



## Response by the FIA European Principal Traders Association to the EBA Consultation Paper on draft RTS on revised identified staff for remuneration purposes

18 February 2020

### **Introduction**

The FIA European Principal Traders Association (FIA EPTA) represents 28 independent European Principal Trading Firms (PTFs) that deal on own account, using their own money for their own risk, to provide liquidity and immediate risk-transfer in exchange-traded and centrally-cleared markets for a wide range of instruments, including shares, options, futures, ETFs and bonds. As market makers and liquidity providers, our members contribute to efficient, resilient, and high-quality secondary markets that serve the investment and risk management needs of end-investors and corporates throughout the EU.

We appreciate the opportunity to respond to the EBA consultation on its draft RTS on revised identified staff. FIA EPTA's members are MiFID II investment firms and currently subject to the applicable CRR/CRD-4 regime. In future, all our members will be subject to the prudential regime for investment firms (IFR/IFD). To the extent that the future identified staff regime under IFD will be reflective of these draft RTS, we would suggest to EBA to consider any unintended consequences which may lead to disproportionate outcomes for smaller firms with flat organizational structures and very targeted activities, such as our members.

Principal Trading Firms have remuneration policies that focus on the long-term interests of our firms, while promoting sound and effective risk management. Our members have implemented remuneration policies in a manner that is consistent with prevailing regulation, tailored to their size, nature and complexity. Principal Trading Firms are relatively small, non-complex and have flat organization structures. Importantly, our members trade for own account and risk only, and do not hold or manage client assets or money or take deposits. Therefore, the conflict of interest risks for which the prudential remuneration rules are designed are not present in Principal Trading Firms.

### **Question 3**

In this consultation response we would like to stress proportionality.

- Article 6(1) introduces several new classes of control functions, whose heads are deemed to be Identified Staff,
- Article 2(b) identifies certain persons heading subordinated business units or subordinated control functions as additional Identified Staff, and

- Article 6(4) maintains that staff responsible for transactions whose own funds represent 0.5% or more in CET1.

While considered by EBA in Chapter 5, Section D, some policy choices lead to unintentional outcomes for our members and other investment firms with a comparable risk profile. Persons newly designated in the draft RTS as Identified Staff often have no material impact on our members' risk profile for several reasons:

- 1) The decisions made in respect of a control function that *do* have a material impact on the firm's risk profile are made at a higher level than by the person heading such control function;
- 2) The subordinate business units, or subordinate control functions listed in Article 2(b) effectively have no material impact on the firm's risk profile (and neither have their heads, or direct reports).
- 3) The function or department itself has no material impact on the firm's risk profile despite being listed in article 6;

The current draft would designate an excessive number of employees as Identified Staff, particularly for investment firms, like our members', with very flat organization structures and targeted activities. By way of example, nearly all IT and business support staff of our members would be in scope while most traders would not.

*Therefore we would suggest to insert the qualifier used in Article 7(2) for staff identified in Articles 2 and 6 as well, or to make it generically applicable (subject to applicable internal, objective criteria referred to in Recital (4) and (5)):*

- "2) The criteria laid down in paragraph 1 shall not be deemed to be met where the institution determines that the professional activities of the staff member do not have a material impact on the institution's risk profile, because the staff member, or the category of staff to which the staff member belongs, meets one of the following conditions:*
- a. the staff member or category of staff only carries out professional activities and has authorities in a business unit which is not a material business unit as defined in Article 4;*
  - b. the professional activities of the staff member or category of staff have no significant impact on the risk profile of a material business unit having regard to the criteria set out in paragraph 1 of Article 5."*

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