
EBA/GL/2022/08

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Draft Final report on Guidelines

on the data collection exercises regarding high earners under
Directive 2013/36/EU and under Directive (EU) 2019/2034

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1. Executive summary

The European Banking Authority (EBA) has updated its ‘Guidelines on the data collection exercise regarding high earners’, which was originally published in 2012 and was revised in 2014 following the changes introduced by Directive 2013/36/EU¹. The current Guidelines implement the changes to the data-collection requirements specified in Directive 2013/36/EU following the amendments introduced by Directive (EU) 2019/878², and changes to the disclosure requirements in Regulation (EU) 575/2013³, introduced by Regulation (EU) 2019/876⁴. It was necessary to reflect those amendments in the Guidelines, in particular the introduction of derogations to the requirements to pay out a part of the variable remuneration in instruments and under deferral arrangements.

These Guidelines have also been updated in accordance with Directive (EU) 2019/2034⁵ and Regulation (EU) 2019/2033⁶. The establishment of two distinct regulatory frameworks required a separation of the data collection on high earners in credit institutions and investment firms. The templates and instructions have been updated accordingly and a specific template for high earners in investment firms has been provided.

Directive 2013/36/EU and Directive (EU) 2019/2034 require competent authorities to collect information on the number of natural persons, per institution and investment firm respectively, who are remunerated EUR 1 million or more per financial year, in pay brackets of EUR 1 million, including their job responsibilities, the business area and the main elements of the salary, bonus, long-term award and pension contribution.

The annual collection of data regarding high earners under the updated Guidelines should start in 2023 for the financial year that ends in 2022. The EBA will continue to annually publish high-earners data on an aggregate home Member State basis in a common format.

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.

2 Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU.

3 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012.

4 Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012.

5 Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms.

6 Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms.

2. Background and rationale

1. The objective of the data collection on high earners is to analyse and publish year-to-year developments in the number of individuals in institutions and investment firms earning at least EUR 1 million within the European Union (EU) and the European Economic Area (EEA), and within the different Member States, and to assess the major components of remuneration awarded to high earners in different business areas. This information can be used together with other remuneration benchmarking data to analyse the application of remuneration policies within the European Union and the EEA, and the trends in remuneration practices, to improve the remuneration framework.
2. The EBA started the collection of high-earners data in 2010 based on a mandate provided in Directive 2010/76/EU and published the 'Guidelines on the data collection exercise regarding high earners' in 2012 (EBA/GL/2012/05). Those Guidelines were revised in 2014 (EBA/GL/2014/07) taking into account the changes introduced by Directive 2013/36/EU.
3. The current updates to the 'EBA Guidelines on the data collection exercise regarding high earners' (EBA/GL/2014/07) implement the changes to Directive 2013/36/EU, introduced by Directive (EU) 2019/878. Those amendments concern, in particular, the introduction of derogations to the requirements to pay out a part of the variable remuneration in instruments and under deferral arrangements. The updates also implement changes to the disclosure requirements in Regulation (EU) 575/2013 (CRR), introduced by Regulation (EU) 2019/876.
4. Article 75(3) of Directive 2013/36/EU states that 'Competent authorities shall collect information on the number of natural persons per institution remunerated EUR 1 million or more per financial year, in pay brackets of EUR 1 million, including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution. That information shall be forwarded to the EBA, which shall publish it on an aggregate home Member State basis in a common reporting format. The EBA may draft guidelines to facilitate the implementation of this paragraph and ensure the consistency of the information collected.'
5. Article 34(4) of Directive (EU) 2019/2034 (IFD) states that 'Member States shall ensure that investment firms provide competent authorities with information on the number of natural persons per investment firm that are remunerated EUR 1 million or more per financial year, in pay brackets of EUR 1 million, including information on their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution ... Competent authorities shall forward the information ... to EBA, which shall publish it on an aggregate home Member State basis in a common reporting format. EBA, in consultation with ESMA, may issue guidelines to facilitate the implementation of this paragraph and to ensure the consistency of the information collected.' In line with Directive (EU)

2019/2034, investment firms that meet all conditions to qualify as small and non-interconnected investment firms under Article 12(1) of Regulation (EU) 2019/2033 (IFR) do not fall under the scope of application of these Guidelines on an individual basis.

6. Directive 2013/36/EU and Directive (EU) 2019/2034 require competent authorities of Member States to collect data regarding high earners from institutions and investment firms respectively. Given the distinct regulatory frameworks under Directive 2013/36/EU and Directive (EU) 2019/2034, the Guidelines include two templates, one for staff in institutions and investment firms subject to Article 1(2) or (5) of Regulation (EU) 2019/2033 that are subject to Directive 2013/36/EU (Annex I) and one for staff in investment firms that do not meet all conditions to qualify as small and non-interconnected investment firms under Article 12(1) Regulation (EU) 2019/2033 and are subject to a specific remuneration framework under Directive (EU) 2019/2034(Annex II). The Guidelines should be read in conjunction with the applicable 'EBA Guidelines on sound remuneration policies under Directive 2013/36/EU' and the 'EBA Guidelines on sound remuneration policies under Directive (EU) 2019/2034'.
7. To ensure proportionality, the EBA is streamlining the collection of data at the consolidated and the individual levels to ensure that double reporting is avoided, and the burden imposed on competent authorities and financial institutions remains commensurate with the objective pursued. To that end, high-earners data should be reported, as applicable, at the level of consolidation set out in Article 13 of Regulation (EU) 575/2013 and Article 7 of Regulation (EU) 2019/2033 and should concern all the high-earners data for all entities and branches within the highest level of prudential consolidation. In the case of stand-alone institutions or investment firms, high-earners data should be reported on an individual basis. The data submitted should include data relevant to EU/EEA branches. In addition, competent authorities should ensure that EU/EEA branches of institutions and investment firms located in third countries submit information in accordance with these Guidelines.
8. While the data collected is consistent with the 'EBA guidelines on the benchmarking exercises on the remuneration practices, on the gender pay gap and on approved higher ratios under CRD', the number of datapoints to be submitted for high earners has been reduced. Datapoints that are to be submitted for remuneration benchmarking purposes as part of the additional information on the variable remuneration of identified staff that is disclosed by institutions or investment firms, but concern the remuneration awarded for preceding financial years, e.g. information on outstanding deferred remuneration, are not included in the templates for the data collections on high earners.
9. Information should be provided for payment brackets of EUR 1 million as required by Directive 2013/36/EU and Directive (EU) 2019/2034. The data collected covers all main elements of variable and fixed remuneration for high earners in institutions and investment firms.
10. Directive 2013/36/EU and Directive (EU) 2019/2034 require collecting information on high earners' responsibilities and the business areas involved. The Guidelines differentiate between management body in its management and in its supervisory function, senior management, staff

whose professional activities have a material impact on the institution's risk profile (identified staff), staff in control functions and other staff. Business areas were specified, considering the internal organisation of institutions and investment firms, and their typical business activities. In line with the EBA's mandate to benchmark the gender pay gap, the number of high earners will also be collected by gender.

11. To ensure an accurate allocation of staff to different categories, the Guidelines clarify that staff with more than one relevant function or business area should be assigned to the function or business area in which the staff member's main activities are carried out. Each individual and the amount they are paid should only be reported once, and amounts paid to one individual should not be split between different functions, business areas or responsibilities. Members of the management body of subsidiaries are allocated to the function 'management body', even if that position is held in an institution that is mainly active in the business area 'retail banking'. For other high earners (outside the management body) the relevant business area is selected and specific responsibilities, e.g. senior management or control function, are indicated. Data are only collected for high earners that are predominantly active in the EU/EEA. Staff members that are predominantly active in subsidiaries and branches of EU/EEA groups that are located in third countries are excluded from the high-earner data collections.
12. Institutions subject to Directive 2013/36/EU (including investment firms referred to in Article 1(2) of Regulation (EU) 2019/2033 that apply the remuneration provisions of Directive 2013/36/EU) should submit data on the highest level of consolidation for all entities within the prudential consolidation or, where applicable, on an individual basis. The data submitted by institutions also includes data for all investment firms that are part of the scope of consolidation. High earners are reported by institutions in Annex I for all high earners on a consolidated basis. Staff in investment firms that are subject to the remuneration provisions under Articles 25 and 34 Directive (EU) 2019/2034 and their subsidiaries are included in Annex I in a specific business area. A breakdown of high earners in such investment firms is submitted in Annex II. Investment firms included in the data submission of their parent undertaking are not required to submit data to their competent authority to avoid that data being submitted and counted twice.
13. Where different competent authorities are responsible for the collection of data from institutions and from investment firms, the data are exchanged between the competent authorities, including within the single supervisory mechanism, as necessary.
14. Additional guidance is provided to ensure that the data is of the appropriate quality for deriving reliable and consistent information. Institutions, investment firms and competent authorities should check the accuracy and consistency of data before submission.
15. The EBA aggregates the data submitted by competent authorities for each Member State and publishes an annual report regarding high earners. In this context, the EBA informs competent authorities of aggregated data per payment bracket received from other competent authorities.

16. For the financial year 2021 high earners data-collection exercise, competent authorities should continue to collect data from institutions and investment firms (unless they are small and non-interconnected) in line with the 2014 guidelines allowing for continuous data collection.

17. The Guidelines apply from 31 December 2022 for the data to be collected in 2023 for the financial year 2022 to ensure continuous annual data collection regarding high earners under Directive 2013/36/EU and in parallel the collection of data regarding high earners under Directive (EU) 2019/2034.

3. Guidelines

EBA/GL/2022/08

30/06/2022

Guidelines

on the data-collection exercises
regarding high earners under Directive
2013/36/EU and Directive (EU)
2019/2034

Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010⁷. 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 the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how EU 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 financial 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 05.12.2022. 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/2022/08'. 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 EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

⁷ 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

1. These Guidelines specify, in accordance with Article 75(3) of 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and Article 34(4) of Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU, how these provisions should be implemented concerning the collection of information regarding the individuals per institution and per investment firm remunerated EUR 1 million or more per financial year, ensuring the consistency of the information submitted by institutions and investment firms to competent authorities and by competent authorities to the EBA.

Scope of application

2. These Guidelines apply in relation to the information that competent authorities should collect from institutions and investment firms regarding high earners and submit to the EBA for the purposes of publishing that information on an aggregate home Member State basis in a common reporting format.
3. When Article 13 of Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 or Article 7 of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms apply these guidelines apply in accordance with paragraphs 12 and 15 at the consolidated level.
4. When Article 13 of Regulation (EU) 575/2013 and Article 7 of Regulation (EU) 2019/2033 do not apply, these guidelines apply on an individual basis as set out in Articles 6 to 10 of Regulation (EU) 575/2013 and in Articles 5 and 6 of Regulation (EU) 2019/2033.

Addressees

5. These Guidelines are addressed to competent authorities as referred to in Article 4(2), points (i) and (viii) of Regulation No 1093/2010 and to financial institutions as defined in Article 4(1) 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 (each reference to institutions should be understood as including such investment firms), and to investment firms as defined in point (1) of Article 4(1) of

Directive 2014/65/EU that are subject to Articles 25 and 34 of Directive (EU) 2019/2034 ('investment firms'), (collectively referred to as 'firms').

Definitions

6. Unless otherwise specified, terms used and defined in Directive 2013/36/EU and Regulation (EU) 575/2013 and Directive (EU) 2019/2034 and Regulation (EU) 2019/2033 as well as the EBA guidelines on sound remuneration policies under Directive 2013/36/EU⁸, where the definition refers to institutions, and under the EBA guidelines on sound remuneration policies under Directive (EU) 2019/2034⁹, where the definition refers to investment firms, have the same meaning in these guidelines.
7. In addition, for the purposes of these Guidelines, the following definitions should apply:

High earner(s)	means staff member(s) earning a remuneration of at least EUR 1 million in the reported financial year.
Firm	means all institutions, investment firms, branches of third-country credit institutions and branches of third-country investment firms for which data on high earners should be collected.
Payment bracket	means the range of the amount of the annual total gross remuneration of a high earner, which is defined in steps of EUR 1 million and starts at EUR 1 million.

Implementation

Date of application

8. The Guidelines apply from 31 December 2022 for the data to be collected in 2023 for the financial year 2022 to ensure a continuous annual data collection regarding high earners under Directive 2013/36/EU and in parallel the collection of data regarding high earners under Directive (EU) 2019/2034.

Transitional arrangements

⁸ The Guidelines are published under: <https://www.eba.europa.eu/regulation-and-policy/remuneration/guidelines-on-sound-remuneration-policies>

⁹ The Guidelines are published under: <https://www.eba.europa.eu/regulation-and-policy/investment-firms/guidelines-remuneration-policies-investment-firms>

9. High-earners data for the financial year ending in 2022 should be submitted by firms to competent authorities by 31 August 2023 and from the competent authorities to the EBA by 31 October 2023.

Repeal

10. The EBA Guidelines on the data collection exercise regarding high earners (EBA/GL/2014/07) from 16 July 2014 are repealed with effect from 31 December 2022.
11. References in other EBA Guidelines to the Guidelines repealed by paragraph 10 shall be construed as references to these guidelines.

Guidelines on the data collection exercises regarding high earners under Directive 2013/36/EU and under Directive (EU) 2019/2034

1. Scope of application of the data collection exercises

1.1 Scope of institutions that are subject to the high-earner data collection under Directive 2013/36/EU

12. When applying the guidelines at the consolidated level in accordance with paragraph 3, the EU parent institution, the EU parent financial holding company or the EU parent mixed financial holding company, including the EU parent investment firm, an EU parent investment holding company or an EU parent mixed financial holding company, having regard to Article 1(2) of Regulation (EU) 2019/2033, should submit to the consolidating supervisor the high-earners data as set out in Section 2 for all entities of the group that are subject to prudential consolidation.
13. Individual institutions, including investment firms having regard to Article 1(2) of Regulation (EU) 2019/2033, that are not within the consolidation in accordance with paragraph 3, should submit to the competent authority their high-earners data as set out in Section 2 on an individual basis.
14. Competent authorities should ensure that branches of third-country institutions established in their Member State submit to them their high-earners data as set out in Section 2.

1.2 Scope of investment firms that are subject to the high-earner data collection under Directive (EU) 2019/2034

15. When applying the guidelines at the consolidated level in accordance with paragraph 3, the EU parent investment firm, the EU parent investment holding company, or the EU parent mixed financial holding company should submit to the consolidating supervisor the high-earners data as set out in Section 2 for all the entities of the investment firms group that are subject to prudential consolidation.
16. An individual investment firm that is not within the scope of consolidation in accordance with paragraph 3, should submit to the competent authority its high-earners data as set out in Section 2 on an individual basis.
17. Competent authorities should ensure that branches of third-country investment firms established in their Member State submit to them their high-earners data as set out in Section 2.

2. Procedural specifications for firms

18. High-earners data should be submitted (see also Annex IV) to the competent authority each year for any given financial year (the 'reported year') by 15 June of the next calendar year, by:
 - a. institutions referred to in Subsection 1.1, using the template for the data collection specified under:
 - i. Annex I for high earners that are staff of institutions and other entities in the scope of consolidation;
 - ii. Annex II for high earners that are staff in investment firms subject to Article 25 and 34 of Directive (EU) 2019/2034;
 - b. investment firms referred to in Subsection 1.2, using the template for the data collection specified in Annex II.
19. The submission of data referred to in paragraph 18 (a) should include all high earners in Annex I, and in Annex II, only the high earners specified under (ii) of paragraph 18 (a), including in the following situations:
 - a. The investment firm is subject to the remuneration provisions under Directive 2013/36/EU on a consolidated basis, following the application of the national discretion under Article 109(6) of that directive.
 - b. The high earners have been mandated to perform professional activities in the cases included under Article 109(5)(a) and b) of that directive.

20. High-earner data should be submitted to competent authorities and then to the EBA only after firms and competent authorities have ensured the completeness and correctness of the data, in line with the technical instructions provided by the competent authorities and in accordance with the general and data-quality specifications set out in Sections 3 and 9 and the additional specifications set out in Sections 4 and 5.
21. Where firms do not have high earners to report, it is not necessary to submit this information, unless explicitly required by the competent authority.

3. General specifications regarding the high-earner data collections

22. Firms should submit data on high earners for each Member State in which high earners are located and for each payment bracket of EUR 1 million (e.g. EUR 1 million to less than EUR 2 million; EUR 2 million to less than EUR 3 million, etc.). Each high earner should be allocated to the payment bracket based on the staff member's total remuneration awarded for the financial year.
23. Firms should submit the required information using financial year-end figures denominated in euro. Amounts should be reported as full amounts, i.e. not as rounded amounts (e.g. EUR 1 234 567.00 instead of EUR 1.2 million).
24. All staff that received EUR 1 million or more for the financial year should be reported, even if the staff member has left the firm before the end of the financial year or if the amount of EUR 1 million is reached only because of the award of guaranteed variable remuneration or severance payments.
25. Where high-earners data are reported by firms which disclose financial figures in a currency other than EUR, the exchange rate used by the Commission for financial planning and the budget for December of the reported year should be used for the conversion of the figures to be reported.
26. The number of high earners should be reported as the number of natural persons (headcount), independently of the number of working hours on which their contract is based. For high earners, the remuneration awarded in euro, elements of remuneration, the Member State, function or business area and responsibility should be reported.
27. The number of individuals in the row 'number of individuals in control functions' should include all high earners in control functions within the business units and the independent compliance, risk control and internal audit function.
28. High earners should be classified under the Member State, function or business area and responsibility where they carry out the main part of their business activities. The full amount of remuneration awarded to the relevant high earner within the group or reporting firm should be reported under this Member State, function or business area and responsibility. If two or

more areas for a high earner have the same weight, the firm should allocate the high earner and their remuneration taking into account the allocation of other high earners, so that the report best reflects the distribution of high earners within the firm.

29. Information on the remuneration of high earners and the specific elements of variable remuneration should be provided for all high earners, irrespective of whether the high earner is identified staff or not. The same should apply for high earners included in Annex I who are subject to a specific remuneration framework in accordance with Article 109(4) of Directive 2013/36/EU and are also reported in Annex II, whereby remuneration awarded in 'non-cash instruments which reflect the instruments of the portfolios managed' or remuneration awarded under 'approved alternative arrangements' should be allocated to 'other instruments' in Annex I.
30. High earners who carry out professional activities both within and outside the EU should be classified under a Member State only if they perform the main part of their professional activities within the EU. Otherwise, the staff member should not be reported as a high earner.
31. The allocation of the remuneration to the fixed and variable part of remuneration should be made, as applicable, according to Section 7 of the EBA Guidelines on sound remuneration policies under Directive 2013/36/EU and Section 7 under the EBA Guidelines on sound remuneration policies under Directive (EU) 2019/2034.
32. Non-monetary items of remuneration should be reported with their monetary equivalent (e.g. the taxed amount) and be included as 'other forms' of remuneration.
33. Severance payments, guaranteed variable remuneration and discretionary pension benefits should be included in the total variable remuneration and should also be provided in the part of the table containing additional information.
34. For the data-collection exercise for high earners, high earners should be reported as 'identified' staff if they are treated by firms as 'identified staff' at the consolidated level or at the individual level, considering the following:
 - a. in Annex I,
 - i. identified staff should include the identified staff of the institution submitting the data and in its subsidiaries who are subject to the application of the remuneration requirements under Articles 92 and 94 of Directive 2013/36/EU on an individual or consolidated basis; and
 - ii. staff in subsidiaries who are subject to a specific remuneration framework in accordance with Article 109(4) of Directive 2013/36/EU, but are subject to the remuneration requirements under Article 92 and 94 of that Directive in accordance with Article 109(5) or 109(6) of that Directive;

- b. in Annex II,
 - i. identified staff should include the identified staff of investment firms that are subject to the application of the remuneration requirements under Articles 30 and 32 of Directive (EU) 2019/2034 on an individual basis; and
 - ii. where the requirements in Articles 30 and 32 of Directive (EU) 2019/2034 apply on a consolidated basis in accordance with Article 7 of Regulation (EU) 2019/2033, staff in subsidiaries who are not themselves subject to Article 30 and 32 of that Directive whose professional activities have a material impact on the risk profile of the investment firm or on the assets that it manages on a consolidated basis.

4. Additional specifications regarding the high-earner data collection with Annex I

35. For allocating high earners to functions or business areas in Annex I, firms should consider their internal organisation and the following:
- a. Members of the management body, including members of the management body of subsidiaries, but excluding members of the management body of investment firms that are subject to Articles 25 and 34 of Directive (EU) 2019/2034, should be allocated, as applicable, to the column 'management body in its supervisory function' or 'management body in its management function' independently of the business model of the firm.
 - i. 'Management body (MB) supervisory function', are the members of the management body in the role of overseeing and monitoring management decision-making (i.e. non-executive directors).
 - ii. 'Management body (MB) management function', are the members of the Management Body, who are responsible for its management functions (i.e. executive directors).
 - b. '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 192(3) of Regulation (EU) 575/2013 and private equity.
 - c. 'Retail banking' should include the institutions total lending activity (to individuals and enterprises).
 - d. 'Asset management' in Annex I should include the asset management within:
 - i. the institution;
 - ii. subsidiaries that are institutions; and

- iii. subsidiaries that are undertakings for the collective investment in transferable securities, alternative investment fund managers and investment firms that are not subject to Articles 25 and 34 of Directive (EU) 2019/2034.
- e. 'Corporate functions' should include staff in all functions that are responsible for the whole institution at the consolidated level and for subsidiaries with such functions at the individual level, e.g. human resources, information technology.
- f. '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.
- g. 'All high earners in subsidiaries that are subject to Articles 25 and 34 of Directive (EU) 2019/2034' should include all high earners and their remuneration to be included in Annex II.
- h. 'All other high earners' should include staff that cannot be allocated to one of the functions or business areas under (a) to (g).

5. Additional specifications regarding the high-earner data collection with Annex II

36. For allocating staff to functions or business areas in Annex II, firms should consider the specifications in paragraphs 18 and 19, their internal organisation and the following:
- a. 'Members of the management body, including members of the management body of subsidiaries where the EU parent investment firm, the EU parent investment holding company or the EU parent mixed financial holding company submits data for an investment firm group, should be reported, as applicable, under the column 'management body in its supervisory function' or 'management body in its management function' independently of the business model of the firm.
 - b. 'Dealing on own account, underwriting and placing of instruments' should include the services and activities under points (3), (6) and (7) of Annex I, Section A of Directive (EU) 2014/65¹⁰.
 - c. 'Investment advice, order execution' should include the services and activities under points (1), (2) and (5) of Annex I, Section A of Directive (EU) 2014/65.
 - d. 'Portfolio management' should include the services and activities under points (4) of Annex I, Section A of Directive (EU) 2014/65 and the management of portfolios in

¹⁰ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

subsidiaries of the investment firm that are undertakings for the collective investment in transferable securities and alternative investment fund managers.

- e. 'Operation of MTF/OTF' should include the services and activities under points (8) and (9) of Annex I, Section A of Directive (EU) 2014/65.
- f. 'Independent control functions' should include only staff active in the independent risk management, compliance and internal audit functions as described in Section 17 of the EBA Guidelines on internal governance under Directive (EU) 2019/2034.
- g. 'All other high earners' should include high earners that cannot be allocated to one of the functions or business areas under (a) to (f).

6. Collection of data by competent authorities

37. Competent authorities should collect the required data annually on high earners as specified in Section 2 from:

- a. Institutions, as applicable, at the consolidated or individual level in accordance with Annex I and, where applicable, Annex II in the manner specified in these Guidelines.
- b. Investment firms, as applicable at the consolidated or individual level in accordance with Annex II and in the manner specified in these Guidelines.

7. Aggregation of data by competent authorities

38. Competent authorities should aggregate the data collected within their Member State from firms separately for high earners that have been reported with Annex I and for high earners that have been reported with Annex II.

39. High-earner data should also be aggregated per payment bracket in accordance with Article 75(3) of Regulation (EU) 575/2013 and Articles 34(4) of Regulation (EU) 2019/2033.

40. Before aggregating data, competent authorities should check if only firms included in the scope of the data collection in Subsection 1.1 and 1.2 have reported data. Data submitted by other firms (e.g. a small and non-interconnected investment firm) to whom the Guidelines do not apply, should not be taken into account when aggregating data.

41. Where there is more than one competent authority, e.g. one responsible for the prudential supervision of institutions and another one for investment firms, in a Member State or where the responsibility for supervision is shared with the European Central Bank, the competent authorities should coordinate the data collection between themselves and provide each other with the necessary data and information to ensure that only one set of data are collected and reported to the EBA for that Member State and that individual high earners are not included multiple times in the data collection. There should be only one submission of the aggregated Annex I and one submission of the aggregated Annex II per Member State.

8. Submission of data by competent authorities to the EBA

42. Competent authorities should submit the high-earners data aggregated in accordance with the previous section to the EBA by 31 July of each year.
43. If competent authorities determine that they do not have to report any data on high earners, they should inform the EBA accordingly by 15 July of each year via the IT tool used for the data collection.

9. Data quality

44. Firms and competent authorities should have appropriate processes and controls in place to ensure that the high-earners data are aggregated and provided correctly.
45. Firms and competent authorities should check the completeness and plausibility of the high-earners data provided, taking into account the validation rules in Annex III. Competent authorities should also apply those checks to the aggregated data that are to be submitted to the EBA.
46. Firms and competent authorities should ensure that the sum of sub-positions of the variable and fixed remuneration equals the total and that the average total remuneration of staff is consistent with the payment bracket selected.
47. In accordance with the applicable minimum requirements under Directive (EU) 2013/36/EU and Directive (EU) 2019/2034, high-earners data on deferral arrangements and the pay out in instruments should be plausible, after the deduction of amounts awarded to high earners that are identified staff benefitting from derogations and high earners that are not identified staff.
48. For institutions the ratio between the variable and fixed remuneration for high earners that are identified staff should be below 100% (200% with shareholders' approval), after the deduction of amounts awarded as severance pay or guaranteed variable remuneration that have not been taken into account for the calculation of the ratio and amounts awarded to high earners within firms that apply a specific remuneration framework.
49. When checking the completeness of high-earners data, competent authorities should take into account, in particular, the size and numbers of staff of the firms and the number of high earners provided in the past.
50. Competent authorities should make plausibility checks to confirm that firms that have to provide high-earners data have indeed provided it in accordance with these Guidelines. In particular, where competent authorities do not receive high-earners data from firms that have previously submitted such data, they should contact the firms to receive confirmation of the fact that no high earners had to be reported. Competent authorities should also follow up on material changes to the number of reported high earners.

51. Where competent authorities are aware of developments that materially increased or reduced the number of high earners, they should inform the EBA of the underlying reason.
52. For data submitted that show potential data-quality issues, the EBA may ask competent authorities to review the data and provide the information necessary for the correct interpretation thereof.
53. Competent authorities should provide corrected data or explanations to 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 30 September.
54. When submitting high-earners data to the EBA in accordance with these guidelines, competent authorities should ensure that they also comply with EBA/DC/335 of 5 June 2020 on European Centralised Infrastructure for Supervisory Data (EUCLID) ('EUCLID Decision')¹¹ as amended and that they provide institutions and investment firms with any technical specifications necessary for the continuous compliance with the EUCLID Decision.

¹¹https://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 – Information on the remuneration of high earners under Directive 2013/36/EU¹

		Name of the institution/investment firm/group applying Title VII of Directive 2013/36/EU:							Name			
		EU/EEA state to which the data relate:							Country code			
		Financial year for which remuneration is awarded (year N):							Year			
		Payment bracket (EUR 1 mn to less than EUR 2 mn; EUR 2 mn to less than 3 mn; etc.):							Amount of payment bracket			
row	Reference to ITS	Function / Business area	MB Supervisory function	MB Management function	Investment banking	Retail banking	Asset management	Corporate functions	Independent control functions	All other high earners	All high earners in investment firms that are subject to Article 25 and 34 of Directive [EU] 2019/2034	
		Information on high earners										
1		Number of individuals in senior management										
2		Number of individuals in control functions										
3		Number of other staff										
4		Total number of high earners										

¹ The instructions specified in Commission Implementing Regulation (EU) 2021/637 (ITS on disclosure) should be applied by analogy regarding the rows in this template.

4a		Of which: Number of male high earners									
4b		Of which: Number of female high earners									
4c		Of which: Number of high earners that have a different gender than the male or female gender									
5		Of which: 'identified staff' (included in row 4)									
5a		Of which: Number of high earners (included in row 4) in subsidiaries that are subject to a specific remuneration framework under other union legal acts in accordance with Article 109(4) of Directive 2013/36/EU									
6	REM1 Row 2	Total fixed remuneration of all high earners (in EUR)									

7	REM 1 Row 3	Of which: cash-based									
8	REM 1 Row EU-4a	Of which: shares or equivalent ownership interests									
9	REM 1 Row 5	Of which: share-linked instruments or equivalent non-cash instruments									
10	REM 1 Row EU-5x	Of which: other instruments									
11	REM 1 Row 7	Of which: other forms									
12	REM 1 Row 10	Total variable remuneration of all high earners (in EUR)									
13	REM 1 Row 11	Of which: cash-based									
14	REM 1 Row 12	Of which: deferred									
15	REM 1 Row 13a	Of which: shares or equivalent ownership interests									
16	REM 1	Of which: deferred									

	Row 14a										
17	REM 1 Row 13b	Of which: share-linked or equivalent non-cash instruments									
18	REM 1 Row 14b	Of which: deferred									
19	REM 1 Row 14x	Of which: other instruments									
20	REM 1 Row 14y	Of which: deferred									
21	REM 1 Row 15	Of which: other forms									
22	REM 1 Row 16	Of which: deferred									
	Reference to ITS	Additional information on the above positions (all the amounts below should also be included in total variable remuneration or total fixed remuneration respectively)									
23	REM 2 Row 1	Guaranteed variable remuneration awards – number of high earners									
24	REM 2 Row 2	Guaranteed variable remuneration									

		awards – Total amount									
24a	REM 2 Row 3	Of which: guaranteed variable remuneration awards, awarded to identified staff for the financial year, that are not taken into account in the bonus cap									
25	REM 2 Row 6	Severance payments awarded during the financial year – Number of high earners									
26	REM 2 Row 7	Severance payments awarded during the financial year – Total amount									
26a	REM 2 Row 10	Of which severance payments awarded for the financial year to identified staff, that are not taken into account in the bonus cap									
27		Number of beneficiaries of contributions to discretionary pension benefits in year N									

28		Total amount of contributions to discretionary pension benefits in year N ²									
29		Total amount of variable remuneration awarded for multi-year periods under programmes which are not revoked annually									
30		For institutions that benefit from a derogation at an institutional level Number of high earners benefitting from the derogations under Article 94 (3) (a) of Directive 2013/36/EU									
31		For institutions that benefit from a derogation at an institutional level Variable remuneration of individual high earners that are									

² As defined under Article 3(53) of Directive 2013/36/EU.

		identified staff in institutions benefitting from the derogations under Article 94 (3) (a) of Directive 2013/36/EU									
32		Total amount of variable remuneration of high earners that are not identified staff									
33		Total amount of fixed remuneration of high earners that are not identified staff									

ANNEX II – Information on the remuneration of high earners under Directive (EU) 2019/2034³

		Name of the investment firm/group:							Name (free text)	
		EU/EEA state to which the data relate:							Please select Member State	
		Financial year for which remuneration is awarded (year n):							Year	
		Payment bracket (EUR 1 mn to less than EUR 2 mn; EUR 2 mn to less than 3 mn; etc.):							Please select	
row	Referen ce to ITS	Function / Business area	MB Supervisory function	MB Management function	Dealing on own account, underwriting and placing of instruments	Investment advice, order execution	Portfolio management	Operation of MTF/OTF	Independent control functions	All other staff
		Information on high earners								
1		Number of individuals in senior management								
2		Number of individuals in control functions								
3		Number of other staff								
4		Total number of high earners								
4a		Of which: Number of male high earners								
4b		Of which: Number of female high earners								

³ The instructions specified in the ITS on disclosure³, with regards to the rows where references to the tables REM1 and REM2 of that ITS are included in Annex II, should be applied.

4c		Of which: Number of high earners that have a different gender than the male or female gender								
5		Of which: 'identified staff'(included in row 4)								
6	REM1 Row 2	Total fixed remuneration (in EUR) in year N of all high earners								
7	REM 1 Row 3	Of which: cash-based								
8	REM 1 Row EU-4a	Of which: shares or equivalent ownership interests								
9	REM 1 Row 5	Of which: share-linked instruments or equivalent non-cash instruments								
10		Of which: other types of instruments under Article 32(1)(j)(iii) Directive (EU) 2019/2034								
10a		Of which: non-cash instruments which reflect the instruments of the portfolios managed								
10b		Of which: approved alternative arrangements								

11	REM 1 Row 7	Of which: other forms								
12	REM 1 Row 10	Total variable remuneration (in EUR) in year N of all high earners								
13	REM 1 Row 11	Of which: cash-based								
14	REM 1 Row 12	Of which: deferred								
15	REM 1 Row 13a	Of which: shares or equivalent ownership interests								
16	REM 1 Row 14a	Of which: deferred								
17	REM 1 Row 13b	Of which: share-linked instruments or equivalent non-cash instruments								
18	REM 1	Of which: deferred								

	Row 14b									
19	REM 1 Row 14x	Of which: other types of instruments under of Article 32(1)(j)(iii) of Directive (EU) 2019/2034								
20	REM 1 Row 14y	Of which: deferred								
20a		Of which non-cash instruments which reflect the instruments of the portfolios managed								
20b		Of which: deferred								
20c		Of which: approved alternative arrangements								
20d		Of which: deferred								
21	REM 1 Row 15	Of which: other forms								
22	REM 1 Row 16	Of which: deferred								

Additional information on the above positions (all the amounts below should also be included in total variable remuneration)										
23	REM 2 Row 1	Guaranteed variable remuneration awards – number of high earners								
24	REM 2 Row 2	Guaranteed variable remuneration awards – Total amount								
25	REM 2 Row 6	Severance payments awarded during the financial year – Number of high earners								
26	REM 2 Row 7	Severance payments awarded during the financial year – Total amount								
27		Number of beneficiaries of contributions to discretionary pension benefits in year N								
28		Total amount of contributions to discretionary pension benefits in year N								
29		Total amount of variable remuneration awarded for multi-year periods under programmes which are not revolved annually								
30		For investment firms that benefit from a derogation at an institutional level								

		Number of high earners benefitting from the derogations under Article 32(4)(a) of Directive (EU) 2019/2034								
31		For investment firms that benefit from a derogation at an institutional level Thereof variable remuneration of high earners that are identified staff, where the investment firm is benefitting from the derogations under Article 32(4)(a) of Directive (EU) 2019/2034								
32		Total amount of variable remuneration of high earners that are not identified staff								
33		Total amount of fixed remuneration of high earners that are not identified staff								

ANNEX III – Data-quality checks

Institutions, investment firms and competent authorities should apply the following data-quality checks, as applicable, for ANNEX I and ANNEX II.

Row	Data-quality check
1 to 5	The number of staff reported should be integer numbers.
4	The number in row 4 should be equal to the sum of row 1 to 3
4a, 4b, 4c	The sum of the value in rows 4a, 4b and 4c should equal the number in row 4
5	The number in row 5 should be lower or equal to the number in row 4
6	The total fixed remuneration should be the sum of the rows 7 to 11
12	The total variable remuneration should be the sum of rows 13, 15, 17, 19, 21 in Annex I; and for Annex II, the sum of rows 13, 15, 17, 19, 20a, 20c, 21
12	The total variable remuneration should not be lower than the sum rows 24, 26, 28 and 29
12	The sum of deferred remuneration in rows 14, 16, 18, 20, 22 of Annex I and for Annex II in rows 14, 16, 18, 20, 20b, 20d, 22 should not be higher than the value in row 12
-	Correctness of the selected payment band: For each business area, the sum of the fixed remuneration (row 6) and the variable remuneration (row 12) divided by the number of high earners (row 4) should result in a value that is within the selected payment band.
-	Ratio of deferred remuneration: The sum of deferred remuneration in rows 14, 16, 18, 20, 22 of Annex I; and for Annex II, in rows 14, 16, 18, 20, 20 b, 20 d, 22 after the deduction of the values in rows 24, 26, 31 and 32 should be higher than or equal to 0.4 times the value in row 12 after the deduction of the value in row 32.

Institutions and investment firms should consider that this simplified validation rule is for benchmarking purposes only and is not a validation of compliance with the remuneration requirements on 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.

This validation rule does not apply to institutions and investment firms where all high earners benefit from the derogation to the requirement to pay out parts of the variable remuneration under deferral arrangements under Article 94(3)(a) of Directive 2013/36/EU or Article 32(4)(a) of Directive (EU) 2019/2034.

-
- Payout in instruments: The sum of rows 15, 17 and 19 of Annex I and 15, 17, 19, 20a and 20c of Annex II after deducting the values in rows 24, 26, 31 and 32 should be higher than or equal to 0.5 times the value in row 12 after the deduction of the values in rows 31 and 32.

Institutions and investment firms should consider that this simplified validation rule is for benchmarking purposes only and is not a validation of compliance with the remuneration requirements on 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 and investment firms where all high earners benefit from the derogation the requirement to pay out parts of the variable remuneration in instruments under Article 94(3)(a) of Directive 2013/36/EU or Article 32(4)(a) of Directive (EU) 2019/2034.

Ratio between variable and fixed remuneration in institutions: For identified staff in institutions (Annex I) the variable remuneration in row 12 after the deduction of the values in rows 24, 26a and 32 divided by the fixed remuneration in row 6 after the deduction of the value in row 33 should be, as applicable, at or below 100% or 200%. This validation rule does not apply to the business area 'All high earners in subsidiaries that are subject to Articles 25 and 34 Directive (EU) 2019/2034'.

For institutions submitting consolidated data

In each row of Annex II, the sum of the numbers should equal the respective number in column 'All high earners in investment firms that are subject to Articles 25 and 34 Directive (EU) 2019/2034'.

ANNEX IV – Overview on data submissions for high earners

Submission of high-earner data on the highest level of consolidation (consolidated basis)		
Submitter	Information to be submitted	
	Annex I	Annex II
<p>EU parent institution, the EU parent financial holding company or the EU parent mixed financial holding company</p> <p>Where Article 1(2) or (5) and Article 7 of Regulation (EU) 2019/2033 applies:</p> <p>EU parent investment firm, the EU parent investment holding company or the EU parent mixed financial holding company.</p>	<p>Data on consolidated basis, including all high earners in entities within the prudential consolidation allocated to the applicable function or business area.</p> <p>Data on high earners in subordinated investment firms (individual basis) that are subject to Articles 25 and 34 Directive (EU) 2019/2034 are included in the column ‘All high earners in investment firms that are subject to Article 25 and 34 of Directive (EU) 2019/2034’ of Annex I, including staff in investment firms that are subject to Article 109(5) or (6) Directive (EU) 2013/36.</p>	<p>Data on all high earners in investment firms (individual basis) that are subject to Articles 25 and 34 Directive (EU) 2019/2034, allocated to the applicable function or business area.</p> <p>(The sum of the data in Annex II should equal the data provided in Annex I, column ‘All high earners in investment firms that are subject to Article 25 and 34 of Directive (EU) 2019/2034’)</p>
<p>EU parent investment firm, the EU parent investment holding company or the EU parent mixed financial holding company (Article 1(2) or (5) of Regulation (EU) 2019/2033 does not apply) subject to Articles 25 and 34 Directive (EU) 2019/2034 and not included in the scope of consolidation of an EU parent institution, the EU parent financial holding company or the EU parent mixed financial holding company</p>	<p>Not applicable</p>	<p>Data on the consolidated basis</p>
Submission of high-earner data on individual basis (only where the institution/investment firm is not included in EU consolidated data)		
<p>Institution and Investment firm, where Article 1(2) of Regulation (EU) 2019/2033 applies</p>	<p>Annex I: individual basis</p>	<p>Not applicable</p>
<p>Investment firm (Article 1(2) and (5) of IFR does not apply) that is subject to Articles 25 and 34 Directive (EU) 2019/2034.</p>	<p>Not applicable</p>	<p>Annex II: individual basis</p>

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 provides 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 of the problem to be dealt with, the solutions proposed and the potential impact of these options.

The EBA is updating the existing Guidelines on the annual data-collection exercise regarding high earners for which an impact assessment was carried out when it was first published in 2012.

The baseline scenario for the impact assessment includes the existing EBA Guidelines, as well as the disclosure requirements and changes, included in Directive 2013/36/EU and Directive (EU) 2019/2034. It also considers the obligation of the competent authorities to collect high-earner data and submit them to the EBA, which is encoded in Article 75(3) of Directive 2013/36/EU and Article 34(4) of Directive (EU) 2019/2034. Despite many similarities, the two data collections are separate, because they refer to two distinct regulatory frameworks and because some of the underlying remuneration requirements differ. It is necessary to be able to determine the total number of high earners that are subject to each of the data collections and the high earners that are subject to both data collections as they are employed by investment firms subject to Articles 25 and 34 of Directive (EU) 2019/2034, but are also within the prudential consolidation under Directive 2013/36/EU.

The impact assessment does not consider additional data that may be collected by competent authorities and is limited to the marginal effects of the updated Guidelines in comparison to the baseline scenario.

No changes in scope

In the past, both investment firms and institutions were subject to the provisions under Directive 2013/36/EU that required submitting data on high earners to the competent authorities. With the entry into force of Regulation (EU) 2019/2033/ Directive (EU) 2019/2034 rules, the regulatory framework was split into two separate directives, but the scope of the high-earner data-collection exercise overall stays the same. Minor changes in scope stem from the specific scope of Directive (EU) 2019/2034 that, in contrast to the previously applicable CRD, includes all investment firms. However, the data collection on high earners is limited to investment firms that are not small and non-interconnected (i.e. investment firms that fulfil all the requirements under Article 12(1) of

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

Regulation (EU) 2019/2033). Therefore, there is no cost incurred by the guidelines in terms of change in scope.

Data on derogations to the requirements to pay out the variable remuneration in instruments and under deferral arrangements

Directive 2013/36/EU and Directive (EU) 2019/2034 introduced derogations to the requirements to pay out the variable remuneration in instruments and under deferral arrangements. A requirement to provide information on the extent to which such derogations are used has been included in the disclosure requirements under CRR and IFR. Directive 2013/36/EU and Directive (EU) 2019/2034 require competent authorities to collect such information from institutions and investment firms. It is also necessary to collect some data on the application of such waivers in the context of the data collections on high earners to assess the impact of such derogations to the remuneration practices for high earners. The change is thus a consequence of the mandate provided by the new legislation, and the guidelines themselves do not impose any additional burden or costs on institutions and investment firms.

Alignment with the ITS on disclosures

The alignment of the tables for data collection with the tables under the guidelines on remuneration benchmarking and the ITS on disclosures entailed changes to the previous guidelines that ensure consistency in table structure and terminology of positions already defined in the ITS and the EBA guidelines. Only rows that are relevant for the high-earners data collection have been included and rows that can be used to validate the quality of the data provided.

The data collection for high earners concerns only a small number of individuals, i.e. those earning more than EUR 1 million. Not all high earners are identified staff and therefore not all of their remuneration is part of the respective disclosures by institutions or investment firms. However, the datapoints collected for high earners will be the same due to the alignment of tables.

This approach will minimise additional work for this specific exercise, by leveraging the data and data definitions that already exist.

Reporting of high earners by gender

A higher level of granularity has been suggested during the public consultation. While this has not been specifically directed to the aspect of gender, the EBA has adjusted the templates in light of its mandate to benchmark the gender pay gap and is asking to submit the number of high earners for each gender. Given the low number of high earners, the addition has no material cost impact.

Data-quality provisions

The Guidelines issued in 2014 addressed only competent authorities and specified processes to ensure completeness and plausibility of the data. Nevertheless, it is expected that the institutions and investment firms included in the data collection will ensure that they submit correct data.

The revised Guidelines are directed instead towards competent authorities, institutions and investment firms. The requirement for data-quality checks was also explicitly extended to the institutions and investment firms.

The Guidelines also provide some guidance on the type of data-quality checks to be conducted to ensure plausible and complete results. It was also decided to include a detailed list of data-quality checks (formulas). Considering the limited number of staff and data points, providing specific formulas has been considered necessary to mitigate the issues observed with data accuracy.

Conclusion

The impact of the Guidelines is expected to be very low, given that most changes stem directly from Directive 2013/36/EU and Directive (EU) 2019/2034 mandates. Moreover, the main change not connected to the IFR/IFD mandate – the alignment with the ITS on disclosures – aims to leverage the existing data collections, facilitate the data flows and therefore ease the burden on institutions submitting the data.

5.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposed Guidelines for a period of 2 months that ended on 21 March 2022. Three responses were received, which were all published on the EBA website. The EBA's Banking Stakeholder Group did not submit its opinion.

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 are documented in the summary and feedback table below.

In many cases the responding industry bodies made similar comments or the same body repeated its comments in the response to different questions. Some comments were also relevant for the proposed EBA guidelines on remuneration benchmarking. The comments and the EBA analysis are included in the section of this paper where the EBA considers them most appropriate.

Summary of key issues and the EBA's response

Some respondents noted that they would prefer to keep the existing timeframe where institutions submit data by 30 of June and competent authorities (CAs) to submit data to the EBA by 31 August. Moving submissions up in time would increase the administrative burden for institutions and might deteriorate the data quality.

The respondents questioned some of the business line allocations and definitions. Some of them stated that the definitions of the management board and their allocation to reporting columns differ between the high earners and the remuneration benchmarking exercises, suggesting a fully consistent procedure. One respondent wished for more granularity of the data reported.

Another point of concern for one respondent is the correct reporting of staff in subsidiaries employed by investment firms, Undertakings for Collective Investments in Transferable Securities (UCITS) and Alternative Investment Funds Managers (AIFM). It is unclear to which business line they should be allocated. They wish for clarification in the allocation process.

The EBA has revised the guidelines to provide further clarity on the data to be submitted. A higher level of granularity has been introduced concerning the gender of high earners in light of the EBA's mandate to benchmark the gender pay gap.



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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Responsible function	One respondent asked who at the institution is responsible for the data collection exercise.	The responsibility is with the institution, which is free to decide on how to prepare the data to be submitted.	No change
Responses to questions in Consultation Paper EBA/CP/2022/04			
Question 1 (Subject matter, scope and definitions)			
Scope	One respondent asks for clarification on the arrangements for dealing with negative reports.	The obligation to submit negative reports no longer applies under the GL. However, competent authorities may impose such a requirement and in that case will provide instructions.	GL clarified
Question 2 (Scope of data-collection exercises)			
Question 3 (Sections 2 and 3 – Procedural and general specifications)			
Procedural specifications para. 17 Submission date	Two respondents request confirmation of the previous timing for information collection (30 June and 31 August) because the new timing (31 May, 15 July) would increase the administrative burden for institutions around shareholder meetings and could be detrimental to the data quality.	To avoid challenges in ensuring the appropriate quality of data the submission dates have been adjusted to 15 June for institutions and 31 July for competent authorities. The chosen deadlines will facilitate a timelier data-quality check and publication of reports.	GL amended
Question 4 (Annex I – Additional instructions)			
4. Definitions (para. 31(a))	Two respondents point to different definitions of the management body between the remuneration	The differentiation is intentional. For the high-earner data collections, it is necessary to identify the main	No change



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Management Body	<p>benchmarking consultation paper and the high earners consultation paper for their allocation to business areas. In the remuneration benchmarking, only the members of the management board at the highest level of consolidation are allocated to the management board, either management or supervisory function. Members of the management bodies of subsidiaries should be allocated to the relevant business areas. In comparison, for the high earners data collection all members of management bodies (also of subsidiaries) should be allocated to the management body. The respondents wish to align the definitions to provide comparable data. One of the respondents proposes following the remuneration benchmarking approach.</p>	<p>responsibilities of high earners, including in subsidiaries.</p> <p>On the other hand, for benchmarking purposes, data are in most cases collected on 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> <p>Moreover, such members usually receive less remuneration than the members at parent level. This aspect, while relevant for benchmarking, is not relevant for the collection of high-earner data.</p> <p>In addition, for the high-earner data collection, the information should include the responsibility of the high earner and the requirement also applies on an individual basis. Members of the management body for the purposes of the high-earner data collection are therefore all high earners with such a position, be it on the individual or consolidated level.</p>	
<p>Business areas para. 31(d, g) Asset Management, staff in subsidiaries specific remuneration framework</p>	<p>One respondent asks for clarification on the allocation of staff, which is subject to a specific remuneration framework to the columns ‘asset management’ and ‘all staff in subsidiaries subject to a specific remuneration framework’ in relation to Art. 109(5) or (6) of Directive 2013/36/EU. The respondent asks for examples.</p>	<p>Information is submitted to competent authorities by the institution or investment firm at the highest level of consolidation.</p> <p>Where an institution is at the highest level of consolidation, high earners might exist within the subsidiaries that are institutions, but also in other subsidiaries, e.g. in investment firms.</p> <p>The submission process has been reviewed, clarified and simplified. It appears that it is preferred to make a full report of all high earners at the highest level of</p>	GL clarified



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>consolidation for the whole scope of prudential consolidation.</p> <p>As a consequence the consolidating institution has in the case of consolidation under Directive 2013/36/EU and Regulation (EU) 575/2013, having regard to Article 1(2) or (5) of Regulation (EU) 2019/2033, to allocate all high earners to Annex I (all high earners, with a specific column for high earners in investment firms that are themselves subject to the data-collection requirement under Article 34 of Directive (EU) 2019/2034) and Annex II (all high earners in investment firms that are subject to Articles 25 and 34 of Directive (EU) 2019/2034.</p> <p>An additional overview on the required data submissions has been added to Annex IV.</p>	
<p>para. 31(f) Independent control functions</p>	<p>One respondent asks for clarification if institutions which consider categories other than compliance, risk management and internal audit as independent control functions should report them under this category.</p>	<p>For the data collection the functions concerned are <u>limited</u> to the independent risk management, compliance and internal audit functions as specified in Section 19 of the EBA Guidelines on internal governance.</p>	<p>GL clarified</p>
<p>Question 5 (Annex II – Additional instructions)</p>			
<p>para. 32 Management body</p>	<p>For the definition of the management body in question 4, the same applies for investment firms, i.e. the definitions should be aligned for the remuneration benchmarking and the high-earners data collection.</p>	<p>See above</p>	<p>No change</p>
<p>Question 8 (Annex I)</p>			



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
High Earners under CRD	One respondent asks for confirmation that all high earners' (and not only for identified staff) remuneration should be reported in rows 6 to 22 of Annex I.	The information on the elements of fixed and variable remuneration includes the remuneration of all staff whose remuneration exceeds EUR 1 million for the reporting period, regardless of whether they are identified staff or not.	GL clarified
Annex I and Annex II	One respondent suggests, in particular for the remuneration of executives, that data should be very detailed, including e.g. seniority and function.	In light of the EBA's mandate to also benchmark the gender pay gap, the number of high earners should also be reported by gender. Given differences in the internal organisation of institutions, no further granularity on the functions has been introduced. However, the EBA will issue guidelines on the benchmarking of diversity and the gender pay gap at the level of the management body and will consider additional granularity in this context.	GL amended

