

Bundesverband der Wertpapierfirmen e.V.  
Friedrichstraße 52, 60323 Frankfurt/Main

## European Banking Authority (EBA)

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*Transmitted via internet upload:*

<https://eba.europa.eu/consultation-paper-draft-regulatory-technical-standards-criteria-identify-categories-staff-whose>

your reference  
EBA/CP/2020/09

your message of  
4 June 2020

city\_date  
**Frankfurt/Main, 04.09.2020**

## Consultation Paper (EBA/CP/2020/09) of 4 June 2020

Draft Regulatory Technical Standards on criteria to identify categories of staff whose professional activities have a material impact on an investment firm's risk profile or assets it manages under Directive (IFD) 2019/2034 of the European Parliament and of the Council on the prudential supervision of investment firms

### Dear Sir, dear Madam,

the Bundesverband der Wertpapierfirmen e.V. (bwf) is a trade association representing the common professional interests of securities trading firms and market specialists (market makers) at the securities exchanges throughout Germany.<sup>1</sup> In this capacity, we expressly welcome the possibility to comment on EBA's Consultation Paper (EBA/CP/2020/09) of 4 June 2020 on Draft Regulatory Technical Standards on criteria to identify categories of staff whose professional activities have a material impact on an investment firm's risk profile or assets it manages.

However, because of limited resources and numerous parallel consultations on a European and national level, we would like to restrict our comments to one point which we think is of particular importance:

### Question 5: Are the qualitative criteria within Article 6 appropriate and sufficiently clear?

#### Remuneration bracket: Article 6 (1) (d)

With respect to employees receiving overall remuneration equal to at least the lowest remuneration received by senior management or risk takers (remuneration

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<sup>1</sup> bwf is listed on the EU register of interest representatives under the ID 258694016925-01.

bracket criterion according to Article 6 (1) (d) draft RTS) EBA has not considered any policy options since the criterion is provided by the IFD<sup>2</sup> in Article 30 (1).

However, in the CRD context, EBA has noted in its on draft RTS on revised identified staff for remuneration purposes (EBA/CP/2019/16) that *“most institutions have excluded all or nearly all staff that has only been identified under the remuneration bracket criterion from the category of identified staff. In some larger institutions the related exclusion process concerns a material number of staff, leading to additional burden for the application of the identification process.”*<sup>3</sup>

Consequently, EBA has concluded in its presentation at the occasion of its public hearing on the Consultation on draft RTS on identified staff on 28 January 2020 that the remuneration bracket criterion is not effective and that it will be removed from CRD and the revised RTS.<sup>4</sup> However, while the revised RTS – which is pending approval and which is expected to be published in the Official Journal shortly – does not contain any provision on the remuneration bracket criterion anymore, the reference *“any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers”* is currently still included in Article 92 (2) of Directive 2013/36/EU (the Capital Requirements Directive – CRD).

Against this background, we think it would be more than absurd, if a piece of regulation which was taken “1:1” from the banking regulation toolbox from which it will be removed now for the reasons of inefficiency (practically no additional staff was identified) and excessive administrative burden, still should be applied to investment firms.

We therefore emphatically urge EBA to delete any reference to the remuneration bracket criterion from the draft RTS and to propose to the Commission in the same way as it was done in the CRD context, that the reference *“and any employees receiving overall remuneration equal to at least the lowest remuneration received by senior management or risk takers”* in the IFD text should be deleted.

Yours sincerely,

Michael H. Sterzenbach  
Secretary General

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<sup>2</sup> Cf. EBA/CP/2020/09, Para. 37

<sup>3</sup> EBA/CP/2019/16, Para. 10

<sup>4</sup> Cf. <https://eba.europa.eu/calendar/consultation-draft-rts-identified-staff>