

European Banking Authority (EBA)  
EBACP/2023/08

24. Juli 2023

**VAB Statement on EBA draft Guidelines on the Benchmarking of Diversity Practices  
including Diversity Policies and Gender Pay Gap Form (“Draft Guidelines”)**

**Question 1: Is the section on subject matter, scope, definitions, addressees, and implementation appropriate and sufficiently clear?**

We have no comments regarding this section.

**Question 2: Is the section 1 on the sample of institutions and investment firms appropriate and sufficiently clear?**

*1) Regarding section 1, paragraph 13 et seq. of the Draft Guidelines*

We would propose adding a clarification and definition of the term “*sample of institutions and investment firms*”.

**Reasons:**

We understand that the Draft Guidelines are intended to address the widest possible range of institutions and investment firms which shall be included in the benchmarking of diversity practices. However, in our view, the final guidelines should include clarification as to which institutions and investment firms should be included in this benchmarking exercise. In this respect, the following aspects should be clarified or at least taken into account:

- Total number of the institutions and investment firms which shall be included in the diversity practices benchmarking on an EU-wide basis and in relation to each EU Member State.
- Size of the surveyed institutions and investment firms, taking into account the proportionality principle.
- Overview of other selection criteria used by the EBA and the competent authorities.

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Against this background, especially the term “*sample of institutions and investment firms*” is not clear enough and non-transparent. Therefore, we consider that this term should be defined.

2) *Regarding section 1, paragraph 15 of the Draft Guidelines*

We would recommend adding a clarification on the following part of the first sentence in paragraph 15 of section 1 of the Draft Guidelines:

*“The EBA will (...) provide further information on how to establish the sample of institutions and investment firms for which data should be collected”.*

**Reasons:**

The expectation of the banking industry is that guidelines of an European authority shall include a set of specific criteria regarding the respective supervisory approach, its implementation procedure and all related processes. Any reference to undefined terms or information to be published at a later stage, create unnecessary uncertainty within the banking industry. Against this background, we would propose to reconsider this approach or at least provide additional information on what can be expected from EBA on these aspects.

3) *Regarding section 1, paragraphs 16 of the Draft Guidelines*

We would suggest adding a clarification of the term “*in good time*”.

**Reasons:**

In section 1, paragraph 16 of the Draft Guidelines, it is highlighted that

*“Competent authorities should inform institutions and investment firms that form part of the sample in good time of the data collection.”*

However, there is no specific definition of the term “*in good time*”. Therefore, the following questions may arise:

- What is the time period behind the term “in good time”? Could it be expected that the information will be given by EBA or the competent authorities in one or two month or just in weeks?
- What is the quality of such an information? Are there more than one information or is it intended to provide the information associated with the particular benchmarking exercise?

Based on this, from our point of view, the term “*in good time*” is not clear enough and opens too many different interpretation possibilities for the user of the guidelines. Therefore, we would recommend a clarification of this term.

**Question 3: Are the section 2 on the procedural requirements appropriate and sufficiently clear?**

*Regarding section 2, paragraphs 19 of the Draft Guideline*

We would propose amending a clarification of what is meant by “*necessary additional technical instructions*”.

**Reasons:**

In section 2, paragraph 19 of the Draft Guidelines, it is highlighted that

*“Competent authorities should provide to the institutions and investment firms the necessary additional technical instructions to submit the data set out in Annexes I to XI of these guidelines.”*

However, it is unclear what kind of “*necessary additional technical instructions*” will be provided by the competent authorities. If this includes the implementation of new IT-tools, we consider that this would mean an enormous effort for the institutions and investment firms. Therefore, we recommend that EBA explains the “*necessary additional technical instructions*” and provide an overview of the set of criteria regarding the instructions in the final guidelines. Moreover, we refer to our answer in question 2, point 2.

**Question 4: Are the general specifications for the data collection appropriate and sufficiently clear?**

We have no comments.

**Question 5: Are the specifications on the collection of data of members of the management body (read together with the definitions) appropriate and sufficiently clear?**

We have no comments.

**Question 6: Is the section on the instructions for the calculation of the gender pay gap appropriate and sufficiently clear?**

We have no comments regarding this section.

**Question 7: Is the section on data quality appropriate and sufficiently clear?**

*Regarding section 7, paragraphs 42 of the Draft Guideline*

We would propose amending a clarification of what is meant by “*additional data quality controls*”.

**Reasons:**

In section 7, paragraph 42 of the Draft Guidelines, it is highlighted that

*“The EBA will define additional data quality controls as part of their IT-system for the collection of data.”*

Due to the fact that there is no definition of the term “*additional data quality controls*”, we recommend that it should be clarified whether these controls could have an effect on the IT-systems and IT-tools of the supervised institutions and investment firms. If this will be the case, we consider that this would mean an enormous effort for the institutions and investment firms. Therefore, we recommend that EBA defines in the

final guidelines the “*additional data quality controls*” and provide an overview of the set of criteria regarding these controls. Moreover, we refer to our answers in question 2, point 2 and question 3 and underline again that a setting of necessary criteria, processes and procedures (which shall be fulfilled by the user of a guideline) should be pointed out in the guideline and not at a later point in time.

**Question 8: Are the Annexes on the data collection appropriate and sufficiently clear?**

*1) Regarding Annex III*

We would recommend clarifying what kind of committees are concerned, i.e. committees of the management board in its management function or in its supervisory function.

**Reasons**

Annex III provides a list of different committees. Due to the fact that a committee can be established by the management board in its management function as well as in its supervisory function, we would recommend clarifying what type of committee it should be.

*2) Regarding Annex X, point a), question 3*

We would suggest clarifying which employee group the target in Annex X, point a), question 3 refers to.

**Reasons:**

Question 3 of point a), Annex X states that

*“Does the diversity policy include a target for the representation of the underrepresented male or female gender?”*

It is not clear whether this target for the representation of the underrepresented male or female gender refer to the management board in its management function and/or its supervisory function or to the staff of the institution or investment firm. Therefore, from our point of view, clarification is needed.

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