

EBA and ESMA consultation on revise joint guidelines for assessing the suitability of members of the management body and key function holders form

Question 1

Are subject matter, scope of application, definitions and date of applications appropriate and sufficient clear?

We believe that the above amendments proposals are sufficiently appropriate and clear. However, regarding the date of entry into force of the new guidelines we retain that the timeline is too tight, especially in light of the serious difficulties that the European Union is facing in the economic and social systems. We therefore suggest to provide for application starting from the year 2022.

Question 2

Are the changes made in Title II sufficiently clear and appropriate?

We agree with the proposed amendments introducing prevention and fight to money laundering and terrorist financing in the evaluation process of the management body and key function holders.

Question 3

Are the changes made in Title III sufficiently clear and appropriate?

We suggest to introduce a specific paragraph on the duty of management body members to have a good understanding of the institution and its business model, and the extent to which this may expose the institution to ML/TF risks.

Question 4

Are the requirements in section 12 sufficiently clear; are there additional measures that should be required to ensure that diversity is appropriately

taken into account by institutions and that the principle of equal opportunities for all genders is appropriately reflected?

We suggest to state, in section 12, that institutions should ensure that the overall composition of the management body reflects an adequately broad range of experience, knowledge and skills. In order to ensure that the Financial Institutions should reflect diversity.

Question 5

Are the changes made in Title VI appropriate and sufficiently clear?

We believe that the requirements highlighted in session 12 appear sufficiently clear; however, it seems too burdensome, especially for smaller entities, to ask for an appropriate representation of all genders. Therefore, we suggest that it would be more appropriate to indicate "more genders" instead of "all genders".

In our opinion, the following sentence: "having employee representatives, where required under national law, of the underrepresented gender alone is not sufficient to ensure that the management body in its supervisory function has an appropriate gender balance" does not appear sufficiently clear.

With reference to point 120, in light of the peculiarities and differences existing in the different jurisdictions, it seems excessive to require, that the "EU parent undertakings and subsidiaries to Directive 2013/36/EU must ensure that the suitability standards applied by the subsidiary located in a third country are not lower than the one applied in the European Union".

Furthermore, this might favor an unfair competition between banks and other financial institutions of the European Union and market players located outside the EU.

Therefore, we suggest changing "must" with "should".

Question 6

Are the changes made in Title VII appropriate and sufficiently clear?

We believe they are appropriate and sufficiently clear.

Question 7

Are the changes made in Title VIII appropriate and sufficiently clear?

We believe they are appropriate and sufficiently clear.

Question 8

Are the changes made in Title IX appropriate and sufficiently clear?

We believe they are appropriate and sufficiently clear.