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EBA/2016/D/989

Tiina Astola
Director-General
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21 November 2016

EBA's response to the European Commission's call for advice regarding the EBA Opinion on the application of the principle of proportionality to the remuneration provisions in Directive 2013/36/EU (EBA/Op/2015/25)

Your letter Ares (2016)1895826 (21/04/2016) and our response EBA/2016/D/709 - 27/05/2016

Dear Ms Astola

The EBA received your call for advice (CfA) requesting further information with regard to the EBA's Opinion on the application of the principle of proportionality to the remuneration provisions in Directive 2013/36/EU. In our letter of 27 May 2016, we committed to provide you with the information requested, while pointing out the limitations of the possible analysis.

In accordance with the procedure set out in the EBA founding Regulation¹, the EBA is now providing the attached report, which was approved by the Board of Supervisors.

The report is divided in four Sections: Section 1 provides an overview of the applicable framework regarding the principle of proportionality in each Member State. Section 2 analyses the number of institutions and staff currently benefiting from waivers from the application of the requirements of Article 94(1) points (l), (m) and the second subparagraph in point (o) of Directive 2013/36/EU, also with a breakdown by Member State. Section 3 provides information, per Member State, about the institutions and staff who could benefit from waivers from the application of the requirements of Article 94(1) points (1), (m) and the second subparagraph in point (o) CRD if the amendment proposed by EBA in its Opinion were to be adopted. Section 4 describes the current national implementation of the Directive 2013/36/EU regarding the possibility for listed institutions to use share-linked instruments: most Member States already allow for this possibility in their national law.

The CfA requested to submit estimates for the impact of possible future waivers at three different thresholds. The report includes estimates for thresholds of EUR 1.5bn (expected to be used in the context of applying proportionate disclosure requirements), 5bn and 10bn in terms of balance sheet total. Waivers calibrated within this range would benefit around 75% to 90% of institutions

¹ Article 34(1) of Regulation (EU) No 1093/2010.

(3% to 15% of institutions in terms of market share) and 35% to 60% of the identified staff. This would be in addition to staff that could benefit from waivers based on low levels of remuneration. Results however differ significantly across Member States, depending on the structure and size of their financial markets.

Please be informed that the report will be published on the EBA's public website shortly.

Information on investment firms will be provided separately in the context of the review of their regulatory framework. We stand ready to further contribute to the review of the remuneration requirements under Directive 2013/36/EU in order to support, in the best possible way, the work of the European Commission towards a possible legislative proposal.

Yours sincerely

A handwritten signature in black ink, which appears to read 'Andrea Enria', is positioned below the text 'Yours sincerely'.

Andrea Enria
On behalf of the Board of Supervisors

Encl: EBA Opinion on the application of the principle of proportionality to the remuneration provisions (EBA-2016-Op-20)

CC: Maija Laurila, DG Justice and Consumers, Directorate A, Head of Unit Company Law