

VAB Consultation Statement

EBA Guidelines on internal governance under Directive 2013/36/EU

Question 1: Are subject matter, scope of application, definitions and date of application appropriate and sufficiently clear?

NA

Question 2: Point (d) has been added, throughout the Guidelines references to money laundering and terrorism financing and the institutions obligations have been added, are those references sufficiently clear? The Guidelines aims at clarifying that AML/TF measures form a part of institutions governance arrangements. The EBA is developing further separate work on AML compliance.

NA

Question 3: Paragraph 24 regarding ESG factors has been added, is it sufficiently clear? The addition is thought as providing a link between the responsibilities of the management body and the aspect of ESG factors. Respondents should be aware that the EBA is developing further detailed work in the area of sustainable finance.

NA

Question 4: Paragraph 84 and 86 have been amended to reflect changes to CRD. Are those paragraphs sufficiently clear?

NA

Question 5: Are paragraphs 98 and 99 sufficiently clear? They have been added to reflect changes in CRD V and to link the Guidelines to Article 157 TFEU and Article 21 of the European Charter of Fundamental Rights.

Regarding Title IV, section 9, paragraph 99 of the Guidelines

We would propose amending the newly inserted paragraph 99 as follows:

“Credit institutions policies should be gender neutral and credit institutions should implement measures that ensure equal opportunities for all genders, including with regard to career perspectives and to improve the representation of the underrepresented gender in management positions. **In this respect, the proportionality principle should be considered, i.e. an exception should apply to institutions with a management body of less than four members.**”

Reasons:

In principle, we welcome the stipulation that the management positions of an institution should be gender equitable.

In our view, the size of the management body as well as the group aspect should be included in the consideration of gender equality.

Example:

In case of a small subsidiary with a two- or three-member management body, the gender of the management body alone should not be considered, because the group of people concerned is too small in order to achieve meaningful diversity.

Question 6: Point (c) of paragraph 101 has been amended to reflect the EBA's work on dividend arbitrage schemes. Is point (c) sufficiently clear?

Regarding Title IV, section 9, point (c.) of paragraph 101 of the Guidelines

We would propose adding a footnote with the definition of the term "dividend arbitrage schemes".

Reasons:

From our point of view, the user should have a clear understanding of what EBA means by the term "dividend arbitrage schemes". Therefore, we would propose adding a footnote with the definition of the term "dividend arbitrage schemes".

Question 7: Section 11 has been added to provide guidelines on loans and transactions with members of the management body and their related parties, reflecting changes to CRD. Is the section appropriate and sufficiently clear?

Regarding Title IV, section 11 of the Guidelines

We would propose adding a description of types of loans and other transactions.

Reasons:

A provision on loans and other transactions with members of the management body and their related parties should indicate which different types of loans should be covered. In this respect, a description of types of loans could be inserted in a paragraph or in a footnote.

Question 8: Paragraph 126 has been added, is it sufficiently clear?

NA

Question 9: Paragraph 140 has been added, is it sufficiently clear?

NA