Comments

on the Draft Regulatory Technical Standards on classes of instruments that are appropriate to be used for the purposes of variable remuneration under Article 94(2) of the Capital Requirements Directive

Register of Interest Representatives
Identification number in the register: 52646912360-95

Contact:
Dr. Florian Engelhardt
Telephone: +49 30 20225- 5361
Telefax: +49 30 20225-5345
E-Mail: Florian.Engelhardt@dsgv.de

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 2,000 banks.

Coordinator:
German Savings Banks Association
Charlottenstrasse 47 | 10117 Berlin | Germany
Telephone: +49 30 20225-0
Telefax: +49 30 20225-250
www.die-deutsche-kreditwirtschaft.de

Comments on the Draft Regulatory Technical Standards on classes of instruments that are appropriate to be used for the purposes of variable remuneration under Article 94(2) of the Capital Requirements Directive

The German Banking Industry Committee appreciates the opportunity to participate in the EBA consultation on the Regulatory Technical Standards on classes of instruments that are appropriate to be used for the purposes of variable remuneration under Article 94(2) of the Capital Requirements Directive of 29 July 2013 (EBA/CP/2013/32) and to present the views of the German Banking Industry Committee on this subject.

Against the background of the EBA mandate laid down in Article 94(2) of Directive 2013/36/EU (CRD) to develop the current regulatory technical standards, the German Banking Industry Committee expressly welcomes the inclusion of stakeholders, and especially the banking sector in Europe, in the development of these standards.

The following specific comments are to be made on this subject, in the view of the German Banking Industry Committee:

I. General comments

In our members' experience, variable remuneration in the form of shares or equivalent ownership interests imposes a significant operational burden since the shares in question have to be generated either by issuing new shares or by acquiring them from the market, where additional restrictions might exist. Depending on the settlement procedure, moreover, accounting rules may give rise to additional P&L volatility. Unlike shares, instruments accounted for as liabilities with settlement and claw-back mechanisms not directly attached to shares avoid these operational and accounting issues. In addition, instruments that include mechanisms equivalent to other capital instruments as defined by the Capital Requirements Regulation (CRR) and which are treated as relevant capital instruments under the envisaged Bank Recovery and Resolution Directive (BRRD) focus on preserving the value of the instrument in a "going concern" scenario. Employees are given an incentive to avoid scenarios leading to participation in a loss event or to the resolution of these instruments in accordance with their terms and conditions. When receiving these instruments, their inherent risks will be reflected in the level of distributions.

For harmonisation with the CRR/CRD IV framework as well as the envisaged Bank Recovery and Resolution Directive (BRRD), it is in our opinion essential that the regulatory technical standards for variable elements of remuneration supplementing the requirements as outlined in CRD IV Article 94 ensure that the relevant capital instruments eligible for variable remunerations are consistent – if not identical – with own funds as defined in the generally applicable regulatory framework:

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- **Capital Requirements Regulation (CRR/CRD IV):** The requirements for own funds instruments other than shares (which are Common Equity Tier 1 instruments) are defined for Additional Tier 1 instruments in CRR Article 52 and for Tier 2 in CRR Article 63. These articles define the requirements in terms of permanence, flexibility of payments and loss absorbing capacity for the relevant class of own funds.

  Institutions will have an interest to structure instruments eligible for variable remuneration in a form that they equally qualify as own funds instruments. To ensure that these instrument are embedded in the capital structure of the institutions in consistency with its capital plan, no additional trigger features should be required that might either jeopardize the recognition as own funds nor add additional write-down features to be incurred by employees being awarded with those instruments in comparison with regular owns funds investors.

- **Bank Recovery and Resolution Directive (BRRD):** The objective of the BRRD is to establish appropriate supervisory mechanisms dealing with institutions under stress – or for which the going concern status of the institution is at risk. Within that framework the write-down of capital instruments at the so-called "point of non-viability" as well as the "bail-in tool" in case of a resolution scenario are essential tools to ensure or reinstall adequate capitalisation of the institution.

  Hereby the BRRD not only provides the mechanisms that capital instruments adequately participate via write-down or conversion into common equity, but equally important the BRRD also defines a clear hierarchy within the capital structure which follows the ranking in insolvency.

In addition, when considering which instruments should be used for variable remuneration, the following points should be borne in mind:

- These RTS will apply to all institutions, regardless of the number of employees eligible for deferred variable compensation and the volume of such compensation.
- They will apply not only to employees whose remuneration only contains a retention and deferral mechanism, but also to employees categorised as risk takers whose compensation schemes include further claw-back mechanisms which may be part of the terms and conditions of the instrument.
- Maintenance of these instruments should be consistent with the maintenance of capital instruments governed by the CRR and the BRRD. The instruments should be properly integrated into an institution's capital structure without increasing complexity.
- Ongoing maintenance of these instruments as part of the compensation process (e.g. adaptation to employment contracts, monitoring individual employee claims such as "good leaver/bad leaver" status).

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- Arm's length pricing of these instruments requires a market for the specific instrument or equivalent instrument with similar risk profile.
- The ability to "cash out" the instrument on the settlement date after the retention/deferral period requires synchronisation of the maturity of the instrument with the remuneration scheme or, if instruments have a later maturity date, sufficient market liquidity.
- There should be equal treatment of employees receiving these variable compensation instruments and normal holders of own funds instruments (as far as the instrument itself is concerned, which means additional malus and claw-back provisions might apply to an individual employee or risk taker but not to a specific instrument for an employee).
- It should be borne in mind that the instruments are used for the remuneration of different members of staff. For this reason, the instruments should be designed in such a way that they can be easily understood not only by capital market experts but also by the staff of whose remuneration they form part. These instruments should therefore not have to fulfil additional, excessively complex requirements unnecessarily on top of the already complex requirements of the CRR and BRRD.
- In addition, we would ask the EBA to investigate whether the currently envisaged write-down and conversion mechanisms are compatible with the requirements of the CRR concerning the hierarchy of capital instruments. It is particularly important to ensure that the criteria set by the CRR for determining the eligibility of instruments as regulatory capital will continue to be met so that these instruments can count towards own funds.

As a consequence, allowing instruments eligible variable remuneration with regular own funds instruments as host instruments without additional trigger mechanisms ensure consistency with the overall regulatory framework, the corresponding capital planning of institutions and equal treatment of employees as well as external own funds investors in potential recovery and resolution scenarios.

A central element is the interpretation of the requirement in CRD IV Article 94(1)(l)(ii) that these instruments "*adequately reflect the credit quality of the institution as a going concern*". We do not agree that this should lead to the inclusion of additional trigger mechanisms in addition to those mechanisms already enshrined in the CRR and later to be enshrined in the BRRD:

- In accordance with CRR Articles 52 and 54, instruments with an AT1 host already contain a contractual trigger that leads to a write-down or conversion into CET1 when the CET1 ratio reaches a certain trigger level.
- Instruments with both AT1 and Tier 2 host are "relevant capital instruments" within the BRRD and hence already subject to capital write-down at the "point of non-viability" in accordance with BRRD Article 51. In addition, the permanence requirement of these instruments is at least five years, and so in line with requirements for retention/deferral periods for instruments that could be used for variable remuneration

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On page 12, the consultation paper suggests that "*institutions should be able to use instruments already issued also for the purpose of variable remuneration. The creation of specific instruments would create additional burden for institutions.*" Unfortunately this is not reflected in the requirements with respect to triggers for the instruments under consideration. The inclusion of such additional triggers would have an immediate detrimental effect jeopardizing the objective to embed those instruments properly into the CRR and BRRD framework:

- The capital structure would have added complexity. This would create additional volatility in the capital management process of the institution and reduce transparency for investors, thus increasing the costs of regular capital instruments.
- The capital hierarchy of these instruments would be turned upside-down. Employees would be treated significantly worse than regular own funds investors. In addition, instruments with these additional triggers are not suitable for placement in the market or only at a very high price due to the complex and very high risk profile.
- Maintenance of these unusual triggers would require an ongoing additional procedure and infrastructure – including external disclosure as it affects the capital structure – thus imposing a significant operational burden.
- Fungibility with other market-placed instruments, which enhances secondary market liquidity after the vesting period, would not be possible.

Finally, it is to be criticised that the write-off of the exposure value for the other instruments is apparently to be permanent. This is not appropriate, however. On the one hand, this gives rise to no incentive for staff to contribute to the recovery of the situation of the institution and thereby of its credit quality. On the other hand, this represents less favourable treatment compared to, for example, shareholders or holders of AT1 or T2 instruments who (can) participate in any appreciation of the value of the company. Less favourable treatment of the other instruments cannot be justified objectively. Rather, it would indirectly force the institutions to issue AT1 or T2 instruments, since the other instruments are not marketable on account of their significantly adverse configuration.

Conclusion

To meet the objective of the consultation while ensuring consistency with the overall regulatory and supervisory framework under the CRR / CRD IV and the envisaged European framework for recovery and resolution under the BRRD, the following principles are suggested:

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- Instruments that qualify as own funds under the CRR or relevant capital instruments under the BRRD should generally be able to be utilised for the purposes of variable remuneration. Institutions should be free to use those instruments that best fit their capital structure and ongoing capital planning process.
- Given that instruments for remuneration purposes are identical to existing instruments, the "arm's length test" could be met if either a specific instrument is partially placed with external investors or the instrument is comparable to existing instruments so that the secondary market can be used as a reference for pricing (i.e. level of distributions).
- The requirements of CRD IV Article 94 with respect to retention and deferral should be met by related provisions in the compensation scheme linked to the employment contract.
- If required for senior management and/or risk takers and other relevant staff in accordance with CRD IV Article 92(2), additional malus and claw-back mechanisms will already be part of the employment contract. For this reason, there is no need for such mechanisms to be included in the instrument itself as well.
- In the case of an instrument not recognised as own funds under the CRR or as a relevant capital instrument under the BRRD, contractual provisions should ensure that (a) the capital write-down tool under BRRD Article 51 is applicable pari passu with Tier 2 and (b) the instrument is pari passu with Tier 2 with respect to its ranking in liquidation.

This would allow these instruments to be integrated into the issuance and maintenance process of an institution's capital structure. In addition, it would enable the HR maintenance process to be decoupled from the maintenance of individual instruments.

A possibility for reversal of the impairment should be added for the other instruments if the credit quality of the institution improves again. Less favourable treatment of the other instruments is not justified.

II. Linking of credit quality of credit institutions solely to the Tier 1 ratio

According to Article 94(1)(l) CRR, in any event at least 50% of any variable remuneration, if possible, should also consist inter alia of instruments within the meaning of Article 52 (Additional Tier 1) or Article 63 (Tier 2) instruments or other instruments which can be fully converted to Common Equity Tier 1 instruments or written down and which in any case adequately reflect the credit quality of the institution as a going concern and are appropriate to be used for the purposes of variable remuneration.

Essentially, it is therefore a matter of also paying out elements of variable remuneration in instruments which adequately reflect the credit quality of the institution. The Tier 1 ratio of an institution represents an element in the assessment of the credit quality of the institution. However, the Tier 1 ratio may fluctuate for various reasons without this having an impact on the credit quality of an institution.

Fluctuations in the rate of the Tier 1 ratio do not therefore adequately reflect the credit quality of the institution under all circumstances.

Furthermore, a large number of other factors apart from just the Tier 1 ratio are relevant for the credit quality of an institution. However, by focusing exclusively on the Tier 1 ratio, these aspects are not taken into consideration.

Against this background, considerable doubt remains as to whether establishing the credit quality on the basis of the Tier 1 ratio is in fact adequate. In this respect, it is suggested re-examining the corresponding establishment in the present draft Regulatory Technical Standards.

Overview of questions for consultation

With respect to the answers to the questions for consultation we refer to our above general comments. The treatment of capital instruments under the CRR and, in particular, under the BRRD already envisages conversion into CET1 instruments as a going concern when required. The majority of the questions raised in the consultation document therefore address aspects which have already been dealt with.

II. Additional Tier 1 instruments

Q1: ***Is a trigger event of no less than 7 % of the CET 1 appropriate for AT1 instruments to ensure that the instrument reflects appropriately credit quality as a going concern?***

The requirement for the write-down or conversion of AT1 instruments in accordance with CRR Article 52ff as well as the envisaged write-down of capital instruments at the "point of non-viability" or in the context of bail-in already reflect the credit quality as a going concern. Both mechanisms are intended to strengthen the CET1 and preserve the going concern status of the institution, in particular systemically important institutions which are "too big to fail".

Provided that the minimum requirements for AT1 are met, it should be left to the institution to choose a higher trigger also for an AT1 instrument to be used for the purpose of variable remuneration as long as it is consistent with the overall capital structure of the institution.

Q2: ***Would it be preferable for the trigger events for different instruments to be based uniformly on a CET1 ratio?***

In the interests of transparency and simplicity, triggers should be in line with those required by the CRR or the BRRD. This includes, in particular, the contractual trigger in an AT1 instrument in accordance with CRR Article 52 (l). With respect to BRRD-related "trigger events", relevant capital instruments, i.e. those

placed with external investors and those used for variable remuneration purposes, should receive uniform treatment in accordance with the BRRD.

Q3: ***What would be an appropriate differentiation with regard to the percentages set for a trigger event based on CET1 ratios for Additional Tier 1, Tier 2 and other instruments? Should there be a unique trigger level for all classes of instruments?***

Instruments to be used for the purpose of variable remuneration should not receive treatment different to that accorded to AT1 under CRR Article 52 or Tier 2 under CRR Article 63. In the case of own funds instruments under the CRR, the BRRD automatically treats these as a "relevant own funds instrument" with respect to capital write-down (Article 51ff of the draft BRRD) or the application of the bail-in tool (Article 43 of the draft BRRD).

For instruments used for the purpose of variable remuneration which are not recognised as own funds instruments under the CRR and which are therefore not treated as relevant capital instruments under the BRRD, the capacity for capital write-down or conversion as required by the BRRD should be included in the terms and conditions. The relevant tool should apply at the same time as it is applied to relevant capital instruments.

Purely as a precaution and with explicit reference to the general comments and the statements made at the beginning, we consider, if this demand is not met, that a link to a single trigger for all classes of instruments would be appropriate. In this way, the monitoring effort by the institutions can be reduced to a minimum, especially as the limits mentioned correspond anyway to the minimum capital requirements plus trigger and therefore should be subject to the monitoring.

Q4: ***Is the cap on distributions in Article 1 (2) (a) set at an appropriate level?***

In general, it is appropriate to avoid undue compensation as a result of an unjustified level of distributions. The level of distributions of an instrument to be used for the purpose of variable remuneration should therefore be set "at arm's length", i.e. in line with the level of distributions of an instrument with the same risk issued and traded in secondary markets.

If such an instrument is consistent with (even if not identical to) instruments already included in the capital structure of the institution, distribution levels for the instrument used as variable remuneration can easily be derived from secondary levels of outstanding instruments with an equivalent risk profile.

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Q5: ***Is the definition of the cap appropriate or should another rate be used as a basis for calculating the cap?***

If these instruments are consistent with instruments included in the capital structure of the bank, secondary levels reflecting the specific risk profile for capital investors in that instruments should be used as a benchmark.

Q6: ***What are the additional costs of ensuring that instruments meet the criterion in Article 1 (2)(b (60 % issued to other investors)?***

If an institution were required to include "unusual triggers", i.e. triggers not consistent with the instruments contained in its normal capital structure but with higher triggers or other transaction features leading to a higher inherent risk in the transaction, additional costs could be substantial for several reasons:

(i) If the criterion in Article 1 (2) (b) applied, this would result in an instrument that institutions would not normally issue in the market.

(ii) For smaller institutions or those whose sub-debt has a lower rating, this could lead to issuance costs significantly exceeding the costs of their normal capital instruments. In particular, the issuance amount and the features of the instrument would probably result in a very illiquid position for investors.

(iii) In addition, these instruments would not be consistent with the overall capital structure of the institution. This would also lead to higher risk premiums having to be paid in the market. If, by contrast, instruments used for the purpose of variable remunerations were consistent with the capital instruments used by the institution anyway, the costs for such an instrument would be in line with the cost of own funds instruments in general. As secondary prices for existing instruments could be used for "arm's length pricing" (see our reply to Q4), there would be no additional costs.

III. Tier 2 instruments

Q7: ***Are the trigger events for Tier 2 instruments based on the Tier 1 capital ratio appropriately defined and easy to apply?***

As mentioned in our general comments, we have serious reservations about the introduction of additional contractual triggers in a Tier 2 instrument that go beyond the requirements of the CRR and/or BRRD. In particular, the suggested Tier 1 trigger would further increase the complexity of the capital structure, reduce transparency and impose an operational burden. Instead, it should be ensured that employees receiving a Tier 2-hosted instrument for variable remuneration should have to adhere to an aggregate retention and deferral period equal to an original maturity of at least five years as required for Tier 2 instruments sub-debt. On this issue it has to be stated, however, that regulation on variable compensation for risk takers calls for a deferral period of three to five years.

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Q8: ***Are the percentages set for the trigger events appropriate?***

(See our reply to Q7.) As mentioned in our general comments, we have serious reservations about the introduction of additional contractual triggers in a Tier 2 instrument that go beyond the requirements of the CRR and/or BRRD. In particular, the suggested Tier 1 trigger would further increase the complexity of the capital structure, reduce transparency and impose an operational burden.

Q9: ***Is the write-down and write-up mechanism for Tier 2 instruments easy to apply?***

(See general comments and our reply to Q7.) As mentioned in our general comments, we have serious reservations about the introduction of additional contractual triggers in a Tier 2 instrument that go beyond the requirements of the CRR and/or BRRD. In particular, the suggested Tier 1 trigger would further increase the complexity of the capital structure, reduce transparency and impose an operational burden.

Q10: ***Are there other write-down mechanisms which would be better suited for instruments used for the purpose of variable remuneration?***

(See general comments and our reply to Q7.) As mentioned in our general comments, we have serious reservations about the introduction of additional contractual triggers in a Tier 2 instrument that go beyond the requirements of the CRR and/or BRRD. In particular, the suggested Tier 1 trigger would further increase the complexity of the capital structure, reduce transparency and impose an operational burden.

IV. Other instruments

Q11: ***Is it appropriate to include instruments linked to Additional Tier 1 and Tier 2 instruments in the class of other instruments?***

We refer to our general comment that it should normally be feasible to use instruments that qualify as own funds under the CRR or relevant capital instruments under the BRRD for the purpose of variable remuneration and that institutions should be free to use those instruments that best fit their capital structure and ongoing capital planning process.

Based on this, it is our understanding that the phrase "instruments linked to Additional Tier 1 and Tier 2 instruments" actually means that the instrument has either an Additional Tier 1 or Tier 2 host which complies with the CRR requirement for own funds, but that the instrument includes additional provisions relating to retention/deferral or risk taker clawback.

With respect to "other instruments" not recognised as own funds under the CRR or relevant capital instrument under the BRRD, contractual provisions should ensure that (a) the capital write-down tool

under BRRD Article 51 is applicable pari passu with Tier 2 and (b) that the instrument is pari passu with Tier 2 with respect to ranking in liquidation.

Based on this, Article 4(1)(e) includes an additional trigger criterion that has no justification in light of the regulatory requirements and related mechanisms under the CRR or BRRD. An instrument with those additional triggers only would add undue complexity to the capital structure of an institution. In addition, it would give employees less favourable treatment compared to regular capital investors in the institution.

Q12: ***Are the requirements set for linked instruments appropriate?***
See our reply to Q11.

Q13: ***Is it appropriate to allow for conversion of other instruments?***
We refer to our general comments. This includes, in particular, that instruments to be used for variable remuneration should either by virtue of their nature as "relevant capital instruments" under the BRRD or through the inclusion of equivalent contractual language be subject to the capital write-down tool under Article 51ff of the draft BRRD. This will ensure that these instruments are an integral part of the general recovery and resolution mechanisms that apply to institutions – in particular G-SIBs and D-SIBs – and are intended to keep the institution a going concern.

Q14: ***Is it appropriate to require a permanent write-down for other instruments?***
See our general comments and answer to Q13. These instruments would be subject to the capital write-down tool under Article 51ff of the draft BRRD. This will ensure that these instruments are an integral part of the general recovery and resolution mechanisms that apply to institutions – in particular G-SIBs and D-SIBs – and are intended to keep the institution a going concern.

If, on the other hand, the EBA wishes to adhere to its previous approach, in the view of the German Banking Industry Committee, a write-up should also be permissible for all variants of instruments that may meet the requirements pursuant to Article 94(1)(l) CRR. This also applies in particular for "other instruments", as provided for in Article 4 of the draft RTS. Furthermore, in the view of the German Banking Industry Committee, no provision should be made for other restrictions on the extent of a possible write-up as a limit to the original nominal value of the instrument. In the view of the German Banking Industry Committee, it is not justified to require, as provided for in Article 3(6)(f) of the draft RTS, that a write-up has as its consequence a reduction in Common Equity Tier 1 capital. Rather, it must suffice that a surplus for the year, from which variable elements of remuneration and also a write-up are financed, would also have been available to form Common Equity Tier 1 capital. A reduction in Common Equity Tier 1 capital, on the other hand, does not seem necessary for this purpose.

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Q15: ***Are the trigger events for other instruments appropriately defined and easy to apply?***
We refer to our general comments and previous answers. Any additional trigger outside the CRR and BRRD framework for relevant capital instruments would lead to additional costs, less transparency for investors and undue complexity.

The draft RTS is obviously addressed to larger institutions which issue Tier 1, Tier 2 and/or "other" instruments. (This is clear, for example, from the link to credit quality in Article 4(1)(a), which in principle presupposes a rating.) However, for smaller institutions, this is in no way (comprehensively) the case. It is true that already the Executive Summary and also the text of the draft RTS deal with "comparable" instruments which could be or allegedly are used by small institutions. Under point 25 and following, under the heading "Proportionality", the EBA then allows the issue of instruments linked to Additional Tier 1 or Tier 2 capital instruments – if the requirements set out in the draft RTS are met. According to the EBA, instruments are also possible in the form of contracts between bank and staff. In our opinion, the question of proportional use and/or relevant criteria in this connection for instruments used by smaller institutions can be clarified primarily at national level. However, at least the RTS should be clarified to the effect that institutions which do not exceed a certain size (as a demarcation criterion, the classification as "institution not of systemic importance" undertaken in the German Regulation on the Supervisory Requirements for Institutions' Remuneration Systems could be considered, i.e. the total balance sheet of an institution on average on the respective reference dates of the past three completed financial years, has not attained or exceeded EUR 15 billion), should be authorised to link their variable remuneration to other criteria too. Article 94(1)(l)(ii) CRD IV allows scope for such an interpretation.

Q16: ***Are the percentages set for the trigger event appropriate?***
We refer to our general comments and previous answers. Any additional trigger outside the CRR and BRRD framework for relevant capital instruments would lead to additional costs, less transparency for investors and undue complexity.

Q17: ***Are the specified conditions appropriate? Should additional conditions be considered?***
We refer to our general comments and previous answers. Any additional trigger outside the CRR and BRRD framework for relevant capital instruments would lead to additional costs, less transparency for investors and undue complexity.

Q18: ***Is the conversion and write-down mechanism for other instruments sufficiently clear and easy to apply?***
We refer to our general comments and previous answers. Any additional trigger outside the CRR and BRRD framework for relevant capital instruments would lead to additional costs, less transparency for investors and undue complexity.

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Q19: ***Are the above requirements regarding conversion sufficiently clear and easy to apply?***
We refer to our general comments and previous answers. Any additional trigger outside the CRR and BRRD framework for relevant capital instruments would lead to additional costs, less transparency for investors and undue complexity.

V. Impact assessment

Q20: ***Do you agree with our analysis of the impact of the proposals in this consultation paper?***
We do not agree with the impact assessment. A requirement for instruments to be used for variable remuneration as defined in these draft RTS would lead to additional costs, less transparency for investors and undue complexity of the liability structure.

We do not agree with the cost impact as displayed in Table 1 of the consultation paper. Based on our members' experience with the implementation of current risk taker compensation rules and regulations, the following – higher – costs can be assumed:

- Changing the way remuneration policies are set // One-off: medium to high.
- Adjusting instruments used to pay variable compensation // One-off: medium.
- Adjusting instruments used to pay variable compensation // **Ongoing (new)**: low.
- Ongoing effort is expected due to the higher complexity of compensation structures.

Q21: ***Can you provide any evidence or data that may further inform our analysis of the likely impacts of the proposals? Is there any relevant impact of the draft RTS on other areas which the EBA has not considered?***
As for benefits, a further benefit could be added from an employee perspective. Additional Tier 1 and Tier 2 instruments will most likely reduce the volatility of deferrals compared to share-linked instruments.

Q22: ***Do the draft RTS lead to any impediments regarding the issuance of own funds instruments?***
As stated above in our reply to Q20, we do not agree with the impact assessment. This refers especially to the possible inclusion of any additional triggers outside the CRR and BRRD framework for relevant capital instruments. Against this background, own funds instruments designed in accordance with these draft RTS would most likely not be suitable as instruments for variable compensation. For our views on how the instruments might be designed with considerations of practicality in mind, please see our comments, conclusions and answers to the questions above.