



Commission de Surveillance
du Secteur Financier

Circular CSSF 23/836

Application of the
Guidelines of the European
Banking Authority on the
benchmarking exercises on
remuneration practices, the
gender pay gap and
approved higher ratios
under Directive 2013/36/EU
(EBA/GL/2022/06)

Circular CSSF 23/836

Re: Application of the Guidelines of the European Banking Authority (“EBA”) on the benchmarking exercises on remuneration practices, the gender pay gap and approved higher ratios under Directive 2013/36/EU (EBA/GL/2022/06)

Luxembourg, 25 May 2023

To all credit institutions, as defined in point (12) of Article 1 of the amended Law of 5 April 1993 on the financial sector (“LFS”), and all CRR investment firms, as defined in point (9a) of Article 1 of the LFS

Ladies and Gentlemen,

The purpose of this circular is to inform you that the CSSF, in its capacity as competent authority, applies the EBA Guidelines on the benchmarking exercises on remuneration practices, the gender pay gap and approved higher ratios under Directive 2013/36/EU (EBA/GL/2022/06) (the “Guidelines”), published on 30 June 2022. Consequently, the CSSF has integrated the Guidelines into its administrative practice and regulatory approach with a view to promoting supervisory convergence in this field at European level.

All credit institutions, as defined in point (12) of Article 1 of the amended Law of 5 April 1993 on the financial sector (“LFS”), and all CRR investment firms, as defined in point (9a) of Article 1 of the LFS shall duly comply with them.

1. The Guidelines

The Guidelines are issued by the EBA in accordance with Article 75 of the amended Directive 2013/36/EU¹.

The Guidelines apply as from 31 December 2022.

These Guidelines specify, for the purposes of the oversight of remuneration policies, the information to be provided by selected institutions to the CSSF, namely:

- data for benchmarking remuneration trends and practices, including information disclosed in accordance with the criteria for disclosure established in points (g), (h), (i) and (k) of Article 450(1) of the amended Regulation (EU) No 575/2013² (“remuneration data”), to be provided annually;
- data for benchmarking the gender pay gap (“gender pay gap data”), to be provided every three years (starting from 2024 for the financial year 2023).

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, 27.06.2013, p.1)

Institutions are selected by the CSSF based on the criteria specified in section 1.1 of the Guidelines for the remuneration data and section 1.2 for the gender pay gap data.

These Guidelines also specify, in accordance with the sixth indent of point (ii) of Article 94 (1) (g) of Directive 2013/36/EU, the common reporting format to be used for the purposes of the benchmarking of approved higher ratios between the fixed and variable components of remuneration (“higher ratios data”) to be submitted every two years (starting from 2023 with regard to the financial year 2022) by the institutions falling under the scope of this circular, in accordance with paragraph 19 of the Guidelines.

These Guidelines specify how the CSSF will collect the higher ratios data, the remuneration data and the gender pay gap data (collectively referred to as “benchmarking data”) from institutions, and how the CSSF will submit the benchmarking data to the EBA.

Furthermore, the Guidelines repeal the EBA Guidelines on the remuneration benchmarking exercise (EBA/GL/2014/08).

The Guidelines are attached to this circular and are available on the EBA’s website <https://www.eba.europa.eu/regulation-and-policy/remuneration/guidelines-remuneration-gender-pay-gap-and-approved-higher-ratio-benchmarking-exercises-under-crd>

2. **Scope of application**

The present circular shall apply to:

- all credit institutions, as defined in point (12) of Article 1 of the LFS;
- all CRR investment firms, as defined in point (9a) of Article 1 of the LFS.

Remuneration data will be collected at the level of application of disclosure requirements as set out in Articles 6 (3) and 13 of Regulation (EU) 575/2013.

Gender pay gap data and higher ratios data will be collected only on an individual level.

3. **Date of application**

This circular shall apply as from the date of its publication.

Claude WAMPACH
Director

Marco ZWICK
Director

Jean-Pierre FABER
Director

Françoise KAUTHEN
Director

Claude MARX
Director General

Annex: Guidelines on the remuneration, gender pay gap and approved higher ratio benchmarking exercises under CRD

EBA/GL/2022/06

30/06/2022

Final report on Guidelines

on the benchmarking exercises on remuneration practices, the
gender pay gap and approved higher ratios under Directive
2013/36/EU

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1. Executive summary

The European Banking Authority (EBA) is updating its ‘Guidelines on the remuneration benchmarking exercise’ under Directive 2013/36/EU, which was originally published in 2012 and updated in 2014 following changes introduced under the CRD IV. The review is required in order to consider additional requirements introduced by Directive (EU) 2019/878 (CRD V) regarding the application of derogations under Article 94(3) of Directive 2013/36/EU and the benchmarking of the gender pay gap. In addition, guidelines to harmonise the benchmarking of approvals granted by shareholders to use ratios higher than 100% between variable and fixed remuneration under Article 94(1)(g)(ii) of Directive 2013/36/EU have been incorporated.

The update also considers the amendments to the disclosure requirements under Regulation (EU) 575/2013. In this regard, the templates for data collection have been revised, also taking into account Commission Implementing Regulation (EU) 2021/637 (ITS on disclosures) and issues identified regarding the correctness of the data submitted and their consistency with disclosed data.

The principle of equal pay for equal work or work of equal value laid down in Article 157 of the Treaty on the Functioning of the European Union (TFEU) and measures to ensure equal opportunities have already been included in the EBA Guidelines on sound remuneration policies under Directive 2013/36/EU and the EBA Guidelines on internal governance under Directive 2013/36/EU. The benchmarking of the gender pay gap will allow competent authorities to monitor the implementation of such measures and their development at different levels of pay and, in particular, the representation of staff of different genders.

The Guidelines aim to ensure that the benchmarking of the gender pay gap covers a representative sample of institutions. The requirement to benchmark such practices applies to all institutions. Therefore, the sample of institutions used for the gender pay gap benchmarking exercise includes different types of institutions to allow for appropriate benchmarking not only of the largest institutions, but also of smaller institutions. Furthermore, it is based on data from individual institutions rather than the consolidated basis.

Benchmarking data will be collected annually under the updated Guidelines, and the first data collection under the new Guidelines will be conducted in 2023 for the financial year 2022. The first data on the gender pay gap will be collected in 2024 for the financial year 2023. The EBA will subsequently continue the data collections on a regular basis as set out in the Guidelines.

2. Background and rationale

1. The European Banking Authority (EBA) is updating its 'Guidelines on the remuneration benchmarking exercise' under Directive 2013/36/EU, which was originally published in 2012 and updated in 2014 following the introduction of changes under Directive 2013/36/EU. The review is required in order to consider additional requirements introduced under Directive (EU) 2019/878 (CRD V) regarding the application of derogations and the benchmarking of the gender pay gap. In addition, guidelines to harmonise the benchmarking of approvals granted by shareholders to use higher ratios between variable and fixed remuneration under Article 94(1)(g) of Directive 2013/36/EU have been incorporated.
2. Under Article 75(1) of Directive 2013/36/EU, '*competent authorities shall collect the information disclosed in accordance with the criteria for disclosure established in points (g), (h), (i) and (k) of Article 450(1) of Regulation (EU) 575/2013 as well as the information provided by institutions on the gender pay gap and shall use that information to benchmark remuneration trends and practices. The competent authorities shall provide the EBA with that information.*' Paragraph (2) of Article 75 of this Directive requires that the: '*EBA shall use the information received from the competent authorities in accordance with paragraph (1) of that Article to benchmark remuneration trends and practices at the Union level.*'
3. Points (g), (h), (i) and (k) of Article 450(1) of Regulation (EU) 575/2013 set out certain information that institutions are required to disclose. Small and non-complex institutions are subject to the disclosure requirements under Article 433b of Regulation (EU) 575/2013 and disclose only the information under points (a) to (d), (h), (i) and (j) of Article 450(1) of Regulation (EU) 575/2013. The disclosure requirements apply to the consolidated level, but also to individual institutions. The consolidated data concern the scope of prudential consolidation and include data on the variable remuneration of institutions, investment firms, other financial institutions and ancillary undertakings. Commission Implementing Regulation (EU) 2021/637 of 15 March 2021¹ specifies the CRR requirements and provides tables for the remuneration data to be disclosed. The remuneration benchmarking data collection under Directive 2013/36/EU is mainly based on the disclosed information. Some limited additional information is needed to analyse the 'other forms' of remuneration disclosed and the impact of derogations under Article 94(3) Directive 2013/36/EU from the requirements to pay out a part of the variable remuneration in instruments and under deferral arrangements. While the guidelines do not specify the disclosure requirements within Regulation (EU) 575/2013, institutions may use the calculation of the gender pay gap under these guidelines for disclosure purposes.
4. In line with the tables provided in Commission Implementing Regulation (EU) 2021/637, the granularity of remuneration benchmarking for different business lines has been reduced compared

¹Commission Implementing Regulation (EU) 2021/637 of 15 March 2021 laying down implementing technical standards with regard to public disclosures by institutions of the information referred to in Titles II and III of Part Eight of Regulation (EU) No 575/2013 of the European Parliament and of the Council, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02021R0637-20210628>

- to the previous guidelines. Depending on supervisory needs or requests from relevant stakeholders, the EBA might decide in future to suggest amendments to Commission Implementing Regulation (EU) 2021/637 and amend the Guidelines to increase the granularity of the data collected for different business areas considering, for example, the seniority and gender of staff.
5. In line with Commission Implementing Regulation (EU) 2021/637 (ITS), the scope of identified staff on the institutions' consolidated basis encompasses the identified staff based on the institutions' consolidated situation, i.e. the aggregation of all identified staff within the prudential scope of consolidation to whom the requirements under Articles 92 and 94 of Directive 2013/36/EU apply. In line with Article 109 of that Directive and the instructions within the ITS on disclosure, this equates to the aggregation of identified staff (identified on an individual or consolidated basis) within the scope of prudential consolidation, but excluding identified staff within firms that are subject to a specific remuneration framework, unless Member States have applied the national discretion set out in Article 109(6) CRD to apply the remuneration requirements also to such firms on a consolidated basis. Identified staff at firms that are subject to a specific remuneration framework are also identified staff under Directive 2013/36/EU where Article 109 (5) of that Directive applies; this concerns subsidiaries that are either an asset management company or an undertaking that provides the investment services and activities listed in points (2), (3), (4), (6) and (7) of Section A of Annex I to Directive 2014/65/EU in the situation where a staff member of such a firm is mandated to perform activities that have a direct material impact on the risk profile or the business of the institutions within the group. In line with the ITS, members of the management body of subsidiaries should be reported under the business areas rather than under the 'management body' function for the purposes of this benchmarking exercise.
 6. Pursuant to point (k) and the second subparagraph of Article 450(1) of Regulation (EU) 575/2013, institutions must disclose information on whether the institution benefits from a derogation laid down in Article 94(3) CRD and, if it does, indicate whether it benefits from that derogation on the basis of point (a) or (b) of Article 94(3) of Directive 2013/36/EU. They should also indicate the remuneration principles to which they apply the derogation(s), the number of staff members that benefit from the derogation(s) and their total remuneration split into fixed and variable components. This information, which is to be disclosed, is collected as part of the remuneration benchmarking exercise based on templates provided in these Guidelines.
 7. The ratio between variable and fixed remuneration is limited to 100% (up to 200% with shareholders' approval in accordance with the national law of Member States). Article 94(1)(g)(ii) of Directive 2013/36/EU sets out the procedure for the approval of higher ratios (i.e. ratios > 100% and ≤ 200%) by shareholders and requires competent authorities to use the information received from institutions to benchmark the practices of institutions in this regard. The competent authorities are required to provide the EBA with this information and the EBA is required to publish it on an aggregate home Member State basis in a common reporting format. To ensure a consistent submission, the EBA has developed guidelines, including a template, to ensure the consistency of the information collected on a biennial basis.
 8. The principle of equal pay for equal work or work of equal value laid down in Article 157 of the Treaty on the Functioning of the European Union and measures to ensure equal opportunities have already been included in the EBA Guidelines on sound remuneration policies under Directive

2013/36/EU and the EBA Guidelines on internal governance. The benchmarking of the gender pay gap will allow competent authorities to monitor the implementation of such measures and their development at different levels of pay. The Guidelines aim to ensure that the benchmarking of the gender pay gap covers a representative sample of institutions, including different types of institutions, i.e. not only the largest institutions, but also smaller institutions. The data are collected every three years as the gender composition of staff is not expected to change significantly in the short term, but instead over the longer term as a result of taking appropriate measures.

9. The gender pay gap is the difference, expressed as a percentage, between the average earnings of men and women across a workforce. The gender pay gap will not be adjusted for other factors that may have an impact on the remuneration of staff. The (unadjusted) gender pay gap is calculated independently of, for example, the position of the staff members and their experience. Institutions selected to participate in the gender pay gap benchmarking exercise must have a certain number of staff so that the results of the analysis are statistically sound. In line with the EU Commission's recommendation², the sample of institutions selected should only include institutions that have at least 50 staff members excluding the members of the management body in its supervisory function. In line with the principle of proportionality and to analyse the gender pay gap for different categories of staff and levels of payment, the gender pay gap should be calculated for institutions with 250 or more staff or identified staff, respectively, for each quartile of payment levels as a mean and median for all staff and identified staff, respectively. For example, an institution with 300 staff, with 30 of them being identified staff, would calculate the pay gap for all staff based on quartiles, and the total and separately the total pay gap for identified staff.
10. Some additional instructions are provided to ensure that the data are of the appropriate quality to extrapolate reliable benchmarks. To this end and to further harmonise national implementation, the guidelines are also addressed to institutions.
11. The Guidelines should be read in conjunction with the EBA Guidelines on sound remuneration policies under Directive 2013/36/EU.
12. Competent authorities may perform additional benchmarking exercises and collect additional data for national benchmarking or supervisory purposes.
13. The Guidelines apply from 31 December 2022 for the data to be collected in 2023 for the financial year 2022. This is to ensure the continuous benchmarking of remuneration trends and practices under Directive 2013/36/EU based on data for each year and in parallel with the new remuneration benchmarking exercise for investment firms under Directive (EU) 2019/2034.

² Commission recommendation on strengthening the principle of equal pay between men and women through transparency <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014H0124&from=EN>

3. Guidelines

EBA/GL/2022/06

30/06/2022

Guidelines

on the benchmarking exercises on
remuneration practices, the gender pay
gap and approved higher ratios under
Directive 2013/36/EU

Compliance and reporting obligations

Status of these Guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010¹. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the Guidelines.
2. Guidelines set out the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, 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 [dd.mm.yyyy]. 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 available on the EBA website with the reference 'EBA/GL/2022/06'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

¹ 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, (OJ L 331, 15.12.2010, p.12)

Subject matter, scope and definitions

Subject matter

5. These Guidelines specify, for the purposes of the oversight of remuneration policies in accordance with Article 75 of Directive 2013/36/EU, the information to be provided by selected institutions to competent authorities for benchmarking remuneration trends and practices, including information disclosed in accordance with the criteria for disclosure established in points (g), (h), (i) and (k) of Article 450(1) of Regulation (EU) No 575/2013 ('remuneration data') and the information to be provided for benchmarking the gender pay gap ('gender pay gap data').
6. These Guidelines also specify, in accordance with the sixth indent of point (ii) of Article 94 (1) (g) of Directive 2013/36/EU, the common reporting format to be used for the purposes of the benchmarking of approved higher ratios between the fixed and variable components of remuneration ('higher ratios data').
7. These Guidelines specify how competent authorities will collect from institutions the approved higher ratios, the remuneration and gender pay gap data (collectively referred to as 'benchmarking data') and how they will then submit the benchmarking data to the EBA.

Scope of application

8. These guidelines apply on an individual, sub-consolidated and consolidated level as follows:
 - a. remuneration data should be collected at the level of application of disclosure requirements as set out in Articles 6 (3) and 13 of Regulation (EU) 575/2013;
 - b. gender pay gap and approved higher ratio data should be collected only on an individual basis.

Addressees

9. These Guidelines are addressed to competent authorities as defined in Article 4 (2), points (1) and (viii) of Regulation (EU) No 1093/2010 and to financial institutions as defined in point (1) of Article 4 of Regulation No 1093/2010 that are institutions as defined in point (3) of Article 4(1) of Regulation (EU) 575/2013, having regard to investment firms subject to Articles 1 (2) or (5) of Regulation (EU) 2019/2033 ('institutions').

Definitions

10. Terms used and defined in Directive 2013/36/EU, Regulation (EU) 575/2013 and the EBA Guidelines on sound remuneration policies under Directive 2013/36/EU have the same meaning in these Guidelines.

Implementation

Date of application

11. These Guidelines apply from 31 December 2022.

Transitional arrangements

12. The benchmarking data for the financial year ending in 2022, excluding gender pay gap data, should be submitted by institutions to competent authorities by 31 August 2023, and by competent authorities to the EBA by 31 October 2023. The first benchmarking exercise regarding the gender pay gap should concern the financial year 2023.

Repeal

13. The EBA Guidelines on the remuneration benchmarking exercise (EBA/GL/2014/08)² are repealed with effect from 31 December 2022.
14. References in other guidelines to the Guidelines repealed by paragraph 13 shall be construed as reference to these Guidelines.

² See <https://www.eba.europa.eu/regulation-and-policy/remuneration/guidelines-on-the-remuneration-benchmarking-exercise>

Guidelines on the benchmarking exercises on remuneration practices, the gender pay gap and approved higher ratios under Directive 2013/36/EU

1. Scope of institutions to be included in the benchmarking data exercises

1.1 Scope of institutions for the remuneration data collection

15. Competent authorities should collect and submit to the EBA remuneration data from the largest institutions in terms of asset volume in their Member State, ensuring coverage of at least 60% of the banking system's asset volume in that Member State.
16. Where the coverage of 60% referred to in the previous paragraph cannot be reasonably achieved in a Member State, competent authorities should collect and submit to the EBA remuneration data from up to 20 of the largest institutions in terms of asset volume in their Member State. These data should not include institutions for which data will be collected by the consolidating supervisor as per the level of application of disclosure requirements set out in Article 13 of Regulation (EU) 575/2013. Competent authorities receive information from the EBA for which Union parent undertakings data are collected via the list referred to in paragraph 24.

1.2 Scope of institutions for the gender pay gap data collection

17. Competent authorities should collect and submit to the EBA gender pay gap data on an individual basis from the institutions from which these competent authorities collect remuneration data, i.e. the institution responsible for the consolidation of data under Article 13 of Regulation (EU) 575/2013 or the individual institution included in the sample for remuneration benchmarking. Competent authorities should also collect gender pay gap data from institutions that do not qualify as small and non-complex in accordance with point (145) of Article 4 (1) of Regulation (EU) 575/2013 and adequately represent the variety of the different types of institutions in that Member State, including institutions with securities admitted to trading or privately held, cooperative and savings banks, state-owned banks and investment firms applying Directive 2013/36/EU. In any case, gender pay gap data should only be collected from institutions that have at least 50 staff on an individual basis, excluding the members of the management body in its supervisory function.
18. When applying paragraph 17, competent authorities should endeavour to collect gender pay gap data from at least 5 institutions (on an individual basis) in each of the following size categories in

their Member State, even if the collection of remuneration benchmarking data under section 1.1 concerns a lower number of institutions:

- a. total assets of up to EUR 5 bn;
- b. total assets of between EUR 5 bn and EUR 15 bn;
- c. total assets of EUR 15 bn or above.

1.3 Scope of institutions for the benchmarking of approved higher ratios

19. Competent authorities should collect, aggregate and submit to the EBA approved higher ratio data from all institutions on an individual basis that have the approval of their shareholders to apply a ratio between the variable and fixed remuneration components that is higher than 100% under Article 94 (1)(g)(ii) of Directive 2013/36/EU.

2. Submission of benchmarking data to the competent authorities

20. To enable competent authorities to collect and submit to the EBA remuneration data in accordance with these guidelines, institutions referred to in sub-section 1.1 should, by 15 June of each calendar year, submit the following information to the competent authorities:

- a. the information specified in tables REM1, REM2, REM3, REM4 and REM5 of Commission Implementing Regulation (EU) 2021/637³;
- b. information on remuneration of all staff as set out in Annex I;
- c. additional information on the remuneration of identified staff as set out in Annex II;
- d. information on the derogations set out in Article 94 of Directive 2013/36/EU, as set out in Annex III.

21. To enable competent authorities to collect and submit to the EBA gender pay gap data in accordance with these Guidelines, institutions referred to in sub-section 1.2 should, by 15 June every three years, starting from 2024 with regard to the financial year 2023, submit the information set out in Annex IV to competent authorities on an individual basis.

22. To enable competent authorities to collect, aggregate and submit to the EBA approved higher ratios data in accordance with these Guidelines, institutions referred to in sub-section 1.3 should, by 15 June every two years, starting from 2023 with regard to the financial year 2022, submit the information set out in Annex V to competent authorities on an individual basis.

23. To enable competent authorities to collect, aggregate and submit to the EBA approved higher ratios data in accordance with these Guidelines by 31 August, the European Central Bank should, every two years, starting from 2023 for the financial year 2022, provide national competent

³ The information required will be included in the data point model used within the EBA tool for data collections.

authorities with the information it has received in accordance with the previous paragraph from institutions under its supervisory remit in a timely manner.

3. Submission of benchmarking data to the EBA

3.1. List of institutions included in the benchmarking exercises

24. Competent authorities should inform the EBA, by 31 March of the calendar year following the year for which data are to be collected – about the list of institutions that should be included in:
 - a. the remuneration benchmarking and
 - b. the gender pay gap benchmarking exercise.
25. Changes to the sample of institutions should be avoided as much as possible to ensure that the sample remains stable. For the purposes of paragraph 24, competent authorities should inform the EBA about any changes compared to the previous data collection, including with regard to changes of names of institutions or their legal entity identifier. Competent authorities should inform institutions that are selected to participate in the data collections in a timely manner.
26. Competent authorities should, following a communication from the EBA, remove from the list institutions for remuneration benchmarking that are subsidiaries of Union parent undertakings established in another Member State and for which the relevant data will be submitted to the EBA by another competent authority at a higher level of consolidation.
27. Where there is more than one competent authority, e.g. one responsible for the prudential supervision of institutions and another one for investment firms subject to Article 1(2) or (5) of Regulation (EU 2019/2033), in a Member State or where the responsibility for supervision lies with the European Central Bank, the competent authorities should co-ordinate the data collection amongst themselves and provide each other with the necessary data and information to ensure that only one set of data is collected and reported to the EBA for that Member State.

3.2. Submission of data to the EBA

28. Competent authorities should submit the information, after ensuring the completeness, accuracy and plausibility of the information in line with these Guidelines and any other technical specifications provided by the EBA, as follows:
 - a. remuneration data, by 31 July every year;
 - b. gender pay gap data, by 31 July every three years starting from 2024 with regard to the financial year 2023;
 - c. aggregated information on approved higher ratios as set out in Annex VI by 31 August every two years, starting from 2023 with regard to the financial year 2022.

4. General specifications for the submission of benchmarking data

29. When submitting benchmarking data in accordance with sections 2 and 3 and the Annexes of these Guidelines, institutions and competent authorities should apply the general specifications set out in this section, the additional specifications set out in sections 5 and 6 and the instructions set out in Annex VII.
30. Benchmarking data should be submitted using accounting year-end figures in EUR. Where remuneration is disclosed in a currency other than the EUR, the exchange rate used by the European Commission for financial programming and the budget for December of the reported year should be used for the conversion of the consolidated figures to be reported⁴.
31. All amounts should be reported as full amounts, i.e. not rounded amounts, in EUR (e.g. EUR 1 234 567 should be reported, instead of EUR 1.2 million).
32. Benchmarking data for the calendar year in which the financial year ended should be submitted in the following calendar year. For example, with regard to the benchmarking exercise for the financial year ending on any date in the year '20yy', data will be submitted in the year '20yy+1'.
33. The allocation of submitted amounts to the fixed and variable components of remuneration should be made in line with Section 7 of the EBA Guidelines on sound remuneration policies under Directive 2013/36/EU.

5. Additional specifications for remuneration data

34. Regarding the submission of tables REM1, REM2, REM3, REM4 and REM5, institutions should take into account the instructions set out in ANNEX XXXIV of Commission Implementing Regulation (EU) 2021/637 in addition to this section, as well as the validation rules specified in Annex VII.
35. The number of staff should be submitted as determined at the end of the financial year (i.e. staff who left during the financial year should not be counted, while staff who were recruited within the financial year should be counted, taking into account their contractual working time arrangements).
 - a. Where the number of staff members is to be submitted in terms of the headcount, the number of natural persons should be entered, irrespective of the number of working hours on which their contract is based or changes to the number of staff during the year and taking into account the total amounts of remuneration awarded for the year.
 - b. Where the numbers are to be submitted in terms of the full-time equivalent, the numbers should be based on the percentage of time that an individual staff member is employed compared to a full-time contract (e.g. 0.5 would be reported for a staff member who is working 50% of the time of a full-time contract).

⁴ The EBA provides a link to the information on its website together with these Guidelines; the exchange rate can also be accessed at http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

36. When submitting tables REM1, REM2, REM3, REM4 and REM5 of Commission Implementing Regulation (EU) 2021/637, and Annexes II and III of these Guidelines, identified staff should be understood as those members of staff who have a material impact on the institutions' risk profiles as identified in all institutions and other subsidiaries on a consolidated basis and to whom the remuneration provisions under Articles 92 and 94 of Directive 2013/36/EU apply, whereby the members of the management body of subsidiaries are reported under the business areas rather than under the 'management body' function. 'Identified staff' is the aggregation of:
- a. identified staff in institutions that fall under the prudential scope of consolidation irrespective of whether they are identified at the individual or the consolidated level;
 - b. in accordance with Article 109(5) of Directive 2013/36/EU, staff members that are mandated to perform activities that have a direct material impact on the risk profile or the business of the institutions within subsidiaries that are an asset management company or an undertaking that provides the investment services and activities listed in points (2), (3), (4), (6) and (7) of Section A of Annex I to Directive 2014/65/EU;
 - c. identified staff in subsidiaries to whom Member States apply Articles 92, 94 and 95 on a consolidated basis in accordance with Article 109(6) of Directive 2013/36/EU, where the staff members have a material impact on the institutions' risk profile at a consolidated level; and
 - d. identified staff in other entities to whom Articles 92 and 94 of Directive 2013/36/EU apply only on a consolidated basis, i.e. entities that are neither institutions nor subsidiaries that are subject to a specific remuneration framework in accordance with Article 109(4) of Directive 2013/36/EU with regard to those staff members whose professional activities have a material impact on the institutions' risk profile at a consolidated level.
37. Information on remuneration awarded for the financial year should comprise the fixed and variable gross remuneration awarded for the whole financial year preceding the year of the remuneration data's submission.
38. When submitting table REM1 of Commission Implementing Regulation (EU) 2021/637 in accordance with these Guidelines, taxable non-monetary items of remuneration should be included with their monetary equivalent and should be included as 'other forms' in that table.
39. When submitting tables REM1 and REM3 of Commission Implementing Regulation (EU) 2021/637 in accordance with these Guidelines, only the amounts of variable remuneration awarded for the submitted financial year that have been deferred should be included under the item 'of which: deferred' in table REM1, while deferred variable remuneration for previous periods should be included separately in line with the instructions for table REM3.
40. Severance payments to identified staff should be included in the amount of variable remuneration in table REM1 of Commission Implementing Regulation (EU) 2021/637, in addition in the specific rows in table REM2 and, where deferral is applied, in table REM3 of that Regulation.

41. Where identified staff left the institution before the end of the financial year, the remuneration awarded for the financial year, including severance payments and all other forms of remuneration, should be submitted, while the staff member should not be counted towards the number of identified staff submitted where the contract has already ended before the end of the financial year. Identified staff who joined the institution during the financial year should be included in the number of identified staff, taking into account their contractual working time arrangements (e.g. staff working on a full-time basis who joined during the financial year would always be counted with '1' at the end of the financial year) and all remuneration awarded to those identified staff for the financial year should be submitted.
42. Guaranteed variable remuneration should be included in the variable remuneration in table REM1 of Commission Implementing Regulation (EU) 2021/637, and in addition be included in table REM2 and, where deferral is applied, in table REM3 of that Regulation.
43. When submitting Annex I and table REM 5 of Commission Implementing Regulation (EU) 2021/637, staff should be classified under the function or business area where they carry out the predominant part of their business activities. The full amount of remuneration awarded to that staff member within the group or institution should be included under this function or business area.
44. For the allocation of staff to business areas, institutions should consider their internal organisation and the following:
 - a. 'Management body (MB) supervisory function' should encompass the members of the management body at the highest level of consolidation acting in the role of overseeing and monitoring management decision-making (i.e. non-executive directors), as specified in the instructions to table REM1 column letter (a) of Commission Implementing Regulation (EU) 2021/637. Institutions should allocate members of management bodies of subsidiaries to the relevant business area under points (c) to (i) where such a breakdown is provided, and otherwise to the 'other identified staff' category.
 - b. 'Management body (MB) management function' should encompass the members of the management body at the highest consolidating level who are responsible for its management functions (i.e. executive directors) as specified in the instructions to table REM1 column letter (a) of Commission Implementing Regulation (EU) 2021/637. Institutions should allocate members of management bodies of subsidiaries to the relevant business area under points (c) to (i) where such a breakdown is provided, and otherwise to the 'other senior management' category.
 - c. 'Investment banking' should include corporate finance, trading and sales as defined in Article 317, Table 2 of Regulation (EU) 575/2013, capital market-driven transactions as defined in Article 193(3) of Regulation (EU) 575/2013, and private equity.
 - d. 'Retail banking' should include the institution's total lending activity (to individuals and enterprises).
 - e. 'Asset management' should include asset management within:

- i. the institution that is included in the sample;
 - ii. subsidiaries that are institutions, including investment firms having regard to Article 1(2) or (5) of Regulation (EU) 2019/2033; and
 - iii. subsidiaries that are investment firms, undertakings for collective investment in transferable securities (UCITS), alternative investment fund managers (AIFM) or investment firms that are subject to the application of Articles 92 and 94 of Directive 2013/36/EU on a consolidated basis following the application of Article 109 (5) or (6) of this Directive.
- f. 'Corporate functions' should include staff in all functions that have responsibilities for the whole institution at the consolidated level and for subsidiaries with such functions at the individual level, e.g. human resources and information technology.
- g. 'Independent control functions' should include only staff active in the independent risk management, compliance and internal audit functions as described in Section 19 of the EBA guidelines on internal governance under Directive 2013/36/EU.
- h. For Annex I, 'staff in subsidiaries subject to a specific remuneration framework' should be understood as including all staff who are employed by a subsidiary which is an investment firm, UCITS or AIFM that is subject to a specific remuneration framework and not subject to the application of the remuneration requirements on a consolidated basis as set out in Article 109 of Directive 2013/36/EU.
- i. 'All other staff' should include staff and members of the management body of subsidiaries, other than investment firms, UCITS and AIFM, that cannot be allocated to the categories under (a) to (h).

5.1. Additional specifications for remuneration data under Annex II

45. Discretionary pension benefits should be included in table REM1 and, where deferral is applied, table REM3 of Commission Implementing Regulation (EU) 2021/637 in 'other forms of variable remuneration' and, in addition, be reported in the table in Annex II.
46. Variable 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 accrual period every year, should be fully allocated to the total variable remuneration of the financial year in which it was awarded within table REM1 and, where deferral is applied, table REM3 of Commission Implementing Regulation (EU) 2021/637, without consideration of the point in time when the variable remuneration is effectively paid or the length of the performance period. The amount of that variable remuneration should also be included in the additional information in Annex II.
47. In addition to the table in Annex III on the impact of derogations under Article 94(3)(a) and (b) of Directive 2013/36/EU, institutions to which the derogation referred to in Article 94(3)(a) of Directive 2013/36/EU does not apply should submit in the table included in Annex II the fixed and variable remuneration of identified staff to which any of the derogation referred to in Article 94(3)(b) of that Directive applies.

5.2. Additional specifications for the remuneration data under Annex III

48. Institutions should specify in Annex III if they are eligible to apply the derogations under Article 94(3) of Directive 2013/36/EU regarding the requirement to pay out a part of variable remuneration in instruments and under deferral arrangements and provide the information requested regarding the identified staff to whom the derogations are applied. When submitting data on a consolidated basis, the number of identified staff and remuneration to be reported should be the sum of all identified staff and remuneration across all entities that benefit from the derogations at entities that are subject to prudential consolidation and to the remuneration requirements under that Directive.
49. Derogations under Article 94 (3) of Directive 2013/36/EU should be considered as applied when the institution that is subject to the derogation decides not to apply the minimum requirements regarding the portion to be deferred or paid out in instruments under Article 94(1) of that Directive (e.g. a derogation is still applied if 30% of an executive director's variable remuneration is deferred, or if it is deferred for only 3 years, as the minimum requirements of 40% deferral for at least 4 years have not been met).

6. Additional instructions for the gender pay gap data in Annex IV

50. Institutions that are participating in the gender pay gap benchmarking exercise should calculate the gender pay gap on an individual basis, considering the staff members, including staff working at branches in the same Member State, who are predominantly active in the Member State where the institution is located. Staff located predominantly at branches in another Member State or in a third country should not be taken into account.
51. Institutions should establish a list of all staff and determine which staff should be included in the gender pay gap calculation, in line with the following criteria:
 - a. the gender pay gap should be calculated for the staff members that are staff at the end of the financial year, i.e. staff who have left the institution during the financial year are not considered in this exercise;
 - b. staff who receive less than their regular total annual remuneration because they were at the end of the financial year on any form of parental leave, long term sick leave or long term special leave should be excluded from the exercise; long-term leave should be understood as leave of at least a consecutive time period of three months;
 - c. staff who have been recruited during the last three months of the financial year should not be taken into account in this exercise;
 - d. members of the management body in the management function should be treated as staff and identified staff;

- e. members of the management body in the supervisory function should not be included in the calculation unless they are employee representatives;
 - f. members of the management body in its supervisory function who are employee representatives should be taken into account in the calculation as staff and should only be taken into account in the calculation for identified staff if they are identified staff based on the function they have as a staff member.
52. The gender pay gap should be calculated as the difference between the average remuneration of men and women expressed as a percentage of the average remuneration of men. Institutions should use for the calculation the annual gross remuneration of staff on a full-time equivalent basis. In line with the EBA Guidelines on sound remuneration policies under Directive 2013/36/EU, institutions should consider the total remuneration awarded and also, on a best-effort basis, the working time arrangements, annual leave periods and other financial and non-financial benefits when calculating the gender pay gap, taking into account the provisions of the following paragraph.
53. For each staff member who should be included in the gender pay gap calculation in accordance with paragraph 51, institutions should establish their total gross annual remuneration as the sum of fixed and variable remuneration, considering the following:
- a. Non-monetary benefits (e.g. company car, interest-free loans, free company kindergarten etc.) should be taken into account at their taxed monetary equivalent.
 - b. Regular payments into the pension system and health insurance for all staff should not be considered. Discretionary pension benefits should be considered.
 - c. The full variable remuneration awarded for all performance periods that ended during the financial year on which the calculation is based should be used, even if they concern performance periods longer than one year. This should include variable remuneration based on non-revolving multiannual performance periods as specified in paragraph 46.
 - d. Guaranteed variable remuneration (sign-on bonus) and severance payments (e.g. where the contract of staff has not yet ended at the end of the financial year) should not be taken into account in the calculation.
 - e. For staff who have been working part-time, including for parts of the financial year, or have not been employed for the full financial year or have been on other forms of leave during parts of the year (e.g. unpaid or parental leave), the full annual amount of variable and fixed remuneration should be established on a best-effort basis that the staff would have received if they had been paid for the whole financial year on a full-time basis. Institutions might calculate the amounts by extrapolating the remuneration, e.g. awarded for part-time employment, to the total annual gross remuneration on a full-time annual basis (e.g. the remuneration of staff working on a 50% part-time contract would be multiplied by a factor of 2 to arrive at the annual full-time remuneration).

54. Institutions should calculate the gender pay gap for all staff (including identified staff, identified on an individual basis) and separately for their identified staff. Institutions should, in accordance with national law and the GDPR, make every reasonable effort to determine the gender of its staff. Institutions may omit staff members whose gender cannot be ascertained.
55. Institutions that have 250 or more staff should calculate the gender pay gap for each quartile of their total remuneration and in total. Institutions with fewer than 250 staff should only submit the gender pay gap data based on the total figures for all staff. Institutions that have 250 or more identified staff should calculate the gender pay gap for each quartile of their total remuneration and in total. Institutions with fewer than 250 identified staff should only submit the gender pay gap data based on the total figures for identified staff.
56. Institutions should calculate the pay gap in terms of the representation of each gender as a percentage of male and female staff based on the number of all staff and all identified staff, respectively. Where applicable under paragraph 55, per quartile – whereby the percentages of the male and female representation together should result, where applicable, in 100.00% for each quartile calculated and for the total figures for all staff and for identified staff.
57. The gender pay gap based on gross remuneration should be expressed as the difference between the remuneration levels of male and female staff, as the:
- a. difference between the mean remuneration of men and the mean remuneration of women, expressed as a percentage of the mean remuneration of men; and
 - b. difference between the median remuneration of men and the median remuneration of women, expressed as a percentage of the median remuneration of men.⁵
58. Institutions should comply with the following instructions in preparing the calculation:
- a. The remuneration of staff members (irrespective of their gender) should be arranged by the amount, beginning with the lowest amount. Each amount of remuneration for a staff member should be allocated to the male or female gender and it should be recorded whether or not the staff member is identified staff.
 - b. Staff members of a gender different from the male or female gender should be allocated to the gender they identify with or, if this is unknown or if it is different from the male or female gender, these staff members should be allocated to the male or female gender that in total has the lower number of staff members.
 - c. The established list of staff should, where applicable under paragraph 55, be separated into quartiles.
 - d. The median and mean of the remuneration for all male and female staff, and separately for male and female identified staff, should be calculated in total and, where applicable under paragraph 55, for each quartile.

⁵ Gender pay gap in percent = (average remuneration of men – average remuneration of women) *100 / average remuneration of men

59. All figures should be submitted as percentages with two decimal places (e.g. '17.23%' or '- 17.23%' in the case of a negative value). Where the gender pay gap for one category cannot be calculated, as there are only female staff members, the data point in Annex IV should be assigned the value 'N/A', where there are only male staff members the result should show '100.00%'.

7. Data quality

60. Institutions and competent authorities should check the completeness and plausibility of the benchmarking data before they submit these data to the competent authority or the EBA. Data quality checks should include the validation rules set out in Annex VII and the ones specified, where applicable, in the technical instructions for the data collection tool.

61. Where there are strong fluctuations of benchmarking data over time, the institution and the competent authorities should be able to provide explanations.

62. When checking the plausibility of benchmarking data, competent authorities should take into account the size and number of employees of the institution and typical remuneration levels. Identified implausible data should be followed up and corrected before the submission of data.

63. Where benchmarking data appear to be implausible, but are in fact correct, competent authorities should inform the EBA of the underlying reasons.

64. Regarding submitted benchmarking data that show potential data quality issues or are considered to be implausible, the EBA may ask competent authorities to review the data or to provide the information necessary for the correct interpretation of the data.

65. Competent authorities should provide, as necessary, corrected data or explanations for any implausible data as soon as possible. Competent authorities should closely cooperate with the EBA to ensure that the dataset for the analysis is stable and of good quality by – at the very latest – 30 September of the year when data has been reported.

66. When submitting benchmarking data to the EBA, competent authorities should ensure that they also comply with EBA/DC/335 of 5 June 2020 on EUCLID ('EUCLID Decision')⁶, as amended, and that they provide institutions with any technical specifications necessary for continuous compliance with the EUCLID Decision.

⁶https://www.eba.europa.eu/sites/default/documents/files/document_library/Risk%20Analysis%20and%20Data/Reporting%20by%20Authorities/885459/Decision%20on%20the%20European%20Centralised%20Infrastructure%20of%20Data%20%28EUCLID%29.pdf

Annex I: General information and information on remuneration of all staff

Name of the institution/group						Name			
Does the institution benefit from the derogation under Article 94 (3)(a) of Directive 2013/36/EU at an institutional level?						Yes/no			
Financial year for which the remuneration is awarded (year N)						Year			
	MB Supervisory function	MB Management function	Investment banking	Retail banking	Asset management	Corporate functions	Independent control functions	All staff in subsidiaries subject to a specific remuneration framework ¹	All other staff
Number of members (headcount)									
Total number of staff, FTE ²									
Total net profit in year N (in EUR) ³	Full amount in EUR (e.g. 123 456 789.00)								
Total dividends (or similar distributions) paid for year N (in EUR)	Full amount in EUR								
Total remuneration (EUR)									
Of which: variable remuneration (in EUR)									
Of which: fixed remuneration (EUR)									

¹ Staff within investment firms, undertakings for collective investment in transferable securities or alternative investment fund manager companies that are subject to a specific remuneration framework under Union acts

² The numbers of staff should be expressed as full-time equivalents (FTEs) and be based on year-end numbers of staff in accordance with their individual working time arrangements.

³ Net profits should be based on the accounting system used for regulatory reporting. For groups, it is the profit (or loss) based on the consolidated accounts.

Annex II: Additional information on remuneration of identified staff

Name of the institution/group:		Name			
Financial year for which the remuneration is awarded (year N):		Year			
	Management body Supervisory function	Management body Management function	Other senior management	Other identified staff	
Number of beneficiaries of contributions to discretionary pension benefits in year N					
Total amount of contributions to discretionary pension benefits (in EUR) in year N (included in other forms of variable remuneration)					
Total amount of variable remuneration awarded for multi-year periods under programmes which are not revoked annually (in EUR)					
For institutions that do not benefit from the derogation under Article 94(3)(a) of Directive 2013/36/EU at an institution-wide level Total amount of variable remuneration of identified staff members benefiting from at least one of the derogations under Article 94(3)(b) of Directive 2013/36/EU, based on a low level of variable remuneration					
For institutions that do not benefit from the derogation under Article 94(3)(a) of Directive 2013/36/EU at an institution-wide level Total amount of fixed remuneration of identified staff members benefiting from at least one of the derogations under Article 94(3)(b) of Directive 2013/36/EU, based on a low level of variable remuneration					

Annex III: Derogations from the application of requirements to pay out parts of variable remuneration deferred and in instruments under Directive 2013/36/EU (CRD)

Name of the institution/group:	Name	
Financial year for which the remuneration is awarded (year N):	Year	
Information on the availability of waivers	Derogations on a firm-wide basis under Article 94(3)(a) CRD	Derogations for identified staff under Article 94(3)(b) CRD
Does the institution apply the derogations regarding the requirement to pay out a part of the variable remuneration deferred and in instruments under Article 94(3)(a) CRD to all its identified staff. If this question has been answered with 'yes' the information below does not need to be provided.	Yes/no	
Does the institution apply the derogation from the requirement under Article 94 (1)(l) CRD (pay-out in instruments)	Yes/no	Yes/no
Where the institution applies the above derogation, but with a lower threshold as implemented under national law, please indicate the threshold applied in EUR		Threshold
Number of identified staff benefitting from the above derogation	Headcount	Headcount
Percentage of identified staff benefitting from the above derogation	Percentage	Percentage
Total remuneration of identified staff benefitting from the above derogation	EUR	EUR
Of which: variable remuneration	EUR	EUR
Of which: fixed remuneration	EUR	EUR
Does the institution apply the derogation from the requirement under Article 94 (1)(m) CRD (pay-out under deferral arrangements)	Yes/no	Yes/no
Where the institution applies the above derogation, but with a lower threshold as implemented under national law, please indicate the threshold applied in EUR		Threshold
Number of identified staff benefitting from the above derogation	Headcount	Headcount
Percentage of identified staff benefitting from the above derogation	Percentage	Percentage
Total remuneration of identified staff benefitting from the above derogation	EUR	EUR
Of which: variable remuneration	EUR	EUR
Of which: fixed remuneration	EUR	EUR
Does the institution apply the derogation from the requirement under Article 94 (1) second paragraph of point (o) (derogations with regard to the pay-out in instruments of discretionary pension benefits)	Yes/no	Yes/no
Number of identified staff benefitting from the above derogation	Headcount	Headcount
Total remuneration of identified staff benefitting from the above derogation	EUR	EUR
Of which: variable remuneration	EUR	EUR
Of which: fixed remuneration	EUR	EUR

Annex IV: Information on the gender pay gap

Institution (individual level)	Name
Legal entity identifier	Number
Member State	ISO code (e.g. AT, BE, CY)
Year	YYYY
Total number of staff	Headcount
Total number of identified staff	Headcount

Representation of staff of different genders per quartile of remuneration level

Representation of male and female staff in each quartile of remuneration level	All male staff in percent of all staff	All female staff in percent of all staff	All male identified staff in percent based on all identified staff	All female identified staff in percent based on all identified staff
Quartile 1 (low)	Percentage (e.g. 42.43%)	Percentage	Percentage	Percentage
Quartile 2 (low to medium)	Percentage	Percentage	Percentage	Percentage
Quartile 3 (medium to high)	Percentage	Percentage	Percentage	Percentage
Quartile 4 (high)	Percentage	Percentage	Percentage	Percentage
Total staff/identified staff	Percentage	Percentage	Percentage	Percentage

Gender pay gap based on the total gross remuneration

Total gross annual remuneration level	Gender pay gap of all staff, based on median	Gender pay gap of all staff, based on mean	Gender pay gap of identified staff, based on median	Gender pay gap of identified staff based on mean
Quartile 1 (low)	Percentage (e.g. 42.43%)	Percentage	Percentage	Percentage
Quartile 2 (low to medium)	Percentage	Percentage	Percentage	Percentage
Quartile 3 (medium to high)	Percentage	Percentage	Percentage	Percentage
Quartile 4 (high)	Percentage	Percentage	Percentage	Percentage
Total staff/identified staff	Percentage	Percentage	Percentage	Percentage

Annex V: Approved higher ratios between variable and fixed remuneration – institutions¹²

Institution name	Name
Legal entity identifier	LEI
Year	YYYY
Total number of staff (end of the financial year)	Headcount
Total number of identified staff (outcome of the yearly identification process)	Headcount
Balance sheet total (end of the financial year)	Amount in EUR
Approved higher ratio (i.e. ratio of variable to fixed remuneration that is above 100%)	Percentage
Date of latest approval of higher ratio by the shareholders' meeting	dd/mm/yyyy
Total number of identified staff potentially benefitting from an approved ratio above 100%	Headcount
Total number of identified staff that have in fact been awarded remuneration that leads to a ratio of variable to fixed remuneration above 100% for the financial year ¹³	Headcount

¹² Data should be reported by institutions on an individual basis.

¹³ Guaranteed variable remuneration and severance payments, where not included in the calculation of the ratio pursuant to the Guidelines on sound remuneration policies, should not be taken into account.

Annex VI: Approved higher ratios between variable and fixed remuneration – aggregation by competent authorities

Member State	<i>ISO code</i>
Year of the collected data	<i>yyyy</i>
Total number of institutions that have their legal seat within the Member State (additional information to be provided below) – e.g. derived from banking statistics	<i>Number</i>
Aggregated total number of staff of all institutions within the Member State	<i>Number</i>
Aggregated total number of identified staff of institutions within the Member State (where available, otherwise N/A)	<i>Number</i>
Aggregated balance sheet total of institutions within the Member State	<i>Number</i>
Number of institutions where shareholders have approved a higher ratio that have their legal seat within the Member State (additional information to be provided below)	<i>Number</i>
Thereof: number of institutions with their legal seat within the Member State that have approved 200% as the maximum ratio	<i>Number</i>
Aggregated total number of staff of these institutions	<i>Number</i>
Aggregated total number of identified staff of these institutions	<i>Number</i>
Aggregated balance sheet total of these institutions	<i>Number</i>
Aggregated total number of identified staff potentially benefitting from an approved ratio above 100%	<i>Number</i>
Aggregated total number of identified staff that have in fact been awarded remuneration that leads to a ratio of variable to fixed remuneration above 100% for the financial year	<i>Number</i>
Changes versus the previous data submission	
Number of institutions that have introduced a higher ratio after the last submission of data to the EBA (re-approvals should not be reported)	<i>Number</i>
Number of institutions that have discontinued the practice of higher ratios after the last submission of data to the EBA	<i>Number</i>

Annex VII – Data quality checks

Institutions and competent authorities should apply the following data quality checks with regard to the tables on remuneration included in the Commission Implementing Regulation (EU) 2021/637¹⁴.

Table REM1:

Row	Data quality check
1 and 9	The number of staff reported under the columns management body should be integer numbers.
2	The total fixed remuneration should be the sum of rows 3, EU 4a, 5, EU5x and 7; where identified staff are reported the amount should be > zero
9	The number of staff reported should not be higher than the number of staff reported in row 1
10	The total variable remuneration should be the sum of rows 11, EU-13a, EU-13b, EU-14x and 15
10	The total variable remuneration should not be lower than the sum of severance payments and guaranteed variable remuneration in table REM2 rows 2 and 7
-	The sum of deferred remuneration in rows 12, EU-14a, EU-14b, EU-14y and 16 should not be higher than the value in row 10
-	Ratio of deferred remuneration: the sum of deferred remuneration in rows 12, EU-14a, EU-14b, EU-14y and 16 should be higher than or equal to 0.4 times the value in row 10 after the deduction of guaranteed variable remuneration (table REM2 row 3) as well as severance payments (table REM2 row 10) and the amounts of variable remuneration awarded to staff where the derogation under Article 94(3)(b) applies (see Annex II).
-	Institutions should bear in mind that this simplified validation rule is for benchmarking purposes only and is not a validation of compliance with the remuneration requirements regarding guaranteed variable remuneration and severance payments, i.e. while the full amounts are deducted, parts of the amounts are possibly subject to the requirement to pay out parts of the variable remuneration under deferral arrangements.

¹⁴ The ITS is available under: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0637&from=EN>

This validation rule does not apply to institutions where all identified staff benefit from the derogation from the requirement to pay out parts of the variable remuneration under deferral arrangements under Article 94 (3) (a) of Directive 2013/36/EU.

11 and 12 The value in row 12 must not be higher than the value in row 11

EU-13a and EU-14a The value in row EU-14a must not be higher than the value in row EU-13a

EU-13b and EU-14b The value in row EU-14b must not be higher than the value in row EU-13b

EU-14x and EU-14y The value in row EU-14y must not be higher than the value in row EU-14x

15 and 16 The value in row 16 must not be higher than the value in row 15

- The ratio between fixed (row 2) and variable (row 10) remuneration must not be higher than, as applicable, 100% or 200%, after excluding rows 3 and 10 of table REM2 (bonus cap)

Payout in instruments: the sum of rows EU 13-a, EU 13-b and EU-14x should be equal to or higher than 50% of the total variable remuneration (REM2 row 10) after deducting the variable remuneration of staff where the derogation under Article 94(3)(b) applies (see Annex II), guaranteed variable remuneration (table REM2 row 3) and severance payments (table REM2 row 10).

Institutions should bear in mind that this simplified validation rule is for benchmarking purposes only and is not a validation of compliance with the remuneration requirements regarding guaranteed variable remuneration and severance payments, i.e. while the full amounts are deducted, parts of the amounts are possibly subject to the requirement to pay out parts of the variable remuneration in instruments.

This validation rule does not apply to institutions where all identified staff benefit from the derogation from the requirement to pay out parts of the variable remuneration in instruments under Article 94 (3) (a) of Directive 2013/36/EU.

Table REM2

Row	Data quality check
1, 4 and 6	Number of staff reported under columns 'a' and 'b' should be integer numbers.
1 and 2	If row 2 has a positive value, row 1 needs to have a positive value as well, and vice versa.
2	The value of row 3 should not be higher than the value in row 2
6 and 7	If row 7 has a positive value, row 6 needs to have a positive value as well, and vice versa.
7	The value of the sum of rows 8 and 9 must be equal to the value in row 7
10	The value of row 10 must not be higher than the value of row 8
11	The value of row 11 must not be higher than the value in row 7

Table REM3

Row	Data quality check
1	The values must be equal to the sum of the values of rows 2, 3, 4, 5 and 6 for each column
7	The values must be equal to the sum of the values of rows 8, 9, 10, 11 and 12 for each column
13	The values must be equal to the sum of the values of rows 14, 15, 16, 17 and 18 for each column
19	The values must be equal to the sum of the values of rows 20, 21, 22, 23 and 24 for each column
25	The values must be equal to the sum of the values of rows 1, 7, 13 and 19 for each column
-	The value in column 'a' must be equal to the sum of the values of columns 'b' and 'c' for each row

Table REM5

Row	Data quality check
1	The number in column 'j' must be equal to the sum of row 2 column 'c', row 3 columns 'd' to 'i' and row 4 columns 'd' to 'i'
2	Column 'c' must be equal to the sum of columns 'a' and 'b'
3	The sum of the numbers in column 'd' to 'i' must be equal to the number in row 1 column 'c' of table REM1
4	The sum of the numbers in column 'd' to 'i' must be equal to the number in row 1 column 'd' of table REM1
5	The value in each column 'a' to 'i' must be equal to the sum of rows 6 and 7 of the respective column
5	The sum of column 'c' to 'i' must be equal to the sum of columns 'a' to 'd' of row 17 in table REM1
6	The values in columns 'a' and 'b' must be equal to the values in columns 'a' and 'b' in row 10 in table REM1, respectively
6	The sum of columns 'c' to 'i' must be equal to the sum of columns 'a' to 'd' of row 10 in table REM1
7	The values in columns 'a' and 'b' must be equal to the values in columns 'a' and 'b' in row 2 in table REM1, respectively
7	The sum of columns 'c' to 'i' must be equal to the sum of columns 'a' to 'd' of row 2 in table REM1

4. Accompanying documents

5.1 Draft cost-benefit analysis/impact assessment

Article 16(2) 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) (EBA Regulation)¹⁵ specifies that the EBA should carry out an analysis of ‘the potential related costs and benefits’ of any guidelines it develops. Such analyses shall be proportionate in relation to the scope, nature and impact of the guidelines. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

Compared to the previous guidelines, this version includes additional specifications for benchmarking, additional tables relating to the gender pay gap and to derogations from the application of requirements to defer payouts of some components of variable remuneration and to make some payments in the form of instruments for institutions. Both requirements were introduced by Directive 2019/878 (CRDV), which amended Directive 2013/36/EU (CRD). Therefore, the impact of these additional requirements will not be assessed, as it stems directly from the Level 1 text, rather than from these Guidelines.

On the contrary, other aspects of procedural specifications within these Guidelines, as well as other changes implemented, will be assessed from the perspective of costs and benefits that they entail to the institutions, NCAs and in terms of financial stability. More generally, the Guidelines are not expected to create a significant burden on credit institutions given that they already apply the previous guidelines. For the additional data to be collected to fulfil the benchmarking mandates within the CRD, to the extent possible the EBA minimised the amount of data to be provided while ensuring that the overall objectives of the legislative mandates are fulfilled. At the same time, the EBA has proposed the streamlining of some previous data specifications and proposes to rely on Commission Implementing Regulation (EU) 2021/637.

In this section we look at specific issues where various options were weighed and choices made. The section explains the costs and benefits of each of these options and the preferred option.

Data for remuneration benchmarking

Problem identification: most data required for remuneration benchmarking are also disclosed as part of Commission Implementing Regulation (EU) 2021/637. However, there are additional data tables included in the Guidelines compared to the disclosure tables in Commission Implementing Regulation (EU) 2021/637, and these data tables are needed for benchmarking purposes.

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010R1093>

Requiring tables different from the ones used for disclosures would lead to an additional burden for institutions as additional data operations would need to be processed. The EBA therefore decided to align the tables for the data requirements with Commission Implementing Regulation (EU) 2021/637 and to collect all the data that have to be disclosed also for benchmarking purposes. As a result, the tables on remuneration benchmarking were removed, and the guidelines instead refer to the tables within Commission Implementing Regulation (EU) 2021/637. These are complemented by a few extra tables with some additional datapoints, which are required to ensure compliance with the benchmarking mandates.

In an addition to the previous guidelines, the dividends paid will also be collected. This information is available based on figures in corporate accounts. This addition is therefore not considered burdensome.

The breakdown by business areas for the remuneration of all staff has been slightly amended to identify the overall part of remuneration paid to staff in groups that are subject to a specific remuneration regime. This is necessary to identify trends in remuneration practices in parts of the group that are subject to a specific remuneration regime and the parts that are subject to the regime under Directive 2013/36/EU.

Overall, the changes will result in the costs for institutions being lowered, first because the granularity of a material part of the benchmarking exercise will be reduced (data by business line will be required only for the totals of fixed and variable remuneration), and, second, because both the tables and the instructions will be those from Commission Implementing Regulation (EU) 2021/637, which implies that the data can be reused exactly as they are compiled for disclosure purposes, without additional effort. In contrast, the few additions are minor, rely on data available in corporate accounts, and therefore are not deemed to create a notable increase in costs.

Data for the gender pay gap assessment

The CRD explicitly introduced a requirement that institutions must apply gender-neutral remuneration policies and that the EBA should benchmark the gender pay gap. The monitoring of the gender pay gap is an element specified in the EBA Guidelines on internal governance and EBA Guidelines on sound remuneration policies.

However, the requirements that there must be equal treatment of men and woman and that any form of discrimination is prohibited are not new and were already included in Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation¹⁶, which were subsequently translated in various ways into rules for implementation at the national level. To provide guidance on the way the gender pay gap is to be monitored, and to encourage harmonisation of the methodology across Member States, in 2014 the European Commission published the Pay Transparency Recommendation¹⁷,

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054>

¹⁷ Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014H0124>

providing specific instructions to entities of 50 staff and above on how the gender pay gap should be calculated as one of the measures to monitor compliance with the above Directive.

While the Recommendation to monitor the gender pay gap is not new, it has now been specified in the CRD that competent authorities should collect information on the gender pay gap and provide this to the EBA for benchmarking purposes. The EBA is aware that not all the Member States have implemented this using the methodology proposed in the Recommendation.

The current guidelines specify the data that institutions should provide on the gender pay gap, and therefore also need to provide a table and instructions on what figures to provide and how to calculate them. Not specifying any methodology would lead to incomparable data being provided, and inconclusive findings.

The updated Guidelines therefore specify how the institutions calculate the gender pay gap using the methodology proposed by the European Commission in its 2014 Pay Transparency Recommendation and provide further specifications on the calculation in the context of the remuneration requirements under the CRD and, in particular, that institutions must have gender-neutral remuneration policies for all staff and their identified staff.

Using this methodology has several benefits. It addresses many pitfalls relating to the gender pay gap calculations with a view to ensuring the relevance and comparability of the final figures (for example, the adjustment of the time worked to consider part-time work, maternity/paternity leave, partial work during the year, etc.).

The guidelines foresee a more granular approach for institutions with 250 or more staff than for institutions with 50 staff up to 249 staff. The same applies with regard to the number of identified staff in institutions. Such an approach is consistent with the principle of proportionality. However, the calculation proposed, once the annual remuneration for each staff member has been established, can be performed with standard calculation tools that are available in institutions.

In addition, the methodology has been already published and is familiar, at least to institutions in those Member States that have implemented the Recommendations at the national level. Consequently, while all institutions must monitor the gender pay gap in accordance with the CRD and ensure that they comply with the Directive on Equal Opportunities, the costs that the institutions will incur as a result of these Guidelines will mostly depend on the methodology they currently apply:

- If monitoring is conducted using the methodology in accordance with the 2014 Pay Transparency Recommendation, then the additional costs will be minimal.
- If monitoring is conducted in a different way, the costs may be substantial, as the implementation of the methodology may require adjustments to the HR systems that would allow the automatic identification of the gender of the employee, their identified staff status, their annual number of hours worked (adjusted to take account of part-time

work, maternity/paternity leave etc.). Alternatively, this information would have to be compiled manually.

The costs of data submission to competent authorities and from competent authorities to the EBA have not been assessed as they are caused by the requirements introduced within the CRD.

Scope of gender pay gap assessment

The scope of these data requirements encompasses all institutions covered by the remuneration benchmarking, with additional institutions to be added to the sample by the NCA to ensure the representativeness of the sample in terms of types of institutions. All the institutions are to report the data at an individual level, unlike the remuneration data, which is disclosed and reported at the consolidated level. The slightly larger scope compared to remuneration benchmarking is necessary to ensure that all kinds of institutions are represented and that the results of the monitoring are relevant and representative.

Data on derogations

Regarding the data requirements relating to derogations from the application of requirements to defer payouts of some components of variable remuneration and to make some payments in the form of instruments for institutions, the tables only include the data that are strictly required as part of the CRD benchmarking mandate and CRR disclosure requirements. A lower level of granularity was not an option. As such, there is no impact stemming directly from the Guidelines.

Data requirements in respect of approved higher ratios

Finally, the Guidelines also specify data on higher ratios to be reported. The aim of these tables is to harmonise the benchmarking of approvals granted by shareholders to use higher ratios between the variable and fixed remuneration components under Article 94(1)(g)(ii) of the CRD for better monitoring and impact assessment.

Currently, the information on higher ratios is collected via a one-off notification. As a result, it is impossible to assess the ongoing impact on the institution and remuneration practices in general during the period in which the higher ratio applies. To enable monitoring, limited relevant information about the institution, such as total assets, total staff during the time when this higher ratio applies and the number of identified staff (i.e. in the subsequent years after the approval of such a ratio) needs to be collected.

The approach proposed in these Guidelines implies the regular reporting of information on higher ratios for each institution, as well as additional relevant information which will allow the EBA to monitor and assess the impact of this provision and to fulfil its mandate to publish aggregated information for each Member State. The costs are limited to the regular submission as the general information on the remuneration policies, including the ratio used, are subject to disclosure requirements.

Overall conclusion

Overall, the costs created by the Guidelines are minimal, but in terms of benchmarking the gender pay gap the costs will vary according to the current practices at institutions in Member States. For individual institutions, the implementation costs for this specific aspect may be material, but those costs would mainly be one-off implementation costs. The requirement as such is created by the CRD. Overall the Guidelines ensure that the benchmarking exercises can be conducted efficiently and that the information obtained is relevant to reviewing how remuneration practices and the remuneration framework develop, including the application of derogations. While the Guidelines do not have a direct impact on financial stability, they enable remuneration practices to be monitored and identification of whether they are aligned with institutions' performance and the risks they take. Overall, increased transparency in respect of remuneration practices should have a positive effect on financial stability as it provides indicators for monitoring long-term incentives for prudent behaviour.

5.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for two months and ended on 21 March 2022. Seven responses were received, of which six were published on the EBA website. The EBA's Banking Stakeholder Group did not submit an opinion.

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's analysis are included in the section of this paper where the EBA considers them most appropriate. The comments received have been taken into account in both consultation papers on remuneration benchmarking (CRD and IFD).

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

While most respondents appreciated the additional clarity of the Guidelines, some additional clarifications have been requested. No material changes to the approaches taken were suggested.

The respondents raised some concerns vis-à-vis the requirement to benchmark the gender pay gap and commented that the information collected is difficult to interpret and would not allow an analysis of the principle of equal pay for equal work. The EBA has provided additional clarifications as outlined in the feedback table below. The EBA is aware of the limitations of calculating an unadjusted gender pay gap, but considering the burden for institutions, the approach taken is deemed sufficient to determine the representation of different genders among the staff and at positions with different pay levels.

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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Timeframe	One respondent asked for consistency in the timeframes for the different exercises, wondering why the gender pay gap data collection will only start in 2024, while the other exercises start in 2023. The respondent also queried why the time between two data collections diverges (every year or every two and three years)?	The timeline for the gender pay gap data collection takes into account the time needed to implement the necessary changes to participating institutions’ HR systems. Different time periods for the data collection were chosen to reduce the burden entailed in the collection of data, which is expected to become less volatile over time.	No change
Scope of application	A few respondents asked for clarification as to whether the Guidelines would create obligations towards all institutions or only institutions included in the sample.	While the Guidelines are addressed to all institutions as they may become part of the sample, the requirement to submit such data is limited to institutions selected by competent authorities.	No change
Scope of ‘staff’	One respondent required further specification of the term ‘staff’ as it is unclear whether this only includes employees or whether it would also include those with ‘worker’ status or independent contractors in certain circumstances.	The term ‘staff’ is defined within the EBA Guidelines on sound remuneration policies and should be understood to mean all employees on a consolidated basis and all members of their respective management bodies in their management function and in their supervisory function.	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Counting FTE staff	One respondent asked if FTE relates to the total or to the individual working time arrangements and how leavers are counted.	Staff employed at the end of the year will be counted in line with their individual working time arrangements.	GL amended
Differing regulatory frameworks	One respondent generally commented that institutions with cross-border banking activities are subject to various remuneration reporting requirements, and the guidelines that support the requisite reports are not always aligned. They therefore put forward proposals for a single common reference framework that sets a unified approach to remuneration disclosures, including more concise reporting. They also noted that it would be helpful if the guidelines maintained commonly defined terms, e.g. in respect of Pillar 3 reporting requirements.	The EBA’s mandates are included in EU Directives and the benchmarking is consistent with the legally applicable remuneration framework in the EU. While we understand that there are differences versus the Basel framework, the EBA GL cannot change existing reporting or disclosure requirements under the EU legal framework.	No change
Treatment of members of the management body in its supervisory function (MBSF)	One respondent suggested using a separate table for members of the MBSF, as they are not staff of the entities. Similarly, a lot of the references in the Guidelines and tables do not apply to MBSF.	MBSF are subject to the specific requirements on variable remuneration and are included in the definition of staff within the EBA Guidelines. With regard to the gender pay gap, the calculation already takes into account the fact that such MBSF who only receive a participation fee are not considered in the calculation. As the gender pay gap at board level is calculated separately as part of the diversity benchmarking exercise, the MBSF members have been removed from the calculation.	GL amended
Scope of data collection	One respondent argued that SNCIs do not have to provide all the information set out in Article 450 of the CRR, which is not considered in these Guidelines.	The collection of benchmarking data is not limited to disclosed information, but needs to include the	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		data required for the EBA to fulfil its benchmarking mandate.	
Disclosure	One respondent argued that no disclosure on remuneration practices should have to be made other than those required under Article 450 of the CRR.	The GL specify the EBA’s benchmarking exercises. While institutions may use this information to enrich their disclosures, the GL do not create additional disclosure requirements.	No change
Definition	One respondent asked for the definition of ‘competent authority’ to be included in the Guidelines.	The term is defined in the underlying Directive.	No change
Responses to questions in Consultation Paper EBA/CP/2022/02			
Q1: Is the section on subject matter, scope, definitions, addressees and implementation appropriate and sufficiently clear?			
Background 6, 19d, 46-47, Annex III	One respondent questioned the legal basis of disclosing extensive information on the derogations, and argued that this also creates more work and is therefore in violation of the proportionality principle.	Under the Guidelines the information to be disclosed under the applicable Regulation is collected as mandated in the Directive. The proportionality principle does not allow the disapplication of legal requirements, but requires their proportionate application. The information collected mirrors the disclosed information exactly.	No change
Background 6	One respondent asked whether only identified staff at the consolidated level (material impact on the group risk profile) should be considered, or whether identified staff of all institutions at the individual level should also be included.	Similar to the consolidation of own funds, the numbers of identified staff should be aggregated. When submitting remuneration data on a consolidated basis, the number of identified staff and remuneration to be reported should be the sum of all identified staff and remuneration of all entities included in the scope of prudential	GL amended

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>consolidation to whom the CRD remuneration requirements apply.</p> <p>The same should apply with regard to reporting on the application of derogations.</p> <p>The GL have been clarified further.</p>	
Background 9 and 53	<p>We understand that entities with fewer than 50 staff members do not have to provide data under the gender pay gap. We think that the same principle should apply to the internal analysis of gender pay equity as the population is too tight to conduct statistical analysis.</p>	<p>For benchmarking purposes, competent authorities will select institutions to whom such requirements can be applied. Other institutions are not required to calculate these figures under these Guidelines, but should monitor the gender pay gap internally under the EBA Guidelines on sound remuneration policies and internal governance. The monitoring method may differ from the present GL.</p>	No change
Background 9	<p>One respondent noted that the actual Guidelines do not specify that the sample of institutions for pay gap benchmarking should only include institutions with at least 50 members of staff.</p>	<p>This comment has been accommodated.</p>	GL amended
Subject matter 8 and para. 48	<p>One respondent asked for clarification of the term ‘individual level’. Another asked for confirmation of their understanding that the gender pay gap should only be provided at the level of the local legal entity and only for staff members working at the local legal entity.</p>	<p>The GL have been amended to consistently refer to the individual basis, which is a well established term under the CRD and indeed refers to the situation of an individual entity to whom the CRD applies.</p> <p>The calculation is limited to the members of staff who are predominantly active in the Member State where the institution is located. Other staff, e.g. in third country branches of that institution, should not be included as this would distort the</p>	GL amended

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Subject matter 8 and para. 48	One respondent suggested that gender pay gap data should also be collected at the consolidated level to be more in line with the remuneration benchmarking exercise, in order to limit operational costs for the entity, and to remove issues around ‘secondment’. As an alternative, the respondent asked for confirmation that gender pay benchmarking only applies to institutions within a banking/investment firm group within the scope of the CRD/IFD at the individual level	<p>calculation of the pay gap due to different remuneration levels in different jurisdictions and exchange rate volatility.</p> <p>The collection of gender pay gap data for benchmarking purposes has been limited to the individual basis. However, the requirement to have gender-neutral remuneration policies in place applies on a group-wide basis.</p> <p>The calculation for benchmarking purposes has been intentionally limited to the individual level so as to avoid data being mainly driven by different remuneration levels between countries and different gender ratios between countries.</p> <p>The approach chosen also reduces the number of staff that are subject to gender pay gap benchmarking compared to a situation where all staff at the consolidated level would be subject to such benchmarking.</p>	No change
Implementation 14	One respondent asked why the former guidelines would remain as a reference point when they have been repealed in paragraph 13.	This provision is replacing all references in other EBA Guidelines to the benchmarking guidelines. It has been reformulated for clarity.	GL clarified
Q2: Is the section on the scope of institutions appropriate and sufficiently clear?			
Para. 15 and 16	One respondent asked how the information on which institutions are included in the benchmarking sample is shared, as they believe there should be a clear and transparent process of informing institutions. The proposed Guidelines include details of how CAs inform	The EBA publishes on its website the sample for remuneration benchmarking. This is subject to the EBA’s internal procedures and is not part of guidelines addressed to competent authorities or institutions.	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	the EBA of the sample, but not how CAs inform the institutions.		
Para. 17	Multiple respondents noted that institutions falling under the gender pay gap reporting need time to prepare, and therefore should be informed as soon as possible. Respondents suggested that the institutions should be informed either at the beginning of the performance year for which data is collected. Another respondent suggested by the end of 2022 at the latest (for FY 22).	The EBA has duly noted this comment and will aim to establish a list of institutions in good time after the publication of the final Guidelines.	No change
17	Two respondents suggested that due to the limited informative value and the high administrative burden, there is no reason to extend the sample of institutions for the gender pay gap benchmarking beyond the sample of remuneration benchmarking institutions.	The EBA has been given a mandate to benchmark the gender pay gap that applies to all institutions. Benchmarking requires a representative sample and therefore smaller institutions also need to be included in the exercise. We consider the information to be obtained of high value and assume that this is also true for other stakeholders, including the European co-legislators.	No change
17	One respondent noted that the Guidelines specify that data should be collected from different kinds of institutions. Firstly, this does not consider whether or not an institution is bound by collective pay agreements. Secondly, it is not clear whether this also includes small and non-complex institutions, and therefore the Guidelines need to be clarified. The respondent felt that the sample should be based solely on size and not on the type of institution.	To be representative, the sample needs to represent all practices in the banking market, including practices at smaller institutions. The fact that most contracts may be based on Union agreements does not ensure that there are no imbalances in terms of gender representation at different pay levels. The Guidelines provide sufficient clarity to the competent authorities that will define the sample.	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Q3: Is the section on the procedural requirements for institutions appropriate and sufficiently clear?			
19	One respondent asked whether institutions have to submit tables REM1 to REM5 of Commission Implementing Regulation (EU) 2021/637 to CAs, as this is not specified in the Regulation.	The tables in the ITS relate to institutions' disclosures and not their financial reporting. However, for the purpose of remuneration benchmarking, the EBA will collect this information from institutions within the sample and provide them with the data point model in EUCLID.	GL clarified
19-22 26	Three respondents requested that the previous reporting deadlines should be maintained. An earlier date means that the reporting requirement would increase the administrative burden for institutions around shareholder meetings and therefore would be difficult to complete. Additionally, the many checks and manual entries require a significant amount of time for institutions to be able to provide data. One respondent additionally noted that the deadline for the REM tables in the Guidelines would be before the deadline set by the CRR/RTS. Additionally, the deadline for CAs to report to the EBA should also be restored in order to allow for quality checks.	This comment has been taken into account.	GL amended
General	Three respondents highlighted the difference in the deadlines for gender pay gap reporting compared to other reporting, requesting some consistency.	The frequency of gender pay gap benchmarking was intentionally reduced to lower the burden on institutions. The findings of this analysis are not expected to change rapidly from year to year. The timelines are otherwise consistent.	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Q4: Is the section on the procedural requirements for competent authorities appropriate and sufficiently clear?			
Q5: Is the section on the instructions for the remuneration benchmarking exercise appropriate and sufficiently clear?			
39	Two respondents noted that there is a discrepancy by including the remuneration of leavers, but not including them in the headcount, and therefore suggested to either include leavers in the headcount or remove details of their remuneration.	<p>The EBA is aware of this aspect, but continues to believe that the approach chosen is sufficient to obtain remuneration trends at the Union level and reduce the burden of institutions.</p> <p>For precise data, one would need to correct not only the aspect of leavers, but also the aspect of new joiners. If a leaver is replaced by a new member of staff, the remuneration paid and included for the leaver is a proxy for the remuneration of the new member staff who is included in the FTE, i.e. the FTE and remuneration are reported correctly, without the need for any correction. Corrections of remuneration amounts and FTE numbers, considering all the changes for all identified staff, including between business areas and entities, would create a disproportionate burden.</p>	No change
42	Two respondents noted that there is a different definition of the management body management function and the management body supervisory function between the benchmarking and high-earner data collection consultation papers, and that these should be aligned.	<p>The differentiation is intentional.</p> <p>For benchmarking purposes, in most cases data are collected at the consolidated level, i.e. as the group would be one institution, aggregating all the identified staff and remuneration awarded. Therefore, in line with the ITS on disclosure, members of the management body of subsidiaries are allocated to the business lines.</p>	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		Moreover, such members usually receive less remuneration than members at the parent level. This aspect, while relevant to benchmarking, is not relevant to the collection of high-earner data.	
42 a.	As it is noted that members of management bodies of subsidiaries should be allocated to the relevant business areas and otherwise to the category ‘other identified staff’, one respondent wanted to clarify where in Annex II these persons should be allocated to: ‘other senior management’ or ‘other identified staff’.	As set out in the consultation paper, the members of the management function are allocated to ‘senior management’ and the members of the supervisory function to ‘other identified staff’.	No change
42 a. and b.	One respondent asked whether this marked a conscious departure from the existing approach so that only the management body of the consolidating entity has to be identified at the consolidated level.	It is a conscious decision to ensure consistency with the ITS on disclosures.	No change
42 c.	One respondent noted that some institutions may not consider corporate finance advisory services as part of investment banking. Furthermore, they argued that while regulatory guidance should be aligned, there is a potential conflict here with paragraph 4, table 2 of Article 317 of the CRR. They therefore requested the same definitions are used as in the CRR and Pillar 3.	The guidelines are intended to harmonise the data for benchmarking purposes. Given the limited number of business areas, institutions will need to aggregate data to some extent. The definitions of investment banking and trading and sales have been clarified.	GL amended
42 f.	One respondent noted that HR is cited as an example of a corporate function, but that some firms treat HR as an independent control function (as part of risk).	For the purpose of the data collection, the functions concerned are limited to the independent risk management, compliance and internal audit functions as specified in the EBA Guidelines on internal governance.	GL clarified
Q6: Is the section on the instructions for the gender pay gap benchmarking exercise appropriate and sufficiently clear?			

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Overall clarity	<p>One respondent, referring to gender benchmarking calculations in the UK, suggested further clarifications and guidance on various aspects.</p> <p>In addition, specific questions were raised regarding information on participating firms and the selection of the sample.</p>	<p>The EBA found the Guidelines consulted on to be sufficiently clear in principle and made some additional amendments as requested.</p> <p>The Guidelines provide a framework for the selection of institutions by competent authorities, and the information collected is shared with the EBA by law. Specific information is not necessary, but the EBA publishes a sample of such data collections.</p>	See detailed comments below
Reporting frequency	<p>One respondent pointed to the fact that there are local laws on gender pay gap benchmarking with an annual frequency and suggested considering a fixed date for all firms as a reference date.</p>	<p>The Guidelines are necessary to fulfil the EBA’s specific mandate to benchmark the gender pay gap.</p> <p>Given the slow pace of developments in this regard and in order to limit the burden on institutions, a longer reporting interval has been deemed appropriate.</p> <p>To align disclosure requirements with the calculations to be made under the GL, the end of the financial year has been selected. The data collection on the gender pay gap will start in 2024 for 2023, providing all the institutions selected to participate in this exercise with sufficient time for implementation.</p>	No change
Remuneration amounts	<p>A few respondents raised some issues around which elements of remuneration should be included and how bonuses would be treated differently from fixed remuneration, e.g. for staff that worked only for some of the year.</p>	<p>The calculation of amounts should include all elements of fixed and variable remuneration, including taxable non-monetary benefits. The amount used within the calculation should reflect the staff member’s annual remuneration (and all</p>	GL clarified

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>elements thereof) as if the staff member had worked full time. This is necessary to ensure that the annual remuneration can be used for this exercise instead of an hourly rate.</p> <p>See also comments below.</p>	
48	<p>Two respondents noted that expatriates should be excluded from the gender pay gap calculations as they constitute a very small group with specific remuneration package structures, and therefore including them leads to a disproportionate administrative burden.</p>	<p>The GL specify staff who are predominantly active in the Member State where the institution is located. This may include staff who are expatriates.</p> <p>The institution is aware of the remuneration of its staff, including for tax purposes. The EBA therefore sees no material administrative burden arising by including such staff in the calculation.</p>	No change
48	<p>One of the respondents sought clarification that branch staff are to be excluded even if they predominantly work for their home state.</p>	<p>Branches are a non-independent part of an institution and therefore staff working in branches in the same Member State are to be included in the calculation.</p>	GL clarified
49 a.	<p>Two respondents suggested clarifying that a member of staff should be excluded even if their final day is the last day of the performance year.</p>	<p>The staff employed at the end of the financial year form the basis for the calculation; the remaining contractual period is not relevant to the calculation of the gender pay gap.</p>	No change
49 b.	<p>Two respondents questioned the differential treatment of staff members absent at the end of the year, compared to staff during the year. One of these respondents proposed excluding any member of staff who has not been present for the full year.</p>	<p>Where staff are absent at the end of the year for a foreseeable longer period and receive less remuneration than normal, the additional burden entailed in including such staff in the pay gap calculation outweighs the benefits of covering these staff members.</p>	GL clarified

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>One respondent questioned why members of staff should be excluded in accordance with paragraph 49 b. as their salary remains the same. They pointed out that excluding employees on parental leave may disproportionately impact women and therefore undermine the purpose of the pay gap exercise. Furthermore, they sought clarification on whether these members of staff are to be excluded from both tables in Annex IV, or only from the pay gap table.</p>	<p>Inclusion would require the establishment of the normal full amount of remuneration including the variable part, while it cannot be foreseen in many cases when the staff member will return to work. The adjustment would add subjective elements to the calculation.</p> <p>Conversely, for staff present at the end of the year after such periods of leave, an extrapolation of the remuneration can be conducted with relative ease and certainty.</p> <p>Staff members should only be excluded if they receive less than their regular total annual remuneration.</p> <p>The Guidelines have been adjusted and clarified with regard to the length of such absence periods.</p>	
<p>49 c.</p>	<p>Two respondents questioned the logic of excluding staff recruited in the last three months of the year. One respondent proposed excluding all new recruits that do not receive variable remuneration.</p>	<p>The three-month period has been included to allow institutions timely preparation of the calculation and to reduce the administrative burden.</p>	<p>No change</p>
<p>49 c. (and 51 e.)</p>	<p>One respondent noted that the wording is potentially contradictory to paragraph 51e and suggested excluding all staff who have not been employed for the full financial year.</p>	<p>The first provision concerns the inclusion of staff, the second the inclusion of certain amounts for staff included in the exercise. Excluding all such staff would lead to an incomplete calculation.</p> <p>No contradiction has been identified. The calculation is necessary to arrive at a comparable basis for the time for which the remuneration is measured. A different approach would be to</p>	<p>No change</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		calculate hourly rates, which is not customary in institutions.	
49 e.	<p>One respondent noted that clarification is needed of footnote 4, and they would prefer all members of the supervisory board to be excluded.</p> <p>Another respondent pointed out that executive and non-executive board members have different remuneration structures, and therefore the gender pay gap should concentrate on executive remuneration.</p>	The comment has been taken into account. MBSF should not be taken into account unless they are employee representatives and receive regular remuneration.	GL amended
51	One respondent noted, while generally appreciating the 'best effort' clause, that it could lead to asymmetrical calculations of benefits, with some being included and some not, and with institutions using different calculation methods and assumptions. The data would therefore not be comparable in the end.	For most staff the amounts should be easy to calculate. The EBA accepts this approach to avoid additional burdens on institutions.	No change
51 a.	<p>Respondents agreed on the difficulties of valuing non-monetary benefits.</p> <p>A number of solutions were proposed:</p> <ul style="list-style-type: none"> - not including benefits which are not deemed income from non-independent work or remuneration pursuant to local tax law; or - not including payments or marginal benefits granted to staff on a non-discretionary basis which are part of a general policy and do not have any link to the incentives for accepting or controlling risks (e.g. company car, interest-free loans, free company crèche, etc.) 	<p>The Guidelines have been clarified further. The intention is that only taxable amounts are included.</p> <p>The calculations are based on the gross remuneration and only relate to staff in the Member State.</p>	GL amended

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	<p>Additionally, one respondent noted that local tax laws vary.</p>		
51 c.	<p>One respondent asked for clarification on including LTIPs from previous performance years that are paid in the current year and would prefer that these Guidelines are in line with other EBA guidelines on variable remuneration.</p>	<p>The approach is consistent with the guidelines on remuneration policies, which, however, provide for some more flexibility in the calculation for the purposes of the bonus cap. For the calculation of the pay gap it was deemed more appropriate to look at the actual awards made.</p>	No change
51 e.	<p>One respondent requested clearer instructions for the extrapolation of fixed and variable pay on a ‘best effort’ basis, as they were concerned that firms would provide data that are collected in an inconsistent way. Specifically, they wanted clarification on whether variable remuneration in particular should be calculated on a pro-rata or FTE basis. They generally sought further guidance.</p>	<p>It is important that the remuneration of staff is comparable for the unit of time worked.</p> <p>In line with Art. 157 TFEU, it would be best to calculate an hourly rate, but this is not customary in institutions. Hence, on a best effort basis institutions should calculate an amount that best represents the variable and fixed remuneration a staff member would have received if the staff member had been employed full time throughout the year.</p> <p>The Guidelines have been clarified. A best effort-based calculation would not be possible if very detailed step-by-step guidance were provided for each and every possible situation, which would be much more burdensome.</p>	GL amended
52 to 57	<p>While one respondent noted that they welcomed this simple and straightforward way to calculate the gender pay gap, most respondents observed that the gender pay gap calculated in this way is of limited use as it does not consider the function and seniority of the people in</p>	<p>The EBA is aware of the usability and limitations of the information that can be derived, which will clearly be linked more closely to gender imbalances in terms of gender representation in</p>	No change

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	<p>the groups. Respondents were worried about the conclusions derived from this analysis.</p>	<p>higher-paid jobs as opposed to the principle of 'equal pay for equal work'.</p> <p>It is intended to provide a benchmark for the so-called unadjusted gender pay gap and to look separately and regularly in the future at the gender pay gap at board level.</p>	
54-56	<p>One respondent asked for guidance on bridging gender pay gaps specifically in cases where banks have collective agreements which focus on rewarding tenure and performance, thus automatically creating some form of gender pay gap.</p>	<p>Guidance is given in the EBA Guidelines on internal governance and EBA Guidelines on sound remuneration policies. As explained above, the GL are intended to calculate the unadjusted gender pay gap (no adjustments for role, performance and experience are being made).</p>	No change
56 b.	<p>Two respondents suggested excluding the data for staff members with a gender different from male or female due to the sensitive nature of this topic.</p> <p>Additionally, one respondent noted that the data on gender is not readily available as people may not wish to disclose the data and it is categorised as sensitive personal data requiring explicit consent under the GDPR.</p>	<p>It is not the intention of the GL to force staff with a different gender to make this known. However, the gender will usually be known where it is recognised by a legal decision.</p> <p>Not taking into account staff of other genders would be discriminatory and therefore cannot be considered.</p> <p>The collection of data for each gender is a prerequisite for calculating a gender pay gap, pursuant to its legal basis. Institutions should make reasonable efforts in line with the GDPR to determine the gender of staff for the purpose of calculating a gender pay gap.</p> <p>Where information cannot be attained, the staff member may be omitted from the calculation.</p>	No change

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Q7: Are the section containing the instructions regarding data quality and Annex VII appropriate and sufficiently clear?			
Annex VII	One respondent asked why the number of staff reported in the management body columns should be integers. Does this mean part-time staff on the management body should not be reported?	Part-time members of the management body would be counted as one full headcount. The explanation is provided in section 5 of the Guidelines.	No change
Q8: Are the Annexes on data collection appropriate and sufficiently clear?			
Annex I	Two respondents pointed to the strong overlap between Annexes I and II and Commission Implementing Regulation (EU) 2021/637. They argued specifically that Annex I is a duplication of work, a bureaucratic burden and goes beyond the necessary information, especially because of the breakdown by business area, which is not required in the CRR.	Annexes I and II are information needed in addition to the Commission Implementing Regulation for benchmarking purposes, e.g. to benchmark the overall impact remuneration policies for identified staff have on the institution in total and in relative terms compared with the remuneration of all other staff. The benchmarking mandate requires the EBA also to use the disclosed data, but does not limit the use of necessary additional data that can be collected for such purposes.	No change
Annex II	One respondent asked whether Annex II needs to be filled in by each entity or on a consolidated level.	The Annex will be provided by the reporting institution based on the reporting level, i.e. groups report data on a consolidated basis (aggregating all the data of all institutions that are subject to prudential consolidation). Individual institutions, if they are part of the sample for this exercise, report on an individual basis.	GL clarified

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Annex II and III	There is some duplication in the data requested on derogations between Annex II (last two lines) and Annex III.	Annex II has been clarified. This concerns the sum of all amounts of remuneration of identified staff that benefits from at least one of the derogations based on a low level of remuneration, while Annex III takes a more granular approach to cater for situations where derogations are implemented differently across Member States or where institutions do not apply all the derogations available to them.	GL amended
Annex III	One respondent noted that it is not clear how Annex III should be filled in, especially by firms that cannot apply the derogation under Article 94(3)(a) of the CRD.	Annex III is fully aligned with existing disclosure requirements. Where such derogations are not available, the procedure is explained in row 4 of Annex III.	No change



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