

Paris, le 04 juin 2015

**European Banking Authority**  
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As a unique representative body of all the French specialised financial institutions which in turn represents 300 entities, ASF contributes to an appropriate recognition of the financial activities like equipment and real estate leasing, factoring, consumer credit and auto, mutual guarantee societies which – with an outstanding of more than €300 billion in 2013 – accounts for about 20% of total amount of credits of the economy in France.

We would like to thank you for giving us the opportunity to comment on the draft Guidelines on sound remunerations policies consultative document published in march 2015.

Whilst the greatest clarity provided in certain areas is welcome, other areas will require considerable transformation for some entities. Smaller specialised credit institutions and financial institutions which presents the particularities to hold no or few banking deposits and to present low risk profile due to a collateral are likely to be most impacted.

Thus, we would like to draw your attention to two specific aspects such as the scope and the importance of the proportionality principle for French specialised financing activities which business model is largely dedicated to SMEs lending.

## **Scope & definition**

We do think that CRD and EBA requirements have been designed principally for high risk-taking, internationally active and systemically important institutions.

The economic roles played by the specialised activities such as leasing, consumer credit, auto loan, factoring and leasing industries (supporting private consumption, business investment, and the manufacturing and distribution of goods) must not be hampered by any ill-suited regulatory initiative. In particular, any regulatory framework must be designed and applied proportionately to avoid disrupting the supply of consumer credit, auto loan and leasing products and should not negatively affect competition within the sector.

Consumer credit, auto loan, factoring and leasing providers support the real economy and their activities are, by their very nature, low-risk.

Specialised entities involved in less risky type of activities should be out of the scope of the EBA guidelines. Should EU authorities nevertheless decide that such institutions should be in scope, ASF would recommend that certain remuneration requirements be neutralized.

**Q 2: Are the guidelines in chapter 5 (remuneration policies for all staff, including identified staff) appropriate and sufficiently clear?**

We think the definition of “staff” should be further clarified.

In particular, we do consider to include any employee in the scope is not justified. These guidelines should be limited to risk takers as defined by the EBA and adopted by the European commission in March 2014<sup>1</sup>.

### **The application of the proportionality principle**

**Q 5: All respondents are welcome to provide their comments on the chapter on proportionality, with particular reference to the change of the approach on ‘neutralisations’ that was required following the interpretation of the wording of the CRD. In particular institutions that used ‘neutralisations’ under the previous guidelines for the whole institution or identified staff receiving only a low amount of variable remuneration are asked to provide an estimate of the implementation costs in absolute and relative terms and to point to impediments resulting from their nature, including their legal form, if they were required to apply, for the variable remuneration of identified staff: a) deferral arrangements, b) the pay out in instruments and, c) malus (with respect to the deferred variable remuneration). In addition those institutions are welcome to explain the anticipated changes to the remuneration policy which will need to be made to comply with all requirements. Wherever possible the estimated impact and costs should be quantified, supported by a short explanation of the methodology applied for their estimation and provided separately for the three listed aspects.**

Application of the principle of proportionality is extremely important for our member’s activities which present the following particularities: no or few banking deposits and a low risk profile due to a collateral.

At this stage, the current Directive “CRD4” allows in its article 92 (2) flexibility to adapt the application of the remuneration rules in a way that is appropriate to the size, the internal organisation and nature, the scope and the complexity of institutions activities.

Indeed, it’s not relevant to treat entities that are only involved in low-risk activities (in general these institutions do not practice high and complex remunerations) the same way as systemically important institutions that, due to their size and very nature, can impact the sector in its entirety.

As CRD4 mentioned it, the application of remunerations policies and practice shall be ensured by the national supervisors which know the local market, the general principles of national contract and labour law and are able to analyze if the long-term interests of institutions are preserved.

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<sup>1</sup> COMMISSION DELEGATED REGULATION (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution’s risk profile

As many others members states within EU, France made the choice to adapt under strict conditions the remuneration requirements for regulated institutions (credit institutions, investment firms but also financing companies<sup>2</sup>) or groups (under the threshold of 10 billion EUR total balance sheet) as it is the case since CRD3.

For all these reasons we do consider that these **guidelines should reflect differences between different types of business models and status in a proportionate manner. It would not be proportionate for specialised financing activities to comply with all the present proposed Guidelines on remuneration policies.**

For more information

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<sup>2</sup> *Financing companies (that do not hold deposits) are submitted to authorisation and supervision of the ACPR. They shall respect the CRD4 and CRR prudential requirements (except liquidity and leverage).*