Commission de Surveillance du Secteur Financier

Administrative pecuniary sanction of 16 April 2025 for significant breaches of legal and regulatory provisions on governance related to the remuneration policy and practices

Luxembourg, 18 June 2025

Administrative decision

On 16 April 2025, the CSSF imposed an administrative pecuniary sanction on a non-systemic credit institution, authorised in accordance with Article 2 of the Law of 5 April 1993 on the financial sector, as amended ("LFS").

Legal framework/motivation

The administrative pecuniary sanction was imposed by the CSSF pursuant to Article 63-2, paragraph 2, letter e) of the LFS, read in conjunction with Article 63-2, paragraph 1, letter d) of the LFS for breaches of legal and regulatory provisions on governance related to the remuneration policy and practices, as set out in Articles 38 to 38-9 of the LFS.

To determine the type and amount of the administrative pecuniary sanction, the CSSF duly took into consideration the fact that the credit institution has acknowledged the findings and observations, on the one hand, and the remedial actions undertaken by the credit institution to resolve the breaches identified, on the other hand.

The professional obligations in relation to which the breaches were observed are set out in:

- the LFS;
- Commission Delegated Regulation (EU) 2021/923 of 25 March 2021 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards setting out the criteria to define managerial responsibility, control functions, material business units and a significant impact on a material business unit's risk profile, and setting out criteria for identifying staff members or categories of staff whose professional activities have an impact on the institution's risk profile that is comparably as material as that of staff members or categories of staff referred to in Article 92(3) of that Directive ("RTS");
- Circular CSSF 15/622 related to the higher ratio notification procedure applicable to remuneration policy;

as applicable at the time of the facts.

Legal bases for the publication

In accordance with the provisions of Article 63-3, paragraph 2, letter c) of the LFS, this publication is made anonymously.

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Significant breaches of legal and regulatory provisions on governance related to the remuneration policy and practices

This administrative pecuniary sanction follows on from the European Banking Authority's ("EBA") benchmarking exercise on approved higher ratios for the performance year 2022 and on the notifications of higher maximum ratio between the fixed and variable components of the remuneration for the performance years 2022 and 2023.

- During the EBA benchmarking exercise on approved higher ratios for the performance year 2022, the CSSF identified a significant breach of compliance with legal and regulatory provisions related to remuneration.

  The credit institution failed to notify the CSSF of a higher maximum ratio between the fixed and variable components of the remuneration for the performance year 2022. In this regard, it was a breach of the legal requirements set out in Article 38-6, paragraph 1, letter g) of the LFS. This provision requires the credit institution to inform, without delay, the CSSF of the recommendation to its shareholders or owners or members, including the proposed higher maximum ratio and the reasons therefore and shall be able to demonstrate to the CSSF that the proposed higher ratio does not conflict with credit institution's obligations under the LSF, under Regulation (EU) No 575/2013 and under their implementing measures, having regard in particular to the credit institution's own funds obligations. In this context, it is also required that the credit institution informs, without delay, the CSSF of any decision taken by its shareholders, owners or members, including any higher maximum ratio approved.

  On request of the CSSF, the credit institution subsequently provided the CSSF with the notification related to the higher maximum ratio between the fixed and variable components of the remuneration for the performance year 2022.

- During the analysis of the notification related to the higher maximum ratio between the fixed and variable components of the remuneration for the performance years 2022 and 2023, the CSSF identified significant breaches of legal and regulatory provisions on governance related to the remuneration policy and practices which related to the following points:

  - Regarding the performance years 2022 and 2023, the list of material risk takers was incomplete as some members of the Board of Directors and the authorised management had not been identified as material risk takers although they should have been. This constituted a breach of the legal requirements provided by Article 38-5, paragraph 2, letter a) of the LFS. In fact, this Article provides that the categories of staff whose professional activities have a material impact on the institution's risk profile must include at least all members of the Board of Directors and the authorised management.

  - Regarding the performance year 2022, a staff member of the credit institution had not been identified as a material risk taker, even though his total remuneration exceeded 750,000 euros for the previous year. This constituted a breach of the legal requirements provided by Article 6, paragraph 1, letter a) of the RTS. In fact, this Article provides that staff members shall be deemed to have a material impact on an institution’s risk profile when they have been awarded in or for the preceding financial year a total remuneration that is equal to or greater than 750,000 euros.

- Regarding the performance years 2022 and 2023, the credit institution omitted to send a detailed recommendation to shareholders seeking approval for the higher maximum ratio between the fixed and variable components of the remuneration. This constituted a breach of the legal requirements provided by Article 38-6, paragraph 1, letter g) of the LFS. In fact, this article provides that the shareholders or owners or members of the credit institution shall act upon a detailed recommendation by the credit institution giving the reasons for, and the scope of, an approval sought, including the number of staff affected, their functions and the expected impact on the requirement to maintain a sound capital base.
- Regarding the performance year 2022, the credit institution was unable to demonstrate that the shareholders had approved the higher maximum ratio between the fixed and variable components of the remuneration of a material risk taker. This constituted a breach of the legal requirements provided by Article 38-6, paragraph 1, letter g) of the LFS. In fact, this article provides that shareholders or owners or members of the credit institution shall act by majority of at least 66% provided that at least 50% of the shares or equivalent ownership rights are represented or, failing that, shall act by majority of 75% of the ownership rights represented.