

Question ID	2014_859
Status	Final Q&A
Legal act	Directive 2013/36/EU (CRD)
Topic	Other issues
Article	66
Paragraph	2
Subparagraph	d
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	none
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Lower maximum penalties for natural persons
Question	Articles 66 (2) d) and Art. 67 (2) f) of Directive 2013/36/EU (CRD) provides that for certain breaches stipulated in Articles 66 (1) and 67 (1) Member States shall ensure that administrative penalties that can be applied include at least up to 5 million euro in the case of natural person. May Member States, considering the circumstances of particular Member State, provide directly in their national law lower maximum amount of the penalty (e.g. "up to 1 million euro") for natural persons in the case of the breaches set in Articles 66 (1) and 67 (1)?
Background on the question	It is not completely clear if lower maximum penalties for natural persons for the breaches set in Articles 66 (1) and 67 (1) may be set directly in national law. Market participants argue that maximum level of 5 million is too severe and should be lower.
Final answer	When transposing CRD, Member States cannot provide for lower maximum amounts of penalties than the amounts referred to in Articles 66(2)(d) and Art. 67(2)(f) of CRD. In line with Articles 70 CRD, the actual amount of the penalty imposed will depend on the relevant circumstances.

DISCLAIMER:

This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

Link

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