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EBA; Consultation Paper Draft Guidelines on the Remuneration benchmarking exercise

The Bank and Insurance Department of the Federal Economic Chamber appreciates the possibility to comment on EBA's Consultation Paper Draft Guidelines on the Remuneration benchmarking exercise:

General Remark:

In line with Art. 22 paragraph 3, Art. 72 and Art.145 CRD, the EBA guideline on the remuneration benchmarking exercise should state unequivocally that Annexes 1 and 2 shall be completed on a EU consolidated level only and be transmitted by the EU parent company to its national supervisory authority. Information should not be submitted by significant institutions, but by EU parent institutions, the ultimate EU consolidation level. Art. 2 and Art. 3 contradict each other as significant institutions exist below the level of EU parent institutions. Art. 2 should be restricted to stand-alone significant institutions or significant institutions with a non-EU parent institution, while Art. 3 should clearly state the EU parent institution as information provider.

Recital (4) in conjunction with Art. 3:

Recital (4) is not in line with Art. 3. Information should only be provided at the EU level of consolidation (i.e. by the EU parent institution). Recital (4) should be amended so as to align with Art. 3 (e.g. by replacing "preferable" by "appropriate").

Art. 1 - Definitions:

The concept of combined groups remains unclear. Will EU national competent authorities define a separate combined group consisting only of large, cross-border banking groups active in the EU (a) or will EU national competent authorities be entitled to combine institutions under (a) and (b) to build combined groups in their area of competence? If the latter is the case, a national competent authority other than the home supervisor will only include parts of an EU banking group. It should not be the national competent authorities, but the home supervisor to communicate to the EBA the methodology used for the selection. Otherwise, EBA would be provided with sub-consolidated data by the national competent authority (in charge of the

parent institution in a Member State) and with the consolidated data by the home supervisor in charge of the EU parent institution.

The 60% threshold seems to too restrictive. Nevertheless it should be applied at the EU consolidated level.

Article 1 and 3:

What exactly is the scope of application? Are only banks part of the significant institution that operates in the EU or all banks that are part of the significant institution? We would prefer to provide only info for our banks operating in an EU-country.

Art. 2 - Information to be submitted:

Art. 2 should be restricted to stand-alone significant institutions or to significant institutions with a non-EU parent institution.

Article 1 and 2:

It is unclear whether we need to report per country to each national supervisory authorities and/or one consolidated view for the entire Group on a EU consolidated basis.

Article 3:

- Art. 3 - Level of consolidation of the information provided:
Art. 3 should - subject to Art. 2 as modified above - clearly state the EU parent institution as information provider.
- Annex 1 - Template to be completed and submitted in relation to all staff
Footnote 5) refers to high earners which are not subject of this tableau.
- 3.2. should read: The information provided shall exclude non-EU branches and non-EU subsidiaries of Institutions according to Article 2 (not all submitting Institutions according to Article 2 are EEA parent companies!).

Art 2.1 and Annex 1:

Information about all employees is required on consolidated level. From our point of view this seems not covered by the underlying Art 22 (3) CRD, because this Art refers to Annex XII, Part 2, No 15 f CRD. In this context there is a limitation to categories of employees who have a material impact on the risk profile. Therefore we would recommend also to limit the application of Art 2.1. and Annex 1 to these categories of employees.

Annex 1 and 2:

Which currency date and exchange rate should be taken? This seems to be an open issue and should also be standardised.

Annex 2:

"Amount of performance adjustment applied in year N for payment in year N or remuneration awarded in previous years. "

Adjustments in year N are not visible because in this year simply the payout will be reduced. A clarification is needed in this respect.

"Total amount of discretionary pension benefits paid in year N"

The relation to the number of recipients is missing.

Numbers of employees: We would recommend setting a floor on the number of employees due to data protection reasons. Annex 2 should only be completed on the basis that at least three persons in a category are eligible. In all other cases data should be incorporated in “all other”.

Kindly give our remarks due consideration.

Yours sincerely,

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