



**Single
Rulebook
Q&A**

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Legal act	Directive 2013/36/EU (CRD)
Topic	Remuneration
Article	75, 94
Paragraph	1, 1
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	N/A
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Disclose name of institution / entity	Yes
Name of institution / submitter	Banco de España
Country of incorporation / residence	Spain
Type of submitter	Competent authority
Subject matter	Information to be declared under the concept of "discretionary pension benefits" in the annex of EBA/GL/2012/5 and in annex 2 of EBA/GL/2012/4
Question	(1) What is the information to be declared by institutions under the concept of "total discretionary pension benefits" established in the annex-2-1 of EBA/GL/2014/07GL-5? A. Contributions made, during the year, by the credit

	<p>institution to the company's pension scheme, on behalf of the employee as part of their variable remuneration, or B. Amounts to be paid, or already satisfied, by the credit institution to the employees who have left the institution or got retired during the year. (2) What is the information to be declared by institutions under the concept of "total discretionary pension benefits" established in the annex 2 of EBA/GL/2014/08 GL-4? A. Contributions made, during the year, by the credit institution to the company's pension scheme, on behalf of the employee as part of their variable remuneration, or B. Amounts to be paid, or already satisfied, by the credit institution to the employees who have left the institution or retired during the year.</p>
<p>Background on the question</p>	<p>(no background deemed necessary)</p>
<p>EBA answer</p>	<p>According to Article 4 (1)(73) of Regulation 2013/575/EU (CRR) "discretionary pension benefits' means enhanced pension benefits granted on a discretionary basis by an institution to an employee as part of that employee's variable remuneration package, which do not include accrued benefits granted to an employee under the terms of the company pension scheme;". Furthermore, Article 450 (1)(h)(ii) establishes that institutions must disclose "the amounts and forms of variable remuneration, split into cash, shares, share-linked instruments and other types;"</p> <p>Article 94 (1)(o) second subparagraph of Directive 2013/36/EU (CRD) establishes that "[i]f the employee leaves the institution before retirement, discretionary pension benefits shall be held by the institution for a period of five years in the form of instruments referred to in point (l). Where an employee reaches retirement, discretionary pension benefits shall be paid to the employee in the form of instruments referred to in point (l) subject to a five-year retention period".</p> <p>According to the CRR, discretionary pension benefits form part of the variable remuneration of staff when they are granted to staff as part of their variable remuneration package, even if they are paid out according to the CRD provisions in bulk according to Article 94 of the CRD.</p> <p>According to Article 75 (1) of the CRD, remuneration data should be collected in accordance with the criteria for disclosure established in Article 450 of the CRR for benchmarking purposes, while Article 75 (3) of the CRD requires to collect the remuneration of High Earners per financial year in pay brackets of EUR 1 million, including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution.</p> <p>In response to Question 1, the information relating to total discretionary pension benefits to be declared in the annex of EBA/GL/2014/07</p>

	<p>EBA/GL/2012/5 is the part of variable remuneration awarded as discretionary pension benefit as part of the variable remuneration package in the given year. Institutions have to disclose the information on the awarded remuneration of High Earners for each financial year. Remuneration includes variable remuneration awarded in the form of discretionary pension benefits as defined in Article 4 (1)(73) of the CRR. Competent authorities collect this information according to Article 75(3) of the CRD using the templates provided by the Guidelines. The answer to the question posed is therefore A.</p> <p>Information regarding discretionary pension benefits awarded to employees, who have retired during the specific performance year, should, however, be included in the annex to the extent that the benefits are awarded for the specific financial year for which the information in the annex is provided. Discretionary pension benefits awarded to employees whose employment with the institution has been terminated before retirement are subject to a five year vesting period according to Article 94(1)(o) of the CRD. Those discretionary pension benefits paid out to these employees were awarded in previous financial years and should therefore not be included in the information provided in the annex. In the rare event that such discretionary pension benefits would be awarded for the financial year where that employee 19s contract terminates, the amounts awarded for this year should be included.</p> <p>In response to Question 2, the information relating to total discretionary pension benefits to be declared in annex 2 of EBA/GL/2014/08EBA/GL/2012/4 is the part of variable remuneration awarded as discretionary pension benefit as part of the variable remuneration package in the given year. Institutions have to disclose information on the composition of awarded variable remuneration for each financial year. The answer to the question posed is therefore A.</p> <p>Information regarding discretionary pension benefits awarded to employees, who have retired during the specific financial year or whose employment has been terminated should be included in annex 2 according to the further explanations provided under Question 1.</p>
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