

Guidelines on the data collection exercise regarding high earners

(EBA/GL/2014/07)

These Guidelines were discussed and approved jointly with the Guidelines on the remuneration benchmarking exercise (EBA/GL/2014/08). Both are meant to increase the consistency of information collected on the remuneration practices of credit institutions and investment firms in order to benchmark remuneration trends and on the number of individuals per credit institution in pay brackets of at least 1 million Euros.

As requested by Article 75 of the Directive 2013/36/EU (CRD IV), national competent authorities shall collect the information and benchmark remuneration trends at national level while the EBA is in charge of performing the benchmarking at European level and disclose the data collected regarding high earners on an aggregate home Member State basis.

Both guidelines update those originally published on 27 July 2012, as a result of the more exigent reporting regime laid down in CRD IV, in comparison to the previous regulation of this issue.

The Guidelines were published by EBA on 16 July 2014. Banco de España's Executive Commission adopted them as their own on 17 September 2014.

EBA/GL/2014/07

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Guidelines

on the data collection exercise regarding high earners

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1. Executive summary

The European Banking Authority (EBA) has updated its Guidelines on the data collection exercise regarding high earners, the previous version, published on 27 July 2012, is repealed. The update implements the changes to the data collection requirements specified in Directive 2013/36/EU (CRD IV). It was necessary to make the changes to reflect the new requirements of the Directive; some additional clarifications have also been made to ensure the high quality of the data collected. The template has been updated to better align with the data collected in the remuneration benchmarking exercise provided by the CRD IV as well. The more granular data will allow a more meaningful analysis and increase the transparency of remuneration paid to high earners.

Directive 2013/36/EU requires competent authorities to collect information on the number of natural persons, per institution, who are remunerated EUR 1 million or more per financial year, in pay brackets of EUR 1 million, including their job responsibilities, the business area and the main elements of the salary, bonus, long-term award and pension contribution. Therefore, the data regarding high earners need to be collected in a more granular way than under the previous framework which required the collection of the information without any differentiation of pay brackets and did not include additional information on the job responsibilities of high earners. A new template for the collection of data is included in the Guidelines.

The new reporting format should be used for the collection of data regarding high earners as of the financial year 2013. Competent authorities should collect the data relating to the performance year 2013 from the institutions using the new templates by a date that ensures that the data relating to the performance year 2013 is submitted to the EBA by 30 November 2014, which will publish the data on an aggregate home Member State basis in a common format.

2. Background and rationale

Article 75(3) of Directive 2013/36/EU (CRD IV) states that '[c]ompetent authorities shall collect information on the number of natural persons per institution remunerated EUR 1 million or more per financial year, in pay brackets of EUR 1 million, including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution. That information shall be forwarded to EBA, which shall publish it on an aggregate home Member State basis in a common reporting format. EBA may elaborate guidelines to facilitate the implementation of this paragraph and ensure the consistency of the information collected.'

The EBA had a similar mandate under CRD III (Directive 2010/76/EU) based on which it published the 'Guidelines on the data collection exercise regarding high earners' on 27 July 2012. Under those Guidelines, data were collected from 2010 to 2012, and the results were published on the EBA website. The objective of the data collection is to reveal year-to-year developments in the number of individuals earning at least EUR 1 million within the European Union and the European Economic Area (EEA), and within the different Member States, and to assess the major components of remuneration awarded to high earners. This information can be used together with additional remuneration benchmarking data to analyse the application of remuneration policies within the European Union and the EEA, and the trends in remuneration practices, to improve the remuneration framework. The EBA has updated the 'Guidelines on the data collection exercise regarding high earners' to facilitate the data collection exercise.

While the general structure of the data collection has been retained, CRD IV requires information on the responsibilities of high earners to be collected in addition to the previous data. For this purpose, the Guidelines differentiate between management, senior management, staff whose professional activities have a material impact on the institution's risk profile (identified staff), staff in control functions and other staff. As set out in the previous Guidelines, data for business areas are collected separately to ensure consistency with historical data. However, management and staff in corporate functions (e.g. Human Resources, IT etc.) were not assigned to a separate business line, but reported under 'all other'. To separate corporate functions from other business areas and independent control functions and to distinguish staff working in management from other senior managers, separate categories for these functions have been introduced. As a result, the data will be collected in a more granular way, which will also allow for a more meaningful analysis of the data.

To achieve an accurate allocation of staff to different categories, the revised Guidelines clarify that staff with more than one relevant function or business area should be assigned to the function or business area in which the staff member's main activities are carried out. Each person and the amount they are paid should only be reported once, and amounts paid to one person should not be split between different functions, business areas or responsibilities.

Additional data regarding the payout of fixed remuneration need to be collected to analyse the changes of remuneration practices in light of the introduction in CRD IV of a limitation of the ratio between variable and fixed remuneration. These practices will be subject to the upcoming guidelines on remuneration policies.

The requirement to collect data was extended in the CRD IV compared to that specified in the CRD III, in that the data required are more granular. The requirement for competent authorities to collect information on remuneration entered into force on 1 January 2014, but, as it refers to all data which is disclosed or collected after that date, it is not limited to remuneration received after that date. In addition to the previous data collected, information should be provided for payment brackets of EUR 1 million as required by the CRD IV. This requires the collection of multiple data from institutions to collect separate information for each payment band. However, most information should already be available in institutions as corresponding disclosure requirements regarding the number of high earners per payment bracket have been introduced by the CRR.

The EBA has updated the Guidelines to take into account the requirements specified in Directive 2013/36/EU and the experience gained from the previous data collections. Some clarifications have been introduced in the updated Guidelines to ensure a more consistent collection of data.

The CRD IV requires competent authorities of Member States to collect all data regarding high earners from institutions. To ensure a complete but efficient collection of data as under the previous Guidelines, the data collection should take place at the highest EEA-consolidated level of a banking group and should also encompass EEA branches of institutions that have their head office in a third country. Unlike the scope of consolidation specified in CRD III or CRD IV, non-EEA subsidiaries and non-EEA branches of EEA groups are excluded from this data collection exercise.

The Guidelines should be read in conjunction with the CEBS 'Guidelines on remuneration policies and practices' and the forthcoming EBA 'Guidelines on remuneration policies', as appropriate. All definitions provided in those Guidelines and in Directive 2013/36/EU and Regulation (EU) No 575/2013 apply.

3. EBA Guidelines on the data collection exercise regarding high earners

Status of these Guidelines

This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC ('the *EBA Regulation*'). In accordance with Article 16(3) of the EBA Regulation, competent authorities and financial institutions must make every effort to comply with the guidelines.

Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. The EBA therefore expects all competent authorities and financial institutions to whom guidelines are addressed to comply with guidelines. Competent authorities to whom guidelines apply should comply by incorporating them into their supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting Requirements

According to Article 16(3) of the EBA Regulation, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 16.09.2014. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form provided at Section 5 to compliance@eba.europa.eu with the reference 'EBA/GL/2014/07'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities.

Notifications will be published on the EBA website, in line with Article 16(3).

Title I - Subject matter, scope and definitions

1. Scope of the Guidelines

1.1. These Guidelines facilitate the implementation of Article 75(3) of Directive 2013/36/EU¹ concerning the collection of information regarding the natural persons per institution remunerated EUR 1 million or more per financial year, and ensure the consistency of the information collected.

1.2. These Guidelines are addressed to competent authorities.

1.3. The terms defined in Article 3 of Directive 2013/36/EU or Article 4 of Regulation (EU) No 575/2013² have the same meaning in these Guidelines.

1.4. In these Guidelines 'high earners' means staff earning a remuneration of at least EUR 1 million per financial year.

2. Scope of the institutions subject to the data collection

2.1. Competent authorities should collect information regarding high earners from:

- a. all institutions established in all EEA Member States, at the highest level of consolidation, in the manner specified in point 3 below;
- b. EEA branches of institutions that have their head office in a third country.

2.2. Competent authorities should collect data for the following two categories of firms, only where they are included in the scope of consolidation of an institution for which data regarding high earners are collected:

- a. firms that are referred to in (b) and (c) of Article 4(2) of Regulation (EU) No 575/2013;
- b. other firms which are neither credit institutions nor investment firms.

3. Scope of consolidation

Where competent authorities collect information at the highest level of consolidation as referred to in point 2.1. above, this information should cover all subsidiaries and branches within a group established in the EEA as well as information for EEA branches of institutions that have their head office in a third country. Data regarding high earners in third countries should not be collected within this exercise, even if they relate to subsidiaries or branches of EEA groups.

¹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

² Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

Title II- Requirements concerning the format and frequency of the reporting for the data collection exercise regarding high earners

3. Information to be collected

- 3.1. As specified in point 1 above, competent authorities should collect the required data regarding high earners from the institutions referred to in point 2.1 in accordance with Annex I and in the manner specified in the Annex itself and in points 3.2 to 3.7.
- 3.2. A separate set of data should be collected/provided for each EEA state in which high earners are located and for each payment bracket of EUR 1 million (e.g. EUR 1 million to less than EUR 2 million; EUR 2 million to less than EUR 3 million, etc.).
- 3.3. The number of high earners should be reported as the number of natural persons (headcount), independent of the number of working hours on which their contract is based. For high earners the remuneration paid in euro, elements of remuneration, the EEA state, function or business area and responsibility should be reported in accordance with Annex I.
- 3.4. High earners should be classified under the EEA state, function or business area and responsibility where they carry out the predominant part of their business activities. The full amount of remuneration awarded to the relevant high earner within the group or institution should be reported under this EEA state, function or business area and responsibility. If the predominant areas for one high earner have the same weight, the institution should allocate the high earner and his or her remuneration taking into account the allocation of other high earners, so that the report best reflects the distribution of high earners within the institution. For each high earner, figures should only be reported once and the full amounts should be assigned to one EEA state, one function or business area and responsibility only.
- 3.5. High earners who carry out professional activities both within and outside the EEA should be classified under an EEA state only if they undertake the predominant part of their professional activities within the EEA. Otherwise, figures should not be reported.
- 3.6. Competent authorities should collect the required information using financial year-end figures denominated in euro. All amounts should be reported as full amounts in euro, i.e. not as rounded amounts, (e.g. EUR 1 234 567.00 instead of EUR 1.2 million). Competent authorities should ensure that institutions that do not have any high earners in their EEA scope of consolidation provide a response stating this fact and do not submit any additional data.
- 3.7. Where data on the remuneration of high earners are collected from institutions which disclose financial figures in a currency other than euro, the exchange rate used by the Commission for financial programming and the budget for December of the reported year should be used for the conversion of the figures to be reported³.

³ The EBA provides a link to the information on its website together with these Guidelines; the exchange rate can also be accessed under http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm.

4. Aggregation of data

- 4.1. Competent authorities should aggregate the data collected within their Member State from institutions and branches, by aggregating the data reported within each distinct pay bracket per EEA Member State and submit the aggregated data per pay bracket and EEA Member State to the EBA. Where there is more than one competent authority in a Member State, the competent authorities should co-ordinate the data collection to ensure that only one set of data is collected and reported for that Member State.
- 4.2. The EBA will aggregate the submissions of competent authorities for each EEA state and publish an annual report regarding high earners.
- 4.3. The EBA will inform competent authorities of aggregated data per payment bracket which have been reported for their Member State by another competent authority.

5. Frequency of the data collection, submission to EBA dates and reference year

- 5.1. Competent authorities should collect the information regarding high earners from institutions annually by 30 June of each year.
- 5.2. Competent authorities should aggregate the data and submit them per EEA state to the EBA by 31 August of each year using the EBA's remuneration data reporting system and following the specifications that the EBA provide for the use of this system. If there is no data to be reported, the competent authority should inform the EBA accordingly.
- 5.3. The data reported should relate to remuneration awarded to staff for the performance year preceding the year in which the information is submitted.
- 5.4. Remuneration awarded based on multi-year accrual periods that do not revolve on an annual basis, i.e. where institutions do not start a new multi-year period every year, should be fully allocated to the performance year in which the remuneration was awarded, without consideration of the point in time when the variable remuneration is effectively paid. These amounts should be reported separately to allow a further analysis of fluctuations of the variable remuneration and should not be deducted from the amount of variable remuneration reported.

6. Data quality

- 6.1. Competent authorities should check the completeness and plausibility of the data reported by each institution and should have appropriate processes and controls in place to ensure that data are aggregated correctly.
- 6.2. To ensure the high quality of data, competent authorities should perform specific additional data quality checks where requested by the EBA.

Title III- Transitional provisions and implementation

7. Repeal

The EBA Guidelines on the data collection exercise regarding high earners (EBA/GL/2012/05), published on 27 July 2012, are repealed with immediate effect.

8. Transitional arrangements

8.1. Competent authorities should collect data relating to the performance year 2013 from the institutions by a date that ensures that the data relating to the performance year 2013 are submitted to the EBA by 30 November 2014.

8.2. For the data relating to the performance year 2013, 'staff whose professional activities have a material impact on the institution's risk profile' are considered to be those described in Annex V, Section 11(23) of Directive 2006/48/EU as amended by Directive 2010/76/EU.

9. Date of application

Competent authorities should implement these Guidelines by incorporating them in their supervisory procedures by 31 October 2014. After that date, competent authorities should ensure that institutions comply with them effectively.

ANNEX 1 – Information on the remuneration of high earners

Name of the institution/group:								
EEA state to which the data relate:								
Performance year for which remuneration is awarded (year n):								
Payment bracket (EUR 1mn to less than EUR 2mn; EUR 2mn to less than 3mn; etc.)¹:								
	MB Supervisory function ²	MB Management function ³	Investment banking ⁴	Retail banking ⁵	Asset management ⁶	Corporate functions ⁷	Independent control functions ⁸	All other ⁹
Number of		#	#	#	#	#	#	#

¹ One template should be completed for each remuneration bracket of EUR 1 million, all amounts should be reported in full amounts in euro (e.g. EUR 123 456 7.00).

² Members of the management body in its supervisory function; this includes non-executive directors of any board in the scope of consolidation, according to Article 3(1)(8) of Directive 2013/36/EU. Members should be assigned to this category taking into account point 2.4 of these guidelines. Attendance fees should be reported as remuneration.

³ Members of the management body in its management function according to Article 3(1)(7) of Directive 2013/36/EU who have executive functions within the management body; this includes all executive directors of any board in the scope of consolidation.

⁴ Including corporate finance advice services, private equity, capital markets, trading and sales.

⁵ Including total lending activity (to individuals and enterprises).

⁶ Including portfolio management, managing of UCITS and other forms of asset management.

⁷ All functions that have responsibilities for the whole institution at the consolidated level and for subsidiaries with such functions at the solo level, e.g. Human Resources, IT.

⁸ Staff active in the independent risk management, compliance and internal audit functions as described in the EBA's guidelines on internal governance. Such reporting requirements should apply to these functions at the consolidated level and for subsidiaries with such functions at the solo level.

⁹ Staff who cannot be mapped into one of the other business areas, institutions should be required to indicate the function of staff members in the footnote.

individuals in senior management¹⁰								
Number of individuals in control functions¹¹		#	#	#		#	#	
Number of other staff	#	#	#	#	#	#	#	#
Total Number of high earners	#	#	#	#	#	#	#	#
Of which: 'identified staff'¹²	#	#	#	#	#	#	#	#
Total fixed remuneration (in EUR)¹³								
Of which: fixed in cash								
Of which: fixed in shares and share-linked instruments								

¹⁰ Senior management as defined in Article 3(9) of Directive 2013/36/EU.

¹¹ Control functions comprise control functions within the business units and the independent compliance, risk control and internal audit function.

¹² Staff whose professional activities have a material impact on the institutions' risk profile under Article 92(2) of Directive 2013/36/EU (for data relating to the performance year 2013 under Annex V section 11(23) of Directive 2006/49/EU as amended by Directive 2010/76/EU).

¹³ Fixed remuneration includes payments, proportionate regular (non-discretionary) pension contributions or benefits (where they are without consideration of any performance criteria).

Of which: fixed in other types instruments							
Total variable remuneration (in EUR)¹⁴							
Of which: variable in cash							
Of which: variable in shares and share-linked instruments							
Of which: variable in other types of instruments ¹⁵							
Total amount of variable remuneration awarded in year N which has been deferred (in EUR)¹⁶							

¹⁴ Variable remuneration includes additional payments or benefits depending on performance or, in exceptional circumstances, other contractual elements but not those which form part of routine employment packages (such as healthcare, childcare facilities or proportionate regular pension contributions). Both monetary and non-monetary benefits should be included. Amounts should be reported gross, without any reduction due to the application of the discount rate for variable remuneration for the categories of total variable remuneration, variable in cash, variable in shares and share-linked instruments, and variable in other types of instruments.

¹⁵ Instruments in accordance with Article 94(1)(l)(ii) of Directive 2013/36/EU.

¹⁶ Deferred remuneration in accordance with Article 94(1)(m) of Directive 2013/36/EU. Amounts should be reported gross, without any reduction due to the application of the discount rate for deferred variable remuneration for the categories of total deferred variable remuneration, deferred variable in cash, deferred variable in shares and share-linked instruments, and deferred variable in other types of instruments.

Of which: deferred variable in cash in year N								
Of which: deferred variable in shares and share-linked instruments in year N								
Of which: deferred variable in other types of instruments in year N ¹⁷								
Additional information regarding the amount of total variable remuneration								
Number of beneficiaries of severance payments	#	#	#	#	#	#	#	#
Total amount of severance payments paid in year N (in EUR)								
Total amount of contributions to discretionary								

¹⁷ Instruments referred to in Article 94(1)(l)(ii) of Directive 2013/36/EU.

pension benefits in year N(in EUR)¹⁸							
Total amount of variable remuneration awarded for multi-year periods under programmes which are not revolved annually (in EUR)							
Footnote: Staff reported in the column “All other” consist of ... [to be completed as per footnote 9 of Annex 1]¹⁹							

¹⁸ As defined in Article 3(53) of Directive 2013/36/EU.

¹⁹ Competent authorities should aggregate the footnotes in a text field and submit it to the EBA.

4. Accompanying documents

4.1 Draft cost-benefit analysis/impact assessment

1. The EBA is updating the existing Guidelines for which an impact assessment has already been carried out. The changes relate to additions made in Directive 2013/36/EU and clarifications on how data should be reported based on the experience gained in the previous data collections. The templates were better aligned with the templates used for the remuneration benchmarking exercise. The revised Guidelines are directed to competent authorities only, which are obliged to ensure compliance by the institutions.
2. The baseline scenario for the impact assessment includes the existing EBA Guidelines and the changes to the additional disclosure requirements introduced by CRD IV. To ensure the complete collection of data regarding high earners as mandated by the CRD, data from branches of institutions which have their headquarters in a third country needs to be collected. The impact of the intervention is measured in terms of the additional data required under the proposed EBA Guidelines. The impact assessment does not take into account additional data that may be collected by competent authorities and is limited to the marginal effects of the updated Guidelines in comparison to the baseline scenario.
3. In terms of the added business areas, a couple of options were considered:

Option A: introducing business lines similar to those defined under the standardised approach for operational risk.

Option B: maintaining the structure of the data as far as possible and introducing a more granular collection of the data included in 'other areas'.

4. Option A would have required the introduction of new mapping criteria for all staff and would have provided a more granular approach to the data collected. The costs for mapping the data would have been higher compared to Option B. Option B allows the data collected for 2010-2012 to be compared with the data collected in the future as the main reporting structure is maintained. The institutions need to develop additional mapping routines for the staff who have previously been reported under 'other areas'. Option B singles out the most relevant business areas and separates business areas from the support function. The collection of data for these functions and business areas is necessary as staff responsibilities within these areas are different and therefore the collection of data is necessary to fulfil the CRD IV requirement. Merely differentiating between senior management, control functions and other staff did not seem to be sufficient as risk profiles and incentives schemes between business areas, corporate and control functions are heterogeneous. For these reasons, Option B was retained to allow the use of the existing historic data, to be consistent with the data collection for benchmarking purposes and to limit the costs for the implementation of these Guidelines.

5. To collect data according to the responsibilities of high earners as required by the CRD, the EBA has retained the previously defined business areas, and has separated all other staff into categories of senior management, control functions and other staff. This structure takes into account the usual organisational structure of institutions and their business units. For members of the management body in its management and supervisory functions, corporate functions and independent control functions data are collected separately. In the previous Guidelines, all of these functions were reported together under 'all other' together with other banking business areas. This change takes into account the governance structure and the fact that business units, corporate functions and control functions are usually separate business units with separate responsibilities, namely generating business, providing support and exercising independent control.
6. The number of data fields to be collected has roughly doubled, and institutions may have to submit multiple forms as the CRD requires figures to be reported in payment brackets of EUR 1 million. There will be some additional costs associated with implementing the changes in the reporting tools. However, the EBA is only collecting additional data as required under Directive 2013/36/EC, and therefore the costs are mainly triggered by the Directive and not by the Guidelines. The EBA has chosen to implement an approach that allows the collection of data regarding responsibilities based on the seniority of staff and for a few functions. Approaches that require a more detailed set of data based on a more specific set of functions were considered but not retained as they would have resulted in a small population of data in single categories (i.e. data supply would have decreased with the level of detail).
7. Regarding the collection of information on the remuneration awarded, two options were considered:
 - Option A: retaining the limited information included in the EBA/GL/2012/05
 - Option B: collecting additional information on instruments used, deferral arrangements, severance payments and multi-year accrual periods.
8. The information collected so far (Option A) did not allow for the analysis of remuneration paid to high earners as the structure of the data differed significantly from the remuneration benchmarking exercise. The CRD requires the collection of the main elements of remuneration. As CRD IV amended the requirements regarding the remuneration for staff whose professional activities have a material impact on an institution's risk profile, e.g. by introducing a cap for variable remuneration and a requirement to use a balanced range of instruments if possible, the approach taken so far has not been effective.
9. The information collected under Option B allows for comparison with data collected under the remuneration benchmarking exercise. The data provide the information required under the CRD. The inclusion of severance payments and multi-year accrual

periods better explains the fluctuations in the number of high earners and their remuneration.

10. For these reasons, Option B was retained.
11. Additional information concerning fixed remuneration and the instruments in which it was paid will be collected to analyse remuneration practices. This analysis will focus on the changes in the reported figures after the maximum ratio between variable and fixed remuneration came into force and some institutions started to pay out 'allowances' in shares. The EBA will specify in future guidelines how remuneration should be allocated to either fixed or variable remuneration.
12. A clearer definition of the data will potentially reduce the costs of the data collection process as data corrections will be limited, and will increase the quality of reported data.
13. The Guidelines clarify that data from EEA branches of non-EEA institutions should also be collected. This is not an additional requirement because it is within the framework of the Directive, and Member States already have to comply with this reporting requirement.
14. The general approach for data collection has not changed. As a result, the impact of the transition to the new Guidelines is negligible, but some ongoing costs will be triggered due to the higher granularity of the data collected. Furthermore, the number of high earners per institution is limited and as a result this the costs for their allocation to business lines is limited as well. Where competent authorities have already collected information in April 2013, institutions will have minor additional costs for submitting a revised report.

4.2 Feedback on the public consultation

The EBA held a public consultation on the draft proposal contained in this paper. At the same time, the EBA consulted guidelines on the remuneration benchmarking exercise. Many respondents raised the same issues for both data collection exercises. When updating the Guidelines, the EBA aimed to keep the data collected within the different exercises consistent.

The consultation period lasted for one month and ended on 7 May 2014. Thirteen responses were received, of which ten were published on the EBA website. The EBA did not receive an opinion from the Banking Stakeholder Group.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases, several industry bodies made similar comments or the same body repeated its comments in response to different questions. In such cases, the comments, and the EBA analysis are included in the section of this paper where the EBA considers them most appropriate.

Changes to the draft Guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

In general, respondents found the Guidelines to be sufficiently clear. Some comments were raised regarding the need to collect data in a more granular way and suggestions were made to combine the data collection exercise regarding high earners with the remuneration benchmarking exercise. A more granular data collection will lead to higher costs for institutions. A few single requests were made to clarify some of the data collected in more detail. The timelines for the implementation are challenging and many respondents suggested, at least for the collection of 2013 data, either allowing a longer period of time to submit the updated data or collecting the data using the previous templates.

The EBA responded in detail to the comments received in the feedback table below. In line with Article 75 of Directive 2013/36/EU the guidelines are addressed only to competent authorities who will ensure that institutions comply with the guidelines. A more granular data collection is needed as the CRD IV introduced the requirement to collect information on the responsibilities of high earners as well and to ensure a more meaningful analysis of the data. Combining the templates for high earners was considered, but this option was not retained as the scope of both data collection exercises differs in term of the regional coverage and the number of reporting institutions. A combination of both exercises would mean broadening the scope of the benchmarking exercise to include all institutions reporting on high earners and collecting information on high earners in third countries. The timelines for the submission of data have been extended slightly.

Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Legal basis	A few respondents questioned whether there is sufficient legal basis to collect data with increased granularity and requested that this legal basis be clarified in the Guidelines as the data collected in the past together with the data collected for the benchmarking exercise are sufficient. Evidence that a more detailed reporting is needed should be provided. The granularity was increased above the level required by the CRD provisions and may not lead to an increase of the quality of data.	The remuneration benchmarking exercise is applicable to fewer than 150 institutions in Europe. Article 75 of the CRD mandates the complete collection of data regarding high earners, including their responsibilities, the business area involved and the main elements of remuneration. The previously used templates were not sufficient for the collection of information on responsibilities. This aspect was added by the CRD IV. To allow for a meaningful analysis of the data, it is necessary to better specify the business areas for the category 'all other', as so far most high earners were reported in this area. A more granular mapping might have a margin of error, but it is still needed to allow a more granular analysis. The legal basis is explained in the guideline; a more granular data collection would have already been possible in previous exercises.	No change
Legal basis		For legal considerations and in line with Article 75 of Directive 2013/36/EU the EBA decided to address the Guidelines only to competent authorities, which have to ensure compliance by institutions.	Guideline amended throughout
Scope of the data collection	A few respondents suggested merging the data collection exercise regarding high earners and the remuneration benchmarking exercise and applying	Both exercises need to be conducted in accordance with the scope specified by the CRD, the EBA guidelines cannot change the underlying legal	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	the scope of both to the same institutions. One respondent proposed collecting data regarding high earners for third countries as well.	<p>requirements.</p> <p>Whilst the EBA is required to collect and disclose data regarding high earners within Member States, the remuneration benchmarking exercise is conducted on a consolidated basis (as defined in the CRR), including the branches and subsidiaries in third countries. In addition, all institutions need to report data regarding high earners for each Member State, whilst the remuneration benchmarking exercise is based on a limited sample of institutions and does not differentiate between staff located in different countries.</p>	<p>Merging both exercises in compliance with the CRD requirements would require the collection of data for each Member State or the collection of additional data regarding high earners in third countries and in an even higher granularity. The number of reporting institutions in the benchmarking exercise would need to be increased to capture all data regarding high earners. From the perspective of global costs, this option was not deemed reasonable.</p>
Granularity of the Exercise	A few respondents considered the granularity of the data collected too high and suggested that the previous data collection was sufficient.	The CRD requires the collection of additional information regarding the responsibility of high earners. In the past, most staff were reported under 'all other', with a mix of several different functions which did not allow for a meaningful analysis. For this reason, the structure of the data was also better aligned with the remuneration benchmarking data. A higher granularity of data will increase the transparency of remuneration paid.	No change

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Investment firms	One respondent stated that the Guidelines were prepared without considering investment firms and that ESMA's Securities and Markets Stakeholder Group was not consulted.	The CRD provides the EBA with the mandate to issue these Guidelines. The EBA has informed the Banking Stakeholder Group about the CP. The CRD requirement also applies to some investment firms directly and in the context of a group. ESMA is involved in the development of Guidelines on remuneration.	No change
Responses to questions in Consultation Paper EBA/CP/2014/05			
Question 1; Application to non-CRD firms	One respondent pointed out that the scope of application is not sufficiently clear regarding firms not included in CRD IV but are part of a group. Another respondent suggested excluding some investment firms to which Article 96(1) of Regulation (EU) No 575/2013 applies.	The CRR clearly defines the scope of consolidation, all firms included in this definition are subject to this exercise independent of the fact that they may not directly fall under the CRD's scope of application on an individual basis. A proportionate application in terms of the exclusion of these firms from this exercise is not possible as the CRD mandates the collection of data regarding all high earners in Member States in the scope of consolidation defined by the CRD and CRR.	No change
Question 1	A few respondents felt that paragraph 1.5 and paragraph 1.7 differ between the way data should be collected on a consolidated basis and asked for the Guidelines to be clarified.	Whilst paragraph 1.5 established the scope of institutions which should be covered, paragraph 1.7 of the CP specified the process for how data should be collected. The collection should be done at the highest level of consolidation for Member States, including EEA states which are not Member States of the EU. The Guideline was redrafted to provide further clarity.	Section 2 and 3 amended.

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Question 2.	<p>One respondent stated that a high proportion of the reported high earners are not material risk takers and therefore the need for more granular data does not apply in all cases.</p>	<p>The data collection requirement applies to all high earners. In the future, high earners will be considered identified staff, unless excluded in exceptional cases. If one data field is not relevant, then no data should be reported.</p>	No change
Question 2	<p>More detailed guidelines on the specific business lines and corporate functions are needed to ensure that data are appropriately mapped. In addition, staff could fall into different categories at the same time and it is not clear how these cases should be treated.</p> <p>With regard to corporate functions, a few respondents suggest that only the corporate functions at group level should be considered.</p>	<p>The EBA has provided sufficient definitions of business areas, and institutions already have experience from the previous data collections. With regard to additional business areas/functions, the Guidelines were clarified as much as possible; however, as the legal definition for the functions and institutions organisation differs, it is not possible to provide exhaustive guidelines regarding this issue without causing significant implementation costs.</p> <p>According to paragraph 2.4 of the Guidelines, staff should be mapped to the activity based on the predominant part of their activities.</p>	The Guideline was clarified as appropriate.
Question 3	<p>One respondent welcomed the higher granularity of data and suggested the collection of additional data on dividends and capital increases and the analysis of these relationships.</p>	<p>We appreciate the suggestions; competent authorities have access to additional data, but it is not necessary to collect this information separately for high earners.</p>	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Question 3	One respondent asked for clarification on how the specific legal entity and country combinations should be reported, in particular for EEA countries.	In general, all data are collected at the highest level of consolidation and reported to the institutions EEA home supervisor separate for high earners in each Member State. Please also see the comment under Q1	Paragraph 2.1(c) has been clarified.
Question 3	One respondent suggested that the attendance fees of supervisory board members should not be reported.	Attendance fees should be reported as remuneration.	Footnote 2 of Annex 1 has been clarified.
Question 3	One respondent felt that the business line 'asset management' should only be relevant for the upper management of asset management firms which fall into the scope of consolidation.	All high earners active in the business area of asset management should be reported under this business line. It does not matter if the specific firm falls directly under the CRD as other authorisations exist or if it is an asset management firm which is only subject to the CRD as it falls into the scope of consolidation of an institution.	No change
Question 3	One respondent suggested changing the definitions for investment banking and retail banking as corporate banking could fall into both categories.	The definitions were not changed to ensure consistency with previously collected data. For the purpose of this guideline, all lending activities fall under retail banking.	No change
Question 3	The business lines do not always match the internal business lines and mapping the data would result in additional costs. The scope of internal control functions (i.e. only at group level or within subsidiaries), the terms management body, discretionary pension benefits and the 'total amount of variable remuneration awarded for multi year periods under programmes which are not revolved annually' should be clarified. One respondent asked for a glossary and definitions for	The Guidelines should be read together with the Guidelines on remuneration policies and the CRR and CRD requirements. A separate glossary was not considered necessary. All definitions directly provided in the Guidelines, the CRD and the CRR apply with the same meaning unless stated otherwise. According to these definitions 'Management Body' comprises only the board members in the management and supervisory function. Discretionary pension benefits are defined	The Guidelines and footnotes to the table were clarified as appropriate.

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	all terms used in the Guidelines.	in Article 3 of the CRD. Independent control functions include independent risk control, compliance and the audit function in a group and if applicable at subsidiary level. Terms within the Annex are defined by footnotes which contain either a link to existing definitions or provide a definition themselves.	
Question 3	One respondent missed a reference to variable remuneration to which the discount rate was applied and recommended that this figure is added to check compliance with the required provisions.	The internal organisations of an institution differ and as a result, the mapping of staff to regulatory definitions is needed. Even if there is a margin of acceptable error, mapping is needed to allow the meaningful analysis of data.	See also comments under Question 4.
Question 3	One respondents asked for clarification on which remuneration should be reported under 'total amount of variable remuneration deferred in year N'.	Member States have implemented the discount rate in different ways and as data are collected at group level, the reported figures are not sufficient to check compliance with the regulatory requirements which are, in any case, subject to regular supervisory review.	No change
Question 3	One respondent recommended using a different definition for the payment brackets, removing the 7 th row as no staff fall under this category and amending footnote 14 as this should only be applied for 2014 data and onwards. Footnote 17 should be clarified.	The remuneration awarded for that financial year should be reported when it was deferred; it is therefore part of the total remuneration reported.	Paragraph 8.3 and the Annex have been amended.
	The comment was accommodated.		

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Question 3	One respondent suggested reporting the data for 'all other' and 'corporate functions' together.	The data under 'all other' should mainly contain other business areas which have a different risk profile and potentially a remuneration structure compared to 'corporate functions'. The EBA recognises that it may be an additional burden to separate the data into these two different categories. However, to analyse remuneration trends for different business areas, a more granular data collection is needed and the number of high earners is limited.	No change
Question 3	One respondent asked for clarification on the final footnote in the table in Annex 1, as it is difficult to understand.	All identified staff need to be mapped into business areas, for staff where no explicit business area exists, the EBA wanted to understand which functions are included. Given the limited number of high earners who would fall into this category, the EBA deems it possible to report the functions of the high earners reported under this category.	No change
Question 4	A few respondents asked for confirmation that year-end data should be collected on an annual basis and requested clarification on the use of multi-year accrual periods. One respondent found that the additional reporting is too burdensome and in addition is not required under the CRD.	The data collection is done once a year and data for the previous financial year are collected. Non-revolving multi-year accrual periods lead to payments of variable remuneration which are not made annually, but in longer intervals. For example, with a three-year period, institutions would accrue the variable remuneration, e.g. accrue in 2010-2012 and award the variable remuneration in 2013, the next payment would be in 2016 etc. Due to this, variable remuneration becomes more volatile. It is necessary to receive the data to better	Paragraphs 5.1 and 5.4 have been clarified.

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Question 4	One respondent recommended reporting data based on the amount paid out rather than the amount awarded as this would distort the reported figures.	understand the trends regarding high earners as variable remuneration payments based on non-revolving multi-year accrual periods can mean that the total amount of remuneration paid and the number of people classed as high earners vary significantly over time.	No change
Question 4	One respondent recommended collecting the same information for high earners as under the remuneration benchmarking exercise.	The CRD requirements on variable remuneration and its disclosure are based on how they are awarded. If long-term incentive schemes start at longer intervals, the amounts should be reported under multi-year accrual periods so that the figures can be interpreted accurately.	No change
Question 5: Implementation of the new templates	<p>To allow for a longer implementation period, a few respondents suggested collecting the data with the new templates for the performance year 2014 and onwards as the CRD only came into force in 2014.</p> <p>A few respondents suggest collecting the 2013 data at a later stage to ensure that institutions have sufficient time to compile the data.</p> <p>Two respondents stated that data for 2013 have already been submitted and that double reporting should be avoided.</p> <p>Two respondents asked for a longer period of time</p>	<p>The CRD/CRR entered into force in July 2013 and applies from 1 January 2014 onwards. Therefore, it applies to publications from 1 January 2014 (even if 2013 data are published).</p> <p>Competent authorities were informed that data for 2013 will be collected using the updated templates.</p> <p>The EBA has reviewed the timelines for the collection of 2013 data. Data should be collected from institutions by a date that ensures that the data are submitted by competent authorities to the EBA by 30 November 2014. The timelines for the</p>	Timelines extended for 2013 data only

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	<p>to submit the data and requested that data should always be collected later than June (e.g. August/October).</p> <p>A few respondents stated that the timing would not allow for the two-month period in which competent authorities need to report their intentions to the EBA to comply with the Guidelines.</p> <p>Other respondents found the time periods sufficient.</p>	<p>collection of 2014 data and onwards will remain unchanged.</p>	
Question 6	<p>Providing more granular data will lead to an ongoing increase in costs as the business lines do not match internal structures. Not all of the additional granularity is caused by the CRD and therefore the impact should be assessed.</p>	<p>The EBA's impact assessment was updated.</p>	IA amended

5. Confirmation of compliance with guidelines and recommendations

Date:

Member/EEA State:

Competent authority

Guidelines/recommendations:

Name:

Position:

Telephone number:

E-mail address:

I am authorised to confirm compliance with the guidelines/recommendations on behalf of my competent authority: Yes

The competent authority complies or intends to comply with the guidelines and recommendations: Yes No Partial compliance

My competent authority does not, and does not intend to, comply with the guidelines and recommendations for the following reasons²³:

Details of the partial compliance and reasoning:

Please send this notification to compliance@eba.europa.eu²⁴

²³ In cases of partial compliance, please include the extent of compliance and of non-compliance and provide the reasons for non-compliance for the respective subject matter areas.

²⁴ Please note that other methods of communication of this confirmation of compliance, such as communication to a different e-mail address from the above, or by e-mail that does not contain the required form, shall not be accepted as valid.