Wording of the principle	This principle should be worded precisely to ensure it does not leave room for interpretation by national regulators, which would without any doubt be detrimental to the European level playing field. The focus of this principle should be primarily on ensuring that the firm's supervisor have access to all relevant information in order for them to be able to control compliance with the principles, from the consistency of the compensation policy with the firm' risks policy to the adequacy of remuneration agreements in place.	Further work to be discussed by CEBS with regards to implementation. This is also stated in the introduction to the principles	None

48	Wording of the principle	It should be made clear that this is a high level policy and principles-based rather than a very detailed policy. Industry's preference is that the disclosure would not be any different from the existing requirements in Directors' Remuneration Report, thereby preventing multiple documentation / messaging.	The nature of the principles as being high-level and proportionate in application should sufficiently address this comment.	The idea of proportionality is introduced in the scope in paragraph 3.
49	Disclosure	CEBS proposals reflect the actual corporate practice. However, the need for a differentiated level of granularity in the communication, i.e. a multi-tiered approach vis à vis the various target groups should be clearly emphasized. This is the only way in which the flexibility necessary for efficient allocation of financial and other incentives to the respective business units and hierarchical levels can be maintained. However, this is not a contradiction with regard to the principle that all employees must have access to the principles and policies for the remuneration policy (which does not signify that they shall and must have access to the specific remuneration levels of individual employees or employee groups). By way of analogy, this also applies to the disclosure vis à vis stakeholders and thus the general public. Disclosure of policies and principles for remuneration may give rise to more market discipline. At the same time, there is a fundamental conflict between a detailed disclosure on the one hand and a bank's right to confidential treatment of business information as well as data privacy rights of individual employees on the other hand.	The nature of the principles as being high-level and proportionate in application should sufficiently address this comment.	The idea of proportionality is introduced in the scope in paragraph 3.
50	Disclosure	Remuneration structures can represent a significant risk to a business, given this the industry considers that disclosure of remuneration policies should be done in the Business Review which is mandated by the EU Accounts Modernisation Directive. The remuneration policy should also be disclosed to the appropriate regulator, who should it into account when assessing the adequacy of a firm's risk management.	The implementation of the principles will be discussed by CEBS at a later stage.	None
51	Disclosure	The industry suggested that disclosure of a firm's remuneration policy to internal and external stakeholders must be sufficiently general not to jeopardise commercial confidentiality and the privacy of individuals. The industry suggested that the transparency and disclosure recommended	The nature of the principles as being high-level and proportionate in application should sufficiently address this	The idea of proportionality is introduced in the scope

		be limited to the general principles of the policy.	comment. In any case, the principle currently already states that any disclosure should reflect confidentiality concerns.	in paragraph 3.
52	Disclosure	The external disclosure of banks' remuneration policies could fit in the framework of Pillar 3 where banks would be able to disclose their remuneration as a general policy, but this external disclosure rule is not appropriate for non listed companies. Therefore, a proportional application of this principle is necessary in this context too. As far as internal disclosure is concerned, flexibility should also be given to companies depending on whom this information is disclosed to. Different levels of disclosure should therefore be permitted. The extent has to be further clarified.	The implementation of the principles will be discussed by CEBS at a later stage. The nature of the principles as being high-level and proportionate in application should address the concern regarding flexibility.	The idea of proportionality is introduced in the scope in paragraph 3.
53	Disclosure	Industry suggested that with regard to the external disclosure of the remuneration policy, there should be a gradation of the details of public disclosure requirements in function of the addressee, which should allow for sufficient flexibility. It is important that all staff members have access to the principles of the remuneration policy within the firm, whereas detailed disclosures are limited by the firm's trade secret, as well as confidentiality rights of staff members.	The implementation of the principles will be discussed by CEBS at a later stage. The nature of the principles as being high-level and proportionate in application should address the concern regarding flexibility. The principle currently already states that any disclosure should reflect confidentiality concerns.	The idea of proportionality is introduced in the scope in paragraph 3.
54	Disclosure	It should be clarified however what is the extent of the external disclosure and the relevant stakeholders that might be involved. While a regulator's demand appear legitimate, the current wording leaves the door open to other categories of external stakeholders, which might need to be further detailed. For banks, external disclosure seems mostly appropriate towards the supervisor. Industry believes that the external disclosure of the special requirements of banks' remuneration policies would fit very well in the framework of Pillar 3 where banks would be able to disclose their remuneration as a general policy. Therefore, industry would like to underline that external disclosure should not	In light of other disclosure requirements, CEBS decided that the current level of disclosure required by this principle was in line with other recommendations. The exact implementation of these principles will be discussed by CEBS at a later stage	None

		mean that the remuneration of individuals should be disclosed (except normal disclosure applicable to other listed companies). This is important for the industry when it comes to terms and employment and the possibility to retain qualified professionals. As far as internal disclosure is concerned, flexibility should also be given to companies depending on whom this information is disclosed to. Different levels of disclosure should therefore be permitted, the main reason being to preserve the secret strategy of the company.		
55	Disclosure	The approach, principles, and objectives of incentives should be transparent to stakeholders.	CEBS believes the current text already reflects this.	
56	Assessment of management strategies, policies and governance of the management	While industry understands the concerns expressed by a number of commentators regarding the performance of a number of 'failed' institutions and their levels of remuneration, to achieve balanced compensation structures which reflect the risk profile of particular businesses, a holistic assessment is required which embraces all aspects of people management within the company. Just as one might evaluate the probity and soundness of a firm's management of market and credit risk, so too should the effectiveness of its people management strategies, policies and governance be measured.	CEBS believes the current text already reflects this.	
57	Stakeholders	Industry commented that at the time of adoption of this principle different nature of different kind service providers should be taken into account (e.g disclosure requirements imposed on public companies can not be applied as such to not-public companies).	The nature of the principles as being high-level and proportionate in application should sufficiently address this comment.	The idea of proportionality is introduced in the scope in paragraph 3.
Specific comments on general principle iii.				
58	Clarification of terms	Industry suggested clarification of following principle, "the management body, in its supervisory function, should determine the remuneration of the management body, in its management function". Indeed, the current formulation is ambiguous and may lead to believe that the management decides on its own remuneration, which is not currently	CEBS agrees that further clarifications are helpful.	CEBS has changed the principles to clarify the role of the management body, in its supervisory function. It should

		the case (the common practice is that the board of directors decides the remuneration of the general manager). Whereas the industry agrees in principle that one should pay specific attention to preventing incentives for excessive risk taking and other behaviour, it suggests that CEBS provides some clarification for the following item : “any policy should be subject to regular (at least annual) and independent internal review.” Also, clarification of “an adequate involvement of the shareholders” was suggested, especially for the cooperative banking community.		thereby agree the broad principles of the remuneration policy. CEBS has also clarified that the control functions should be involved in the ‘review’ of the remuneration policy. The reference to shareholders has been softened by adding ‘where appropriate’.
59	Principle of proportionality	For smaller institutions with less exposure to market risk (also taking into account national structures) a less sophisticated approach has to be found. According to the nature, scale and complexity of the firm and its activities these principles will vary.	The nature of the principles as being high-level and proportionate in application should sufficiently address this comment.	The idea of proportionality is introduced in the scope in paragraph 3.
60	Determining remuneration policy	Indeed, firms’ management should define a framework within which remuneration policies shall be set and monitored for each entity. When the size of the firm justifies it, a dedicated remuneration body such as a remuneration committee should play a central role for establishing and monitoring the policy. It should be informed of its application at individual level above a certain threshold set by the company. The independent and central review of the policy referred to in this principle could be adequately performed by an internal body such as the audit department. In all events, it would appear excessive to require that central and independent review be carried out by independent consultants.	CEBS believes that the current wording does not require an external review. In fact, the review should be carried out by internal control function.	None
61	Determining remuneration	The setting of remuneration for employees should remain the responsibility of the executive directors\management. The independent representation, be it independent non-executives or the supervisory directors, should retain control of setting executive directors pay and	CEBS has amended the current wording to adequately reflect the fact that the management body, in its supervisory function, is	CEBS has changed the principles to clarify the role of the management body, in its supervisory

		have a role, via their directors' duties, in determining overall remuneration policies in light of the company's risk management framework and appetite. Non-executive or supervisory directors should not become heavily involved in setting all employees pay as it is beyond their remit or expertise. It may be appropriate for non-executives to be involved in setting senior employees pay and participate in other discussions by, for example, membership of an Employees Rewards Committee.	primarily responsible for setting the principles determining the overall remuneration policy rather than the individual pay packages.	function. It should thereby agree the broad principles of the remuneration policy.
62	Determining remuneration policy	Principle (iii) firstly addresses the role of senior management and of the supervisory board. This is followed by an extension of the scope to the entire bank. With regard to the entire bank and thus to all employees, the explanation of principle (iii) appears spurious when it says that centralised decision-making bodies are better able to align individual pay-out with the company's overall performance. At this point, the consultation paper should make a stronger differentiation between remuneration principles, the specific remuneration system and its organisational incorporation or the actual remuneration of individual employees. Political and strategic aspects undoubtedly have to be coordinated from a central point. However, definition of the final amount of variable remuneration elements for each employee by a central interface would be counterproductive. Apart from the inevitable bureaucratic cost, remuneration would thus be limited to those figures which are centrally available. However, more often than not, centralized or top-down assessment of the achievement of qualitative objectives or soft factors will hardly be possible. This will, inter alia, prove counterproductive with regard to the transparency requested under principle (ii) for the respective employee.	CEBS has amended the current wording to adequately reflect the fact that the management body, in its supervisory function, is primarily responsible for setting the principles determining the overall remuneration policy rather than the individual pay packages.	CEBS has changed the principles to clarify the role of the management body, in its supervisory function. It should thereby agree the broad principles of the remuneration policy.
63	Determining remuneration policy	Industry understands that according to the draft principles the supervisory function of an institution's management body should determine the remuneration of the managing function. However industry does not agree with the proposal that a remuneration committee should be independent from the management body of the bank. The supervisory function of the management could only, for the sake of transparency, delegate its powers concerning remuneration to boards	CEBS has amended the current wording to adequately reflect the fact that the management body, in its supervisory function, is primarily responsible for setting the principles determining the overall remuneration policy	CEBS has changed the principles to clarify the role of the management body, in its supervisory function. It should thereby agree the broad principles of the

		that are less independent. On the other hand, another industry representative commented that the management body should be involved differently as regards remuneration principles, the concrete remuneration system and its practical implementation. It is important that political and strategical aspects are coordinated centrally, but the important role of more intermediate levels of management in setting the specific variable remuneration components (e.g. the concrete amount) for individual staff members should also be emphasised.	rather than the individual pay packages. Nevertheless, CEBS feels it is important to stress the independence of remuneration policy. The remuneration committee is but an example of such a structure.	remuneration policy.	
64	Independent review of remuneration policy	With reference to the paragraph that remuneration policy should be subject to independent review, is it expected that this will be done by external auditors, internal auditors or in some other form?	CEBS feels that this may vary from country to country and thus no further clarifications were sought. It could include either internal or external auditors.	None	CEBS h the rol supervi agree remune
Specific comments on general principle iv.					
65	General scope of the principle	CEBS should limit itself to ensuring that the measurement of performance is in line with a bank's risk objectives. Prescribing a mix of parameters seems to go beyond the necessary. The industry was also of the opinion that the principle is too detailed and would unnecessarily interface with the internal decisions of each company. Industry pointed out that this principle cannot be applied to all departments, respectively to all staff members of a firm and suggested making as regards variable remuneration a clearer differentiation between the staff members whose commitments to individual objectives are linked to considerable risks for the institution and those for whom this is not the case. Unconsidered focus on financial aspects could lead to unwanted behaviour. At the same time, the industry does not consider that non-financial performance parameters such as additional qualifications should be specifically emphasized within the principles. The industry is also critical as regards the requirement to include in the measurement of performance the cost of capital, as this is hardly measurable, especially for capital market-oriented firms, and rather	The principle aims to list a range of factors that should be considered when evaluating performance without being prescriptive about the exact balance. CEBS has tried to clarify this point. It should be borne in mind that the nature of the principles is high-level and should be applied proportionately.	With regards to the collective performance measure CEBS has changed the wording to make reference to an individual vs. collective performance. The idea of proportionality is introduced in the scope in paragraph 3.	

		short term. Giving it too much weight would contradict the long-term perspective required in principle i.		
66	Determination of remuneration	Performance-related compensation should indeed be linked to the performance of the team and the company in addition to the performance of the individual. Evaluation criteria at the individual level should also include qualitative ones, notably as regards compliance with the firm's internal policies and procedures. Generally speaking, the full set of criteria must help dissuade employees from taking risks above the level that the company deems acceptable. Also, the practice of guaranteed bonuses, which by nature are not performance related, should be prohibited for the future except for new hires or to retain individuals in key positions, in which case the guarantee should not exceed more than twelve months.	CEBS feels the current text addresses these comments.	None
67	Determination of remuneration	Where the pay is performance related, individual and collective factors should be taken into account. The current draft principle asks for three different factors. The aim here should be to have a part of the performance based remuneration related to the collective performance without going into details. Flexibility should be given to each company in order to define its own collective criteria that could comprise the performance of the business unit, the overall results of the company. Sufficient incentives should remain under the control of each institution in order to maintain high motivation and efficiency within financial institutions.	The principle aims to list a range of factors that should be considered when evaluating performance without being prescriptive about the exact balance. CEBS has tried to clarify this point	With regards to the collective performance measure CEBS has changed the wording to make reference to an individual vs. collective performance.
68	Determination of remuneration	Bonus pools should be calculated with an adjustment for risk, but the industry disagrees that this should go down to individual bonuses as calculating the cost of capital at an individual level would not be possible. Thus removal of the word bonuses from the principle would be more precise and practical. It would help to have guidance from CEBS as to how supervisors are thinking about risk-adjusted measures.	CEBS believes that the principles already states that this should be done for bonus pools. The application of this principle should be done in a proportionate manner.	The idea of proportionality is introduced in the scope in paragraph 3
69	Determination of	As a general rule, performance related pay has to focus primarily on an employee's individual level of responsibility and tasks. The possibility of	The principle aims to list a range of factors that should be	With regards to the collective performance

	remuneration	remuneration, which is solely based on the performance of an individual, should not be limited without good reasons. Where performance is almost exclusively related to individual efforts (e.g. derivates trader), any relation to unit results could create disincentives and encourage strong performers to change company, since they might perceive the system as “unjust”.	considered when evaluating performance without being prescriptive about the exact balance. CEBS has tried to clarify this point	measure CEBS has changed the wording to make reference to an individual vs. collective performance.
70	Assessment of other non-financial factors	The individual performance measurement based on said factors should not fall within the scope of supervision.	CEBS believes that it is within its scope to recommend including non-financial factors in a performance assessment.	None
71	Para 6	The last paragraph of the item remains unclear. It may mean that for the staff that is not in a leading position, the goals should be defined by taking into consideration the content of the work. This may not however mean that the results of the company, business unit or similar does not affect the amount of the reward. Systematic evaluation of the performance is an important management tool that is used as one element when defining the base pay and bonuses. This way, for example, the viewpoints concerning quality and development can also be taken into account.	The last column refers exclusively to non-executive directors. In their role as independent directors they should not be able to benefit from risky short-term performance of the company.	
72	Definition of remuneration policy	The remuneration policy has a double-meaning in the CEBS document: it is regarded as a prospective source of risks, to which specific mitigations can be applied, and as a tool of risk management or containment (within certain tolerance limits laid down by the company itself in relation to its own propensity to risk in the context of the identified risk map) or as a tool of risk containment /mitigation. Although it is in line with such definition in principle, it is indisputable that the principles referred to in paragraph 4 of the CEBS document require, for the purposes of the actual application, a further development of risk management systems3, that shall be fostered according to regulatory guidelines/provisions, which have not yet been precisely defined, both in terms of regulations and of the management,	CEBS will carry out further work regarding the implementation aspects of these principles.	None

		as far as this area is concerned.		
73	Determination of remuneration	The requirement for any performance-related remuneration to be based on a combined assessment of individual, business unit or even company-wide or group-wide performance needs to be examined in particular. In industry's view it is appropriate for certain employee groups, whose decisions have a corresponding relevance for the performance of the overall company. This remuneration policy would, however, at the same time impose significant restrictions on the possibility of directing employees who do not take or manage risks. For direction of these employees, senior management's options of reverting to the method of management by objectives (MBO) and of compensating them on the basis of individual attainment of previously agreed targets, would be extremely curtailed. However, linking remuneration and responsibility, is both legitimate and preferable as far as remuneration policy is concerned. Particularly high performers will see this as a priority. Remuneration policies, which are primarily based on the total result of a bank or of a unit constitute a general problem in that they are not sufficiently attractive for high performers. This weakness becomes especially visible if an individual company is in the process of going through a trough and has to keep high performers on board. Generally speaking, in highly performance driven companies, individual employees perceive compensation based on individual performance as more "equitable" and – provided the company is still writing black figures – by no means wish to be penalized for poor performance of other units nor do they want to be held responsible for a lacking overall performance. Based on the foregoing, the scope of this remuneration policy should be confined to that group of persons which – within the bank or within individual corporate units – bears direct responsibility for risk prevention. Furthermore, one should state that – per se – collective goals do not resolve existing governance issues. Yet, they may lead to a loss in the capacity to direct staff. Conversely, individual objectives per se do not lead to governance issues; yet, in many cases, they increase a bank's possibility of directing its employees. Within the framework of the principles, there needs to be a	The principle aims to list a range of factors that should be considered when evaluating performance without being prescriptive about the exact balance. CEBS has tried to clarify this point	With regards to the collective performance measure CEBS has changed the wording to make reference to an individual vs. collective performance.

		clearer differentiation between variable pay for employees who may take or manage considerable risks on behalf of a bank whilst seeking to attain their individual objectives and those employees who seek to achieve a certain objective but where performance is not associated with any perverse incentives and were, if any, only irrelevant risks are incurred for the bank. In the latter case, the efficiency loss that would result from a broad based definition of performance could offset the benefits inherent in limiting perverse incentives and risks. Additionally, a stronger differentiation would make sense in terms of non-financial parameters within the framework of variable remuneration. An undifferentiated focus on financial aspects may lead to undesired behavioural patterns. Yet, at the same time, there is no sense in particularly highlighting non-financial aspects, e.g. acquired skills in the framework of the selected principles. Using such non-financial parameters in the framework of variable remuneration rather more needs to be chosen carefully. It needs to be customized with regard to the respective group of employees because an undifferentiated consideration of this could, per se, become the cause of new perverse incentives. Furthermore, a critical review is required with regard to the call for reflecting the cost of capital or even the firm's economic capital model. It needs to be considered that, in practice, the costs of capital– and this applies especially in crisis situations – can only be ascertained with difficulties. In other words, they can only serve to a limited extent as a basis for remuneration policies. In addition to this industry noted that publicly traded firms tend to adopt more short-term strategies in order to deliver shareholder value.		
74	Determination of remuneration	A consistent development of the systems for the assessment of the human resources is consequently deemed necessary (skills/abilities/capacities in relation to the required profiles with regard to the different company positions and responsibilities – and wherever it is deemed necessary, providing for a differentiation for top management positions), whose application shall however be capable of reconciling the requirements of risk control with those of efficiency and effectiveness in the resource management, requiring also a considerable effort of	CEBS believes this comment is already addressed in the recommendations.	None

		implementation and adjustment of the operating tools and application systems currently used and adopted in these areas.		
Specific comments on general principle v.				
75	Use of definitions	A few words used in this section of the principles have a very general meaning that makes them subject to divergent interpretations, creating again a risk of distortion. For example, one could wonder what the threshold for qualifying a bonus as "big" is.	CEBS will do further work on the implementation of these principles.	None
76	Para 1	Equity compensation schemes already meet the criteria for performance adjusted deferred compensation. It is important therefore to underline that sufficient flexibility should also be given to companies as the form of remuneration has to be considered primarily as a matter for each of them. Holding funds in escrow is not recommended, however, because it is more difficult to justify claw backs than a lack of payment. This solution also raises legal and practical questions concerning e.g. the payment of payroll taxes. As a general principle, industry suggests the introduction of an appropriateness approach to this principle. In addition, the impact of this article on existing employment contracts would be important as previously explained. A transition period should therefore be specified with appropriate time.	The application of this principle should be done in a proportionate manner. Additional time has been granted to apply these principles to existing contracts.	The idea of proportionality is introduced in the scope in paragraph 3. The reference to an escrow account has been removed. Paragraph 1 has been extended to include a sentence granting additional time to implement the principles for existing contracts.
77	Proportionate ratio between base pay and bonus	Rather than a proportionate ratio between base pay and bonus, one should focus on the level of the base pay, which should be sufficient to remunerate the competency and experience of the professional and to assure him or her a proper standard of living. This is so because situations vary substantially depending on the business and the position concerned. Hence, it does not seem possible to set any optimal ratio between the fixed and performance-related components of the compensation, its "optimal" character for some being non optimal for others. In addition, it does not seem realistic nor appropriate to state in these principles aimed at employers that employees should think in a certain	CEBS believes that the current principle already sufficiently encompasses this comment. The intention is that a base pay should be sufficient for an employee not having to rely on a bonus payment.	None

		way ("employees should not have to rely on bonuses").		
78	Proportionate ratio between base pay and bonuses	In view of the industry, the choice of remuneration instruments should not focus exclusively on the absolute amount of the variable component of the remuneration (bonus) or on the ratio between base pay and bonus, but more on the risks that can be induced by bonuses due to individual staff members. Indeed, bonuses could be seen also as a risk management instrument – especially in view of personnel related costs or performance – if important parts of the variable remuneration are depending on the overall performance of the firm.	Principle iv. Focuses on the measure of underlying performance determining the performance related, variable pay amount. Nevertheless, CEBS finds it important to stress that there should be an appropriate balance between base and bonus pay.	None
79	Proportionality between base pay and bonuses	Industry agrees with the general idea that the variable part of remuneration should not be disproportionate. However, the industry believes that it is not realistic to establish a fix ratio. Instead, it seems more appropriate to focus on a more general principle.	CEBS believes that the current wording adequately reflects the comment.	None
80		It is very difficult to determine what would be the right proportionate ratio between base pay and bonus. Eventually, it seems to depend considerably on the duties of the post in question.	CEBS believes that the current wording adequately reflects the comment.	None
81		Care should be taken not to impose on firms a requirement that leads to a significant rise in base salaries. Such a rise would not fit into the cyclical nature of the banking business model. The industry agrees that an element of deferral in bonus which aligns with the risk horizons of the business. It also recommended that claw-back provisions should be introduced.	CEBS believes that the current wording adequately reflects the comment.	None
82	Form of remuneration	Industry commented that equity compensation schemes already met the criteria for performance adjusted deferred compensation. It is important therefore to underline that sufficient flexibility should also be given to companies as the form of remuneration has to be considered primarily as a matter for each of them. As a general principle, it was suggested to introduce an appropriateness approach to this principle. In addition, the	The application of this principle should be done in a proportionate manner. Additional time has been granted to apply these principles to existing	The idea of proportionality is introduced in the scope in paragraph 3. Paragraph 1 has been extended to include a

		impact of this article on existing employment contracts would be important as previously explained. A transition period should be specified with appropriate time.	contracts.	sentence granting additional time to implement the principles for existing contracts.
83	Form of remuneration	It seems to be important to underline that sufficient flexibility should also be given to companies as the form of remuneration has to be considered primarily as a matter for each of them. On the other hand, other and very different views were also expressed.emuneration policy and practice should be consistent with risk management and the avoidance of excessive risk. The level and form of remuneration are a matter for governing bodies and investors.	The application of this principle should be done in a proportionate manner.	The idea of proportionality is introduced in the scope in paragraph 3.
84	Claw back provisions	Clawing back paid compensation rather than deferred compensation will cause significant issues in some jurisdictions. It would be better to focus on the forfeiture of deferred elements rather than the upfront cash elements. In addition, the use of the word “clawback” is not a helpful legal term in some jurisdictions. The industry suggested the use of “forfeiture subject to performance conditions” and also requested that the term escrow account is removed from the description of the principle as there are tax implications of escrow accounts in some jurisdictions which would make using an escrow account more punitive then it needs to be. Additionally, in view of the industry the issue of claw backs raises important legal and fiscal matters and deserves further attention; each nation has its own regulations and obligations.	The current wording already strongly caveats the possibility for claw back. CEBS therefore believes the current text is sufficient.	None
85		Principle (v) is geared towards the specific tools for remuneration. In this context, the Consultation Paper calls for an adequate relation between fixed and variable remuneration elements. Furthermore, it requests that large bonus payments shall not be paid upfront in cash but in the form of flexible, deferred instruments on the basis of future performance and materialised risks. Yet, the language chosen is not immediately accessible. The focus on the selection of remuneration instruments in turn should not be geared so much to the absolute level	Principle iv. Focuses on the measure of underlying performance determining the performance related, variable pay amount. Nevertheless, CEBS finds it important to stress that there should be an appropriate balance between base and bonus	None

		of the variable pay or to the ratio between variable pay components and fixed pay components. Instead, it should be based on risk-taking by the respective employees who might be induced by variable remuneration elements. As a matter of fact, if material parts of the variable remuneration components are geared towards a company's overall performance, a large share of the variable remuneration component itself might even become a tool for risk management – namely as regards HR costs / HR capacity. Principle (v) furthermore gives rise to the impression that for meeting this requirement the specific transactions of an employee would have to be monitored permanently and until the end of their duration. If for nothing else, this is not feasible under practical aspects especially in view of the fact that the initiator in the individual case might be controversial in view of the fact that there is the four-or-more eyes principle which exists in the banking industry. It is also unclear on which basis negative developments are supposed to be quantified. Furthermore, for banks with the focus on long-term business, a shift from bonus payments over several years and payment only on the basis of ex post assessments would lead to unacceptable results. Besides, measurement of long-term success is extremely complex.	pay. Nevertheless, the application of this principle should be done in a proportionate manner.	