

Response from the Italian Banking Association  
to the FBS consultation document

**Recommendations for consistent national  
reporting of data on the use of  
compensation tools to address misconduct  
risk**

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## **Preliminary remarks**

The FSB agreed on a workplan in May 2015 aimed at addressing misconduct risk through a combination of measures, focusing on

(i) examining whether reforms to incentives, for instance to governance and compensation structures, are having a sufficient effect on reducing misconduct risk and whether additional measures are needed;

(ii) examining whether steps are needed to improve global standards of conduct on the fixed income, commodities and currency markets;

(iii) coordinating reforms to major financial benchmarks.

The work comprises measures for effective governance and compensation frameworks. In the area of compensation, the FSB issued Supplementary Guidance to the FSB Principles and Standards on Sound Compensation Practices regarding the use of compensation tools to address misconduct risk in significant financial institutions (i.e. financial institutions that national supervisory authorities consider significant for the purposes of the P&S).

The FSB work on addressing misconduct risk supports efforts to improve supervisory consideration of compensation practices. In this vein, the consultation document represents the view of the FSB on recommendations for consistent reporting of data to national (or jurisdictional) supervisory authorities, within the scope of applicable legislative and regulatory frameworks, on the use of compensation tools to address misconduct risk in significant financial institutions. Currently, the gathering and analysis of compensation data vary significantly across jurisdictions and from firm to firm. Similarly, in terms of the information available to national supervisory authorities, a variety of approaches exists.

The Italian Banking Association is grateful for the opportunity to contribute to defining the Data aimed at monitoring the effectiveness of the use of compensation tools to address misconduct.

Italian legislation places a great deal of emphasis on the staff conduct and ABI commends the focus on a Data set relating to consistent reporting of data.

Regarding the specific matters addressed in the document (matters which find their answers in the following Annex) ABI deems it appropriate preliminarily to highlight a few topics.

Italian regulations prescribe detailed principles and rules that establish a connection between remuneration (variable) and behaviour, outlining two different stages in which to evaluate this connection: an ex ante phase aimed at guiding behaviour to conform to the prescribed standards and an ex post phase aimed at intervening in the event of improper behaviour.

Each company complies with current regulations based on multiple factors: business model, type of activity and geographical location, as well as its own particular experience.

There can be no doubt, though, that only having to abide by national rules could undermine the level playing field in a certain sense. There should be a cohesive set of values that unite the different countries.

Therefore, the recommendations proposed by the International Regulator aimed at harmonising the framework on an international level are most definitely welcomed.

Intervention should take into account the following points:

- **exemplify** any forms of behaviour deemed to be improper in order to offer companies a tool that will improve compliance

- **exclude** references to any behaviour falling "below expected standards" because these forms of behaviour underlie individual objectives that are considered ex ante for non-payment of variable remuneration
- **improve** business experience at an advanced stage of application by taking into account the specific features of the companies, in terms of activity type, business area, territorial structure, etc.
- **provide** for the gradual implementation of the recommendations in the national regulations within a reasonable time frame so as to activate appropriate structured processes to determine, manage and monitor the risk of misconduct and the effects on variable remuneration
- **confirm** what has been indicated in the draft consultation as regards the implementation of recommendations on a national level, which must take into account the concrete risk of misconduct and consider the balance between implementation costs and supervisory objectives
- **limit** data collection to include Core data only as required to achieve the objectives of the recommendations regarding the management and misconduct reporting. Each Institution will then supplement the Core data with additional information suggested by the Regulator
- **limit** the obligation and make it compulsory for national competent authorities only to acquire the data provided for obvious reasons of reputational damage that broader dissemination would entail.

Before making any choices, national labour law and the national collective labour agreement will have to be examined, with particular regard to the areas of disciplinary sanctions and the contractual remuneration structure, if a suitable balance is to be struck.

## Response to the Consultation questions

**1. Is the proposed “Data Set” sufficient to help (a) supervisors and (b) firms to monitor the effectiveness of the use of compensation tools to address misconduct?**

ABI deems the “Core Data Set” to be sufficient to help supervisors and firms monitor the effectiveness of the use of compensation tools to address misconduct.

Therefore, we request that data collection be limited to Core data only. Then, each Institution will supplement the Core data with additional information suggested by the Regulator.

**2. If not, which additional data/information should be collected?**

No other additional data/information should be collected.

**3. Are there any impediments to (a) firms and (b) supervisors in (i) gathering or (ii) using the Data Set?**

“A description of the internal definition of misconduct categories used for compensation purposes” is not an easy thing to do. It would be crucial to have some examples of misconduct categories used for compensation purposes.

We think it should be clarified that it should be made compulsory for national competent authorities only to provide data for obvious reasons of reputational damage that broader dissemination would entail.

**4. Are there any elements in the “Data Set” that may not be relevant to a particular financial sector?**

We believe Core “Data Set” is relevant to all financial sectors.

**5. Are there any additional elements that should instead be considered for a particular financial sector?**

ABI deems that the Core Data Set adequately covers information that may be relevant to addressing the misconduct risk in all sectors of the financial industry.

**6. What elements of the Data Set are not already utilised by firms in their own monitoring of compensation and misconduct risk management practices?**

Significant financial institutions are building up processes enabling them to link misconduct to remuneration, envisaging a reduction / resetting of the variable component not yet paid, or the claw-back of variable emoluments already paid.

Currently, there are few companies where targeted audits (checks) aimed at lowering remuneration in the case of misconduct actually take place.

**7. What types of information have been most useful to firms in their monitoring and assessments of potential misconduct, and when assessing the effectiveness of compensation tools?**

All Core data in the Data set are useful to firms in their monitoring and assessments of potential misconduct, and when assessing the effectiveness

of compensation tools.

**8. What are the most important changes that have occurred in firms' management of compensation and conduct risk in recent years? Do the current Recommendations focus enough on these developments that may help to better achieve alignment of risk and reward?**

The most important changes that have occurred in firms' management of compensation and conduct risk in recent years relate to the malus and claw-back provisions.

Moreover, at the moment, significant institutions are involved in defining processes for determining, monitoring and reviewing the firm's use of compensation as a way to support effective risk management, including misconduct risk. This means they are in charge of defining the internal definition of misconduct categories used for compensation purposes and the firm's policies and decision-making procedures for assessing and deciding on the use of compensation tools in the case of misconduct.

With a view to harmonising the framework at an international level, we would like to ask for the following to be done:

- **exemplify** any forms of behaviour deemed to be improper in order to offer companies a tool that will improve compliance
- **exclude** references to any behaviour falling "below expected standards because these forms of behaviour underlie individual objectives that are considered ex ante for non-payment of variable remuneration
- **improve** business experience at an advanced stage of application by taking into account the specific features of the companies, in terms of activity type, business area, territorial structure, etc.
- **provide** for the gradual implementation of the recommendations in the



national regulations within a reasonable time frame, so as to activate appropriate structured processes to determine, manage and monitor the risk of misconduct and the effects on variable remuneration

•**confirm** what has been indicated in the draft consultation as regards the implementation of the recommendations at national level, which must take into account the concrete risk of misconduct and consider the balance between implementation costs and supervisory objectives.

**9. How do firms monitor and validate the use of compensation tools when misconduct occurs to ensure an appropriate balance between risk and reward? What analytics support firms' judgments in these areas?**

Significant financial institutions are working to identify the various categories of misbehavior that implicate a direct intervention on variable remuneration.

Each category of misconduct is ranked and this ranking stands for the risk factor which the individual behavior exposes the bank to. The higher the ranking, the greater the risk the bank is exposed to as a result of the behaviour. When defining the ranking, all risks to which the company is exposed (liquidity, profitability, capital, reputational, etc.) are considered.

Depending on the ranking associated with each instance of behaviour, proportional remuneration reduction is envisaged: as the ranking increases, the percentage reduction in variable remuneration will also increase.

Alongside the reduction in variable remuneration linked to the severity of the behaviour, in some circumstances, other tools can be used by the company, such as hindering career advances or pay rises as a reward for merit.

