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POLISH BANK ASSOCIATION

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Financial Stability Board
cc European Banking Federation
cc Polish Financial Authority

Warsaw, 10 August 2017

**Ref. Consultation of Supplementary Guidance to the FSB Principles and Standards
on Sound Compensation Practices**

Dear Sirs,

Enclosed please find comments of Polish Bank Association to the above mentioned document.

Should you have any questions concerning our reply, please kindly write to barbara.baranska@zbp.pl who is responsible at PBA for this issue.

Yours sincerely,


Krzysztof Pietraszkiewicz
President

PBA comments to FSB document:

1. *Should the Guidance be more specific with regard to the respective roles of the board or that of senior managers with regard to compensation and misconduct?*
 - a. The Guidance should not be more specific, but to avoid misinterpretation of the regulations it should be more precise as regards the roles of supervisory board, management board and senior management. The key issue is the problem of ambiguous definitions (e.g. board of directors, senior management etc). Additionally, there is practical aspect of individual responsibilities of management board members vs. collective responsibility of the board. The Guidance should either be more precise in describing particular aspects of management tasks thus allowing to assign particular responsibilities to concrete persons or positions (with regard to different organization cultures), or clearly declare that the whole collective organ (i.e. each of its members) is responsible for the results of all the decisions taken by the board. Lack of precision in declaring the roles/tasks at this level of management (except for single positions) makes this entry less effective. The Guidance may indicate that it is necessary for each organization to have formal assignment of particular responsibilities to particular positions or to the whole collective organ. Only such provision makes the Guidance effective in this respect.
 - b. The Guidance should be placed in a wider context and be related to:
 - Mission, vision and strategy of organization, to balance the expectations of reaching the financial targets and protection of customer interest. This approach will improve management cohesion and will positively influence the compensation policy.
 - Organization culture promoting the values and behaviours which support the balanced management of risk, quality and business ethics.
 - Leadership role models in organization, strengthening the sound compensation policy and risk management.
 - c. Detailed comment: Second bullet of Guideline 2.2.1 indicates that the use of performance adjustment may extend beyond those directly responsible for misconduct, and should include persons in control function. This item needs more precision with special attention to individual tasks and responsibilities.
2. *The Guidance suggests that qualitative, non-financial assessments should have a direct impact on compensation and that they are important in determining how to align compensation with risk. Would additional guidance be helpful? Please provide data if your firm uses such provisions including the types of metrics used, and a discussion of any challenges you face in their use.*
 - a. The Guideline should be more precise in determining the tools to be used for qualitative/non-financial assessments to align compensation with risk. The binding regulations for banking sector already require using qualitative indicators in ex-post assessment verification, in fact there is a requirement of using a proper combination of qualitative and quantitative criteria at every stage of compensation and risk alignment. Such tools are already used to align tasks with levels of variable compensation, determine the indicators required to start the process of variable compensation awarding, and during the assessment and verification in the following years (for deferred compensation) – verify the level of variable compensation to be paid (also to be decreased or not paid).

- b. It is a good market practice to align the motivation systems with strategic targets of organization, so that the strategy of organization provides balanced approach to performance management and proper relation between quantitative and qualitative indicators (risk, quality, business ethics).
 - c. It is also worth considering to relate the implementation of internal audit recommendations with assignment of variable compensation, or even include the obligation to implement the audit recommendations in the internal regulations of the organization.
3. *The Guidance identifies three tools most commonly used to address misconduct: in-year adjustment (adjustment to the current year's variable compensation before it is awarded); malus (reduction of deferred compensation before it has vested or fully transferred); and clawback, which permits recovery of variable compensation that has already been paid and vested. Given the particular characteristics of misconduct risk, do you believe that all three tools need to be available to a firm to establish appropriate incentives to deter misconduct?*

Two of the above tools used in case of misconduct, namely:

- in-year adjustment (adjustment to the current year's variable compensation before it is awarded)
- malus (reduction of deferred compensation before it has vested or fully transferred)

are in our opinion sufficient to avoid misconduct risk.

Clawback is not allowed in Polish Labour Code.

4. *The Guidance suggests minimum scenarios where adjustment of compensation should occur. Are there additional circumstances in which adjustments to compensation should be expected? What are the advantages and disadvantages of suggesting such minimum conditions? In particular, is there evidence from past use of such tools that might be instructive in how to formulate such scenarios?*
- a. In case of minimum conditions it is worth to take into account the proportionality principle including the scale and type of activity of the financial institution to make the adjustment of compensation proportionate to the effect of misconduct.
 - b. The Guidance should include the possibility of using the Law of the country to determine the tools and conditions for aligning the compensation and risk.
 - c. Compensation adjustment (before it is awarded) is justified in case of:
 - Misconduct leading to significant loss for the organization, its customers and contracting parties
 - Fraud, gross negligence or major lack of risk control, including severe violation of internal regulations regardless of the scale of harm
 - d. The basic advantage of setting the minimum conditions is flexibility of approach – organizations may diagnose each situation individually.

The disadvantage is lack of unification of principles, which may lead to completely different final solutions.

5. *How much variable compensation should be placed at risk of adjustment in order to effectively impact incentives for excessive risk-taking or other inappropriate conduct?*

It would be advisable to leave to the individual decision of the organization which part of variable compensation in a particular year should be placed at risk of adjustment prior to assignment. Even it should be possible not to assign any variable compensation (decrease to zero). Such approach would allow better alignment of compensation practices to the specific risk of the organization and flexible reaction to concrete situations.

6. *Does the Guidance adequately cover compensation incentives that may be relevant to addressing misconduct risk in all sectors of the financial industry? Are there additional specific provisions that should be considered to better address misconduct risks in particular financial sectors? Are there specific provisions in the guidance that may not be relevant to a particular financial sector?*

The Guidance reflects good compensation practices for both the banking and financial sector. It would be advisable to have them coherent with mission, vision and strategy of the organization, including the organization culture, to provide better adjustment and prevent potential conflict of interest between reaching the strategic goals of the organization and expectations related to motivation systems and compensation.

In case of smaller financial institutions it is advisable to use the principles of proportionality including the scale and type of organization activity, thus allowing to adjust the conditions and results of such activity to the internal regulations of variable compensation assignment.

Warsaw, 10 August 2017