

Guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services

European Banking Authority (EBA)

# Index



Introduction

Executive summary

Detail

Next steps

# Introduction

## **In September 2016, the EBA published Guidelines (GL) on remuneration of sales staff specifying requirements for the design and implementation of remuneration policies and practices, in relation to the offering or provision of banking products and services to consumers**

### Introduction

- Developments in recent years, both at a European and international level, have shown significant cases of misconduct and mis-selling by staff in some financial institutions<sup>1</sup>, with poor remuneration policies and practices having been identified as a key underlying driver.
- In order to mitigate some of these conduct risks, the EBA had already developed detailed Guidelines on product oversight and governance arrangements for retail banking products. Nonetheless, the EBA identified a need for the development of requirements specific to the remuneration of sales staff.

- In this context, the EBA published in September 2016 **Guidelines (GL) on remuneration policies and practices related to the sale and provision of retail banking products and services**.
- These Guidelines set requirements for the design and implementation of remuneration policies and practices of sales staff with a view to protecting consumers.

This document includes an **analysis of the requirements** arising from the Guidelines.

(1) Recent research suggests that, between 2004 and September 2015, ten major global banks alone incurred cumulative conduct-related costs of around \$210.000M, equivalent to 2.8% of their revenues (CCP Research Foundation, 2014, *Conduct Costs Project*; Autonomous, 2014, *Global Banks - Litigation Costs Update*).

# Index

Introduction

➔ Executive summary

Detail

Next steps

# Executive summary

**These Guidelines, which apply to remuneration paid to staff employed by certain institutions when selling retail services and products, are divided into four sections: design; documentation, notification and accessibility; approval; and monitoring**

## Executive summary

### Scope of application

- Remuneration paid to staff employed by credit institutions, creditors, payment institutions and electronic money institutions, when selling **retail services and products** (i.e. mortgages, personal loans, deposits, payment accounts, payment services and/or electronic money).

### Regulatory context

- MiFID II.
- EBA Guidelines on product oversight and governance arrangements for retail banking products.

### Next steps

- These Guidelines will apply from **13 January 2018**.

## Main content

### Design of remuneration policies and practices

- **Criteria:** the GL specify the criteria that should be considered when designing policies and practices (e.g. rights of consumers, ratio between variable and fixed components balanced, etc.).
- **Functions involved:** the human resources, risk management and compliance functions should participate in the design.

### Documentation, notification and accessibility

- **Documentation:** institutions should document policies and practices, keep them for audit purposes and make them available upon supervisory request.
- **Notification:** relevant persons<sup>1</sup> should be informed of the policies and practices applicable to them.
- **Accessibility:** policies should be easily accessible.

### Approval

- **Management body:** it approves and retains ultimate responsibility for the remuneration policies.
- **Compliance function:** it should ensure that the remuneration policies and practices comply with the GL.

### Monitoring

- **Review:** the remuneration policies should be reviewed at least annually, and amended if they do not operate as intended.
- **Control:** institutions should establish effective controls to check that their remuneration policies and practices are being adhered to.

(1) For the purpose of these GL, a relevant person is any natural person who is: a) working for an institution and directly offering or providing banking products or services to consumers; or b) working for an institution and directly or indirectly managing a person referred to in point a).

# Index

Introduction

Executive summary

➔ Detail

Next steps

# Detail

## Design

**When designing remuneration policies, institutions should take into account the rights of consumers, consider qualitative and quantitative criteria for determining the level of variable remuneration, ensure that the ratio between the fixed and variable components is balanced, etc.**

### Design

#### Criteria

- When designing and implementing remuneration policies and practices, institutions should:
  - Take into account the **rights and interests of consumers**. In particular, institutions should ensure that forms of remuneration do not introduce incentives whereby relevant persons favour their own interests or the institution's interest.
  - Consider whether they introduce any **risks of detriment to consumers** and mitigate such risks.
  - Define appropriate criteria to be used to assess the **performance of a relevant person**, taking into account the rights and interests of consumers.
  - Consider both **qualitative and quantitative criteria** for determining the level of **variable remuneration** to ensure that the rights and interests of consumers are adequately considered.
  - Ensure that the **ratio between the fixed and variable components** of the remuneration is appropriately **balanced** and takes into account the rights and interests of consumers (including the possibility to pay no variable remuneration where appropriate).

#### Restrictions

- Institutions should not design remuneration policies and practices that:
  - Solely link remuneration to a **quantitative target** for the offer or provision of banking products and services.
  - Promote the offer or provision of a **specific product** or category of products over other products which are more profitable for the institutions or relevant person, to the detriment of the consumer.
- Institutions should **avoid unnecessarily complex policies and practices** and unclear combinations of different policies and practices.

#### Functions involved in the design

- The **human resources function** of institutions should participate in and inform the design of the remuneration policies and practices.
- In addition, where established, the **risk management and compliance functions** should provide effective input.

# Detail

## Documentation, notification and accessibility

**On one hand, the remuneration policies and practices should be documented and kept for at least five years for audit purposes. On the other hand, relevant persons should be informed of the remuneration policies that are applicable to them, which should be easily accessible**

### Documentation, notification and accessibility

#### Documentation

- Institutions should **document remuneration policies and practices**, keep them for **audit purposes** for at least **5 years** from the last date that they applied, and make them **available** to the competent authorities upon request.
- This documentation should include, but is not limited to:
  - The **objectives** of the institutions' remuneration policies and practices.
  - The **relevant persons** falling within the scope of these policies and practices.
  - How remuneration policies have been **implemented in practice**, including in particular the criteria for variable remuneration where variable remuneration is granted.

#### Notification

- Before being allowed to offer banking products or services to consumers, relevant persons should be **clearly informed** in a simple and transparent manner of the remuneration policies and practices that are applicable to them.

#### Accessibility

- The remuneration policies and practices should be **easily accessible** to all relevant persons of the institution.



# Detail

## Approval

**With regard to governance, the management body approves and is responsible for the institution's remuneration policies and practices. Further, the compliance function should confirm that the policies and practices fulfill these GL**

### Approval

#### Management body

- The management **approves** and retains **ultimate responsibility** for the institution's remuneration policies and practices.
- The management body should seek advice from the **remuneration committee** where established on the institution's remuneration policies and practices in relation to the fulfilment of the GL.
- Moreover, the management body should approve any **changes** to the remuneration policies and practices

#### Compliance function

- Where established, the **compliance function** should confirm that the remuneration policies and practices comply with these GL.

# Detail

## Monitoring

**The remuneration policies and practices should be reviewed at least annually to ensure compliance with the Guidelines. Moreover, institutions should establish effective controls in order to verify whether remuneration policies are being adhered to**

### Monitoring

#### Review

- Institutions should **review, at least annually**, their remuneration policies and practices to ensure compliance with these Guidelines.
- Where an institution identifies that a **residual risk of consumers' detriment** might arise as a result of the design of remuneration policies and practices, the institution should assess under the review whether any of these residual risks are materializing and causing detriment to consumers.
- If the review reveals that an institution's remuneration policies and practices **do not operate as intended** or prescribed, the institution should **amend** its remuneration policies and practices in accordance with the GL.

#### Controls

- Institutions should establish **effective controls** to check that their remuneration policies and practices are being adhered to, and to identify and address incidents of non-compliance with the GL.

# Index

Introduction

Executive summary

Detail

 Next steps

# Next steps

**The final Guidelines on remuneration of sales staff will apply from 13 January 2018**

---

## Next steps



- These Guidelines on remuneration of sales staff, apply from **13 January 2018**.
- This date is aligned with the revised application date of **MiFID II** that was agreed by the EU Commission.