


POSITION PAPER



ESBG response to the EBA consultation on draft guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services

ESBG (European Savings and Retail Banking Group)

Rue Marie-Thérèse, 11 - B-1000 Brussels

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Dear Sir/Madam,

Thank you for the opportunity to comment on the EBA consultation on *draft guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services*. We would like to share with you the following remarks.

General comments

First of all, we would like to point out that the business model of a retail bank naturally focuses on a good and fair relationship with customers. Therefore, we have difficulties accepting the statement that sales staff are currently motivated to mis-sell banking products to the consumers, especially in the experience of our members, which are savings and retail banks.

From our point of view, the CRD IV provisions are detailed enough so that we actually do not see the absolute need for further regulation in this field, or if so, the proportionality principle should be considered (e.g. for smaller financial institutions which offer only one type of banking products or employees with a small part of incentive-based remuneration in relation to the fixed income). Additional regulations make it indeed more difficult to strengthen the capital basis and also to attract the best sales staff on the market (further below, in question 5, we will come back to this point).

In this regard, the EBA's Opinion on the application of the principle of proportionality to the remuneration provisions in Directive 2013/36/EU should not be forgotten. Specifically, it states that "an exemption should also be introduced for staff receiving low levels of remuneration; this exemption would [...] not depend on the size or level of risk of the institution. In this regard, it might be considered that individual staff members, where the amount of the variable remuneration is low compared with the fixed remuneration and in absolute terms, could be exempted."

Question 1: Do you agree with Guideline 1 on design?

Similar to what ESMA referred to in its 'Guidelines on remuneration policies and practices (MiFID)' (para 13, p. 21), para. 1.1. (p. 18) of the EBA's draft guidelines states that "the institution should design and implement remuneration policies that take into account the rights and interest of consumers and [...]" We would like to point out that consumer interest is not immutable, but constantly changing. Therefore, we would like to advise not to pursue a too rigid and inflexible concept of consumer protection.

Para. 1.7 (p. 18-19) states that "[...] the institution should ensure that the ratio between the fixed and variable components of the remuneration is appropriately balanced [...]". Since this is an obligation already anchored in Art. 94 Capital Requirements Directive IV (CRD IV), we do not fully understand why it is repeated in the draft guidelines. This may give rise to confusion.

Speaking about the coherence with corporate social responsibility (CSR) policies, we believe that the design proposed by the draft guidelines is coherent; in particular, the aspects related to consumer relationships. Consumers are among the main interest groups of, particularly, retail banks, and consumer relationships are therefore often one of the central cornerstones of banks' CSR policies. The latter include, inter alia, consumer protection, consumer satisfaction and the objective of fair relations with consumers in the forefront of their commercial strategies.

Remuneration policies have close relations with CSR policies and are expected to reward:

- The protection of consumers' interests. It would be counterproductive to reward mis-selling or an employee's performance that goes against a consumer's interest. This would break the needed and essential trust of the consumer base in the bank;
- Long-standing relationships with clients as this will provide a solid base for growth and innovation. Long-term perspectives are indeed essential to CSR policies;
- Quality and satisfaction. What if a bank's staff did not provide clients with adequate products and services? What if mis-selling was incentivised and therefore non-performing loan rates increased? This would certainly not be good for the bank or the consumer.

In conclusion, it would, in ESBG's opinion, not be advisable to see CSR and remuneration policies as two completely separate areas. On top of this, the three above mentioned points are not only topics which are relevant for CSR and remuneration policies, but, more generally, essential to the commercial success of a retail bank. Based on this, in our view, it is of great importance that (i) the remuneration incentives are aligned with the consumer interest, (ii) a long-term relationship with consumers is promoted and (iii) other qualitative factors such as consumer satisfaction are adequately taken into account.

With regard to para 1.8 (page 19), ESBG would like to underline that, while neither incentive schemes nor sanctions that could lead to mis-selling or excessive risk taking are desirable, an institution must be able to make performance based staffing decisions.

Apart from this, ESBG believes that the requirements set out in para 1.9 (page 19) are somewhat contradictory with the requirements quoted in CRD IV and in the draft guidelines, which state that, when developing remuneration policies, other factors next to quantitative criteria should also be considered. More factors naturally increase complexity in remuneration policies.

Question 3: Do you agree with Guideline 3 on approval and monitoring?

In line with our response to question one, ESBG considers that, in the design of the remuneration policies, CSR-related aspects are already taken into account in an appropriate manner in order to assure an advantageous coherence between remuneration and CSR policies (regarding consumer relationships).

Question 4: Do you see a need for any additional requirements?

No. In principle, ESBG is fine with this general wording of the rules as, in practice, some room for interpretation is needed in order to consider the special situation of each credit institution and the needs of the consumers.

Question 5: Do you have any other comments?

As indicated above, it is important, in ESBG's view, to incentivise long-term relationships with consumers that also include qualitative aspects, e.g. satisfaction indicators, confidence in financial institutions, the adequacy of the products with their necessities, etc.

Apart from this, we have the impression that the risks outlined in the impact assessment, unfortunately, do not consider an important issue that could potentially arise, in our opinion: the cost for financial institutions of non-incentivised staff.



As long as the mis-selling is adequately prevented and consumers are fairly treated, we believe that adequate incentives for sales staff to maximize their performance (also in monetary terms for the financial institution) should, in principle, not be an issue. Even though the EBA's draft guidelines seem to consider this point to some extent, a lack of clarity should be avoided in order to preserve the financial entities' capability to incentivise their staff without assuming regulatory risks.

As an example of the lack of certainty mentioned, it should be noted that the draft guidelines state that qualitative and quantitative criteria should be considered for determining the level of variable remuneration. However, in the 'Background and Rationale' section, it is stated (page 8) that accelerator features and rankings should be prevented, without considering that mixing them with the adequate qualitative criteria would lead to the result that consumers' rights and interests are taken adequately into account while not abolishing incentivised staff.

Very similarly, the 'Background and Rationale' section refers to the proportionality principle (page 9). However, it seems that the principle is not very well mirrored regarding the small part of incentive-based remuneration in relation to the fixed income. While we fully agree that no reward aspects should lead to the taking of irresponsible risk and/or the mis-selling of banking products, we would also like to share our view that very small incentive-based remuneration sums (e.g. an incentive that represents a very low percentage of the fixed remuneration of an employee) are usually not a driver for a risk of mis-selling and disregarding consumers' interest (i.e. not applying an entity's internal criteria, nor an employee's knowledge and experience in banking sales). In this regard, the EBA's opinion (on proportionality) referred to above needs to be taken appropriately into account, as the rationale applying to remuneration provisions in the CRD IV should be followed in the EBA guidelines on remuneration of the sales staff of banking products as well.

On a side note, it is, in ESBG's view, important to stress in all remuneration-related guidelines that "the remuneration of staff in general, and of persons directly offering or providing products or services to consumers in particular, is an important means by which financial institutions attract, motivate and retain employees with the skills needed for the institution's success" (page 5). Consequently, we would like to underline the fact that in the future the management of a bank should still be allowed to lead the sales staff partly on the basis of sales figures. For instance, financial incentives for meeting sales targets could remain possible on a team level, while, in a second step, out of this team pool the bonus for the individual employee would be designed based not only on the sales figures but also on the economic situation of the company and qualitative criteria for the individual, such as customer satisfaction, risk costs, etc.

In this sense, it should not be seen as a risk for the costumers that a financial institution organises competitions where members of staff of relevant persons are incentivised to outperform their peers, in order for them to receive financial or non-financial remuneration. Adequately mixed with qualitative criteria, incentivising employees to outperform their peers is the only manner to promote them in their professional career, irrespective of the economic sector in which the employer operates.

In conclusion, ESBG would like to point to the occasional lack of certainty and clarity in order to avoid that the guidelines' application leads to unwanted consequences for incentivised staff. We don't see any compatibility issues with the aims of the draft guidelines in this respect. Despite the fact that the CRD IV is a good source and basis, ESBG suggests adding an Annex (or examples) to the draft guidelines that provides safe harbours to financial institutions regarding the adequate balance of consumer protection and incentivised staff. The proportionality principle and the possibility to use instruments like accelerator features and rankings – adequately mixed with quantitative criteria (e.g. based on the number and content of complaints received) – should thereby be borne in mind. Otherwise, in order to avoid the risk of not



complying with the guidelines, the number of incentivised staff in financial entities would decrease significantly. This, as a consequence, would make financial institutions unable to attract, motivate and retain employees with the skills needed for their success.



About ESBG (European Savings and Retail Banking Group)

ESBG brings together savings and retail banks of the European Union and European Economic Area that believe in a common identity for European policies. ESBG members support the development of a single market for Europe that adheres to the principle of subsidiarity, whereby the European Union only acts when individual Member States cannot sufficiently do so. They believe that pluralism and diversity in the European banking sector safeguard the market against shocks that arise from time to time, whether caused by internal or external forces. Members seek to defend the European social and economic model that combines economic growth with high living standards and good working conditions. To these ends, ESBG members come together to agree on and promote common positions on relevant matters of a regulatory or supervisory nature.

ESBG members represent one of the largest European retail banking networks, comprising of approximately one-third of the retail banking market in Europe, with total assets of €6,702 billion, non-bank deposits of €3,485 billion and non-bank loans of €3,719 billion (31 December 2014).



European Savings and Retail Banking Group – aisbl
Rue Marie-Thérèse, 11 ■ B-1000 Brussels ■ Tel: +32 2 211 11 11 ■ Fax: +32 2 211 11 99
Info@wsbi-esbg.org ■ www.esbg.eu

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