EBA consults to revise standards to identify staff with a material impact on the institution’s risk profile

19 December 2019

The European Banking Authority (EBA) launched today a public consultation on its draft Regulatory Technical Standards (RTS) on the criteria to identify all categories of staff whose professional activities have a material impact on the institutions’ risk profile (“risk takers”). The aim of these standards is to define and harmonise the criteria for the identification of such staff and to ensure a consistent approach across the EU. The suggested identification process is based on a combination of qualitative and quantitative criteria. The consultation runs until 19 February 2020.

“Risk takers” will be identified based on the criteria laid down in the revised Capital Requirements Directive (CRD) and those specified within the draft RTS. Members of staff are identified as having a material impact on the institution’s risk profile as soon as they meet at least one of the criteria, be it the criteria foreseen under the CRD, the qualitative or quantitative criteria in the draft RTS or, where necessary because of the specificities of their business model, additional internal criteria, to ensure that all risk takers are identified.

The qualitative criteria which were set out in 2014 in the RTS on identified staff have been largely retained in the updated draft RTS. The revised qualitative criteria identify staff with managerial responsibilities and with decision-making powers that have a material impact on the institutions risk profile. In terms of quantitative criteria, the revised CRD set out a threshold of total remuneration of EUR 500 000 combined with the average of the remuneration of members of the management body and senior management.

The draft RTS retain the additional quantitative criteria that identify the staff high levels of remuneration above EUR 750 000 and the 0.3% of staff with the highest remuneration, based on the rebuttable presumption that the professional activities of those staff would have a material impact on the institutions risk profile.

Consultation process

Comments to this consultation can be sent to the EBA by clicking on the "send your comments" button on the consultation page. Please note that the deadline for the submission of comments is 19 February 2020.

A public hearing will take place at the EBA premises on 28 January 2020 from 15:00 to 17:00 CET. All contributions received will be published following the end of the consultation, unless requested otherwise.

Legal basis and next steps

These draft standards have been revised in light of Article 94 (2) of CRD as amended by Directive (EU) 2019/878 (CRD5) that mandates the EBA to develop draft RTS to set out criteria to define (a) managerial responsibility and control functions, (b) material business unit and significant impact on the relevant business unit’s risk profile and (c) other categories of staff not expressly referred to in Article 92(3) CRD whose professional activities have an impact on the institution’s risk profile comparably as material as that of those categories of staff referred to therein.

The revised RTS takes also into account the supervisory experience gained since the entry into force in 2014 of the Regulation (EU) No 604/2014 (RTS on identified staff) and of the results of the EBA’s peer review on identified staff.

After the finalisation of the draft RTS, it is planned to submit it in June 2020 to the European Commission.