

EBA – European Banking Authority

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## **Consultation Paper EBA/CP/2013/03 of 18 April 2012**

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The European Banking Authority has published a Consultation Paper on draft Guidelines for assessing the suitability of members of the management body and key function holders of a credit institution on 18 April 2012.

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The Danish Mortgage Banks' Federation and the Association of Danish Mortgage Banks would like to comment on a few of the elements presented in the paper.

### **Article 2 d – Key Function Holders**

In the paper it is suggested, that the guidelines should also apply to "key function holders" defined as *"those employees outside of the management body whose positions give them significant influence over the direction of the credit institution"*.

We would like to stress, that in our opinion, this definition is far too broad. It gives cause for too much interpretation and could cause a massive unnecessary administrative burden. Neither the credit institutions nor the supervisory authorities are interested in going through a suitability assessment of a large number of persons who fit into the definition of a "key function holder", but who do not have an important role in the day to day management of the credit institution. It is our concern that this could be the consequence of the proposed definition.

Instead, we would like to suggest the following more narrow definition: *"key function holders are those employees outside of the management body with responsibility as Chief Risk Officer or Head of the Risk Control Function, Head of Compliance or the Head of the Credit Department"*.

### **Article 14 – Experience Criteria**

We fully support, that the members of the management body should have gained sufficient experience from a managerial position (article 14(2)).

However, we have not been presented with any evidence supporting the assumption that a member of the management body having *"gained sufficient experience from a managerial position in a credit institution or in other relevant firm offering comparable services"* will perform better in its management function than a member having gained experience from a managerial position in any

other type of company outside of the financial sector. This requirement will not in itself strengthen the performance of the management body.

Side 2

The requirement of experience from a credit institution (article 14.2.) combined with the focus on education relating to banking and financial services (article 14.5) will in our opinion decrease the number of relevant and available candidates for the management body significantly.

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For credit institutions with (private) shareholders we suggest that the experience criteria be left for the shareholders to decide on at the general meeting or the management body in its supervisory function as regards the appointment of the management body in its management function.

As long as the members of the management body have sufficient collective expertise and is able to fulfil their obligations there is no reason for hindering experienced managers from other types of companies outside of the financial sector as candidates.

Regarding article 14(6) it does not seem appropriate to demand the same level of knowledge and experience for all members of the management body. This demand is in conflict with the tradition of having both individual and general demands for the members of the management body and is adding to decreasing the number of candidates for the management body. Further it is not in the interest of neither the institutions nor society in general to have only specialists and technocrats managing the institutions.

Yours sincerely,

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