



European Banking Authority

Public hearing on draft RTS on Identified Staff

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CP on draft RTS on criteria for the identification of staff

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Next steps:

- Comments can be sent to the EBA by e-mail to EBA-CP-2013-11@eba.europa.eu by **21 August 2013**, indicating the reference EBA/CP/2013/11.
- EBA will finalise the draft RTS taking into account comments received and publish the draft RTS including a feedback statement.
- Draft RTS will be submitted by **31 March 2014** to EU COM for adoption.

Outline

- **Mandate to EBA**
- **CRDIV requirements regarding identified staff**
- **Consultation Paper on draft RTS on identified staff**
 - background and rationale of the draft RTS
 - objectives of the draft RTS
 - structure of the draft RTS
 - criteria to identify staff
 - identified staff

EBA's mandate to develop draft RTS on identified staff

Article 94 (2) (CRD)

EBA shall develop draft regulatory technical standards with respect to ... qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on the institution's risk profile as referred to in Article 92(2).

EBA shall submit those draft regulatory technical standards to the Commission by 31 March 2014.

CRD requirements regarding identified staff

Article 92 (2) (CRD)

Competent authorities shall ensure that, when establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for categories of staff including

- senior management,
- risk takers,
- staff engaged in control functions and
- any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers,

→ whose professional activities have a material impact on their risk profile,

institutions comply with the following principles in a manner and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities...

Background and Rationale of the draft RTS

Main conclusions of the study on the implementation of the CEBS/EBA Guidelines on Remuneration Policies and Practices:

- Institutions use different processes (type of activity, risk analysis,...) and a variety of criteria (quantitative, qualitative) to select Identified Staff, within jurisdictions and internationally.
- Institutions use criteria to identify staff which are not sufficient to grasp fully the impact on the risk profile and some failed to identify appropriately staff members for which the regulatory requirements on remuneration should be applied.
- There is a clear tendency of institutions to select very low numbers of staff.
→ This affects the core of the risk management objectives of the CRD, as remuneration is not prudently aligned with risk taking.

Consultation Paper on draft RTS on identified staff

Objectives of the draft RTS

- Harmonising criteria for the identification of staff whose professional activities have a material impact on the institution's risk profile.
- Establishing an appropriate number of identified staff in all Member States to whom the CRD requirements regarding variable remuneration will apply.
- Ensuring in this way that identified staff have appropriate incentives for long-term and sustainable risk-taking.

Consultation Paper on draft RTS on identified staff

Structure of the draft RTS

- **Institutions perform a self assessment process to identify staff**
 - internal criteria developed by the institution,
 - regulatory qualitative and quantitative criteria provided in the draft RTS.
- **Qualitative and quantitative criteria in the draft RTS are based on**
 - the responsibility of functions, including managerial responsibilities,
 - the individual and collective competencies and responsibilities,
 - the remuneration paid.
- **Exclusion of staff possible if identified only**
 - through the remuneration bracket,
 - through the criterion on variable remuneration (75 000 Euro / 75 % ratio).

Consultation Paper on draft RTS on identified staff

Internal criteria

The use of internally developed criteria based on the institution's individual risk profile aims at ensuring that an institution is identifying staff comprehensively in line with its business and risk strategy.

Rationale

- This is the approach taken at the moment under CRD III.
- It ensures that institutions identification criteria reflect the risk profile.
- An identification only based on internal criteria was not sufficient and does not fulfil EBA's mandate.

Consultation Paper on draft RTS on identified staff

Regulatory Qualitative criteria

The qualitative criteria identify:

- members of the management body,
- senior management and
- other staff with key functions or managerial responsibilities over other risk takers within institutions.

In addition, the draft RTS contains criteria based on the authority of staff to commit to credit risk exposures and market risk transactions above certain thresholds calculated as a percentage of the Common Equity Tier 1 capital.

Rationale

Directly related to the risk profile of the institution.

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Regulatory Quantitative criteria

- based on total remuneration:
 - in absolute terms - staff earning more than EUR 500 000,
 - in relative terms - 0.3 % of staff with the highest remuneration;
- based on the remuneration bracket of senior management and other risk takers;
- based on variable remuneration exceeding both 75 % of the fixed component of remuneration and EUR 75 000.

Rationale

The level of remuneration is usually linked to the responsibility of staff and can be considered as a proxy for risk taking.

Consultation Paper on draft RTS on identified staff

Identified Staff

- Staff is identified if at least one of the criteria (internal criteria or regulatory qualitative/quantitative criteria) is met.
- Identified staff which is only identified under the criteria based on the remuneration bracket or variable remuneration (75 000 Euro / 75 % ratio) can be excluded from the scope of identified staff, if the institution can demonstrate that the staff member has in fact no material impact on the institution's risk profile.
- Draft RTS requires to document the identification results in form of a list of identified staff and excluded staff.