

# EBA Guidelines on sound remuneration

The European Banking Authority has issued revised Guidelines on sound remuneration policies.

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The Fifth Capital Requirements Directive (CRD V) requires that remuneration policies should be gender neutral. On 2 July 2021, following consultation, the European Banking Authority (EBA) issued its final report on Guidelines on sound remuneration policies. The final revised guidelines will apply from 31 December 2021.

## Changes introduced by the new Guidelines

The 2015 EBA Guidelines already required institutions covered by CRD IV to have gender neutral remuneration policies. The EBA's final revised guidelines add more colour to the obligations on institutions in relation to gender neutral remuneration and gender pay gap. The revised final guidelines also reflect the need to ensure equal opportunities, including by facilitating a diverse pool of candidates for senior management.

### Gender neutral remuneration policy

Institutions should have a gender neutral remuneration policy, including in respect of the award and pay out conditions for remuneration.

The final revised guidance specifically states that there should be no difference between staff of "male, female or diverse" genders.

In order to monitor that gender neutral remuneration policies are being implemented/applied, the revised guidelines suggest that institutions take into account working time arrangements, annual leave periods and other financial and non-financial benefits.

Institutions should also take steps to document the value of different positions and determining which positions are considered as having an equal value. It is suggested that this might be done, for example, by documenting job descriptions, defining wage categories or implementing a job classification system.

Following the consultation process, the final revised guidelines do not mandate a particular process or hard criteria but suggest a number of factors which should be taken into account when determining remuneration of staff (eg skills, effort and responsibility, place of employment, management responsibility, length of experience, professional certification).

### Gender pay gap

The position in relation to mandatory gender pay gap reporting is developing across EU jurisdictions. In addition to those general country specific obligations, the final revised guidance requires CRD institutions to monitor the development of the gender pay gap on a country by country basis for the following categories:

- identified staff, excluding members of the management body;
- members of the management body in its management function;
- members of the management body in the supervisory function; and
- other staff.

Where there is a material pay gap between male and female members of the management body, the reasons for this should be documented and appropriate action should be taken where appropriate (ie if it cannot be demonstrated that the gap is not a result of a remuneration policy that is not gender neutral).

## Conclusion

The final revised guidelines do not add a great deal to the previous EBA guidelines and the existing legal position in relation to equal pay (albeit that there is an evolution from sex to gender). However, institutions should review their remuneration policies and processes and ensure that they expressly reflect the requirement of gender neutrality. The addition of an EU level obligation to track gender pay gap is an important one which will need to be reviewed alongside existing (and proposed) national requirements.

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