Supplementary Guidance to the FSB Principles and Standards on Sound Compensation Practices

UNI Finance Reply

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?

With the continued problems that plague the finance industry regarding mis-selling and mis-conduct, UNI Finance (UF) sees this consultation to be an important continuation of the process of limiting the possibility of these incidents happening. When considering these issues it is important to always focus on the complete picture and not prematurely assign blame. For this reason, UF considers the current wording regarding the responsibilities of the board and senior managers appropriate as it requires them to create structures within which the possibility of errors, intentional or otherwise, is limited. As has often been seen in the case of mis-conduct, the reason it has occurred is due to an either silent or encouraging management, letting business culture develop in a way whereby employees feel they can get away with the mis-conduct without receiving penalties or might in fact be seen favourably upon. In the cases where inappropriate sales targets are enforced or where it is commonly accepted that customer needs are not to be put above the profits of the bank, penalising the individual employee would be the most heavy-handed and least effective way of preventing such behaviour in the future. Likewise, it is important that if the management choses to make use of punitive measures regarding compensation, it does so based upon some predefined rules and guidelines that have limited range of interpretation. As to the amount of salary subject to variable compensation, UF is of the opinion that a base-level should be set in fixed compensation, which would allow the employee a fair condition of living, and all variable compensation to come on top of this fixed income. In this way, punitive measures related to the variable remuneration will have an effect but will not potentially ruin the life of the employee.

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.

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?

In line with achieving the most effective punishment without unduly interfering with the everyday lives of the employees, the first two options are preferable, i.e. in-year adjustment and malus. The reason for this being, that with clawbacks, the employee could potentially already have spent the money and would thus suddenly be in left with debt rather than lowered income. This would probably leave the employee in a worse situation than was actually intended. Should clawback be used as a possibility, it is again imperative to inform the employee beforehand of how much could be subject to clawback rules. Hence point 2.2 'Aligning compensation and misconduct risk' (7) could possibly be further expanded with regards to the rules that must be disclosed before they are potentially applied.

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?

As there are large differences in the level of impact that employees in different job functions can have, it is important to have adjustment in compensation that is commensurate with this level of risk. It therefore follows, that as high-earners have both more to gain in relation to remuneration and pose a bigger systemic risk to the system, the minimum scenarios for them should have a higher threshold, than for employees with less impact. This is not in order to punish the high-earners in the financial industry, but to implement a proportionate system, which recognises the added risks and benefits of holding certain types of positions.

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?

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?
