

Decision of the European Banking Authority EBA/DC/516

of 5 December 2023

concerning supervisory reporting for diversity benchmarking to the EBA and amendment of the Annex to EUCLID Decision (EBA/DC/2020/335)

The Board of Supervisors

Having regard to

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/EC¹ (the ‘EBA Regulation’ and ‘the EBA’), in particular Article 35 thereof,

Whereas:

(1) Article 91(11) of Directive 2013/36/EU² (CRD), requires competent authorities to collect the information disclosed according to Article 435(2)c of Regulation (EU) No 575/2013³ (CRR) to benchmark diversity practices. Article 91(11) CRD also requires competent authorities to provide the EBA with the above information, so that the EBA can use it to benchmark diversity practices at Union Level. The same diversity requirements apply in relation to investment firms, as set out in Article 9 of Directive 2014/65/EU⁴ (MiFID). The competent authorities are also mandated to collect information on the gender pay gap of members of the management body under Article 75(1) of the CRD and Article 34(1) of Directive (EU) 2019/2034⁵ (IFD) and to provide the EBA with that information in order to benchmark remuneration trends and practices at Union level.

¹ OJ L 331, 15.12.2010, p. 12–47.

² 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, OJ L 177, 30.6.2006, p. 201–255.

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, OJ L 201, 27.7.2012, p. 1–59.

⁴ 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, OJ L 174, 1.7.2011, p. 1–73.

⁵ 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, OJ L 173, 12.6.2014, p. 349–496.

(3) Since 2015, the data collection for the benchmarking of diversity in the management body of institutions and investment firms has been conducted three times, based on requests for information under Article 35(1) of the EBA Regulation, and has shown the need to have a stable framework in place to ensure that data are reported regularly in order to benchmark diversity practices over time, with the best possible data quality and managed in the most efficient way within the EBA's reporting platform (EUCLID).

(4) Following the adoption of the EBA Guidelines on the benchmarking of diversity practices⁶ EBA/GL/2023/08, there is a need to provide common criteria for competent authorities to determine the composition of the sample of reporting credit institutions and investment firms. This is necessary to ensure representativeness of the sample across Member States and its capacity to reflect different market practices, while also ensuring proportionality in respect of the number of institutions in a certain Member State and consistency over time.

(5) To achieve the best possible data quality and consistency of data submitted to the EBA and the European Central Bank (ECB), to avoid duplication of reporting requirements and ensure a proportionate approach within the banking union, a sequential approach should be encouraged in accordance with this Decision and the EUCLID Decision.

Has decided as follows:

Article 1 – Data to be reported

1. Competent authorities shall report to the EBA the diversity benchmarking data ('Data') reported by credit institutions and investment firms ('Reporting entities'), in accordance with the EBA Guidelines on diversity benchmarking.
2. Data shall be reported on an individual basis.
3. Where the ECB has submitted the Data to the EBA, the competent authorities shall refrain from submitting the same Data to the EBA.

Article 2 – Criteria for deciding the sample of reporting entities

1. Competent authorities shall report the Data in relation to a sample of Reporting entities, for their respective jurisdiction.
2. Competent authorities shall define the sample of Reporting entities and shall report it to the EBA by 30 November of the year before the Data is collected. Competent authorities shall inform the Reporting entities of their inclusion in the sample by 31 January.
3. The EBA may request competent authorities to review the composition of the sample.

⁶ Guidelines on the benchmarking of diversity practices, including diversity policies and gender pay gap under Directive 2013/36/EU and Directive (EU) 2019/2034 (EBA/GL/2023/08).

4. The EBA shall publish the list of Reporting entities covered by each benchmarking exercise on its website.
5. The sample of Reporting entities shall be representative for the financial market in the Member State and shall contain Reporting entities of different nature, size and complexity. In addition, the sample shall comply with the following criteria:
 - a) Credit institutions of different sizes (based on the balance sheet total at the end of the preceding financial year) shall be appropriately represented in accordance with the following:
 - i. All credit institutions in the jurisdiction shall be classified, based on the balance sheet total at the end of the last financial year, into the following categories: <EUR 1 bn; EUR 1 bn to <10 bn; EUR 10 bn to <30 bn; EUR 30 bn and above;
 - ii. At least 10% of the total number of credit institutions in each size category from among those referred to in point (i) shall be included. Where in a size category that percentage results in less than 5 credit institutions, a minimum of 5 shall be included; where it results in more than 50 credit institutions, a maximum of 50 shall be included;
 - b) At least 10% of the total number of investment firms in the jurisdiction shall be included. Where that percentage results in less than 5 investment firms, a minimum of 5 shall be included. Whereas, where it results in more than 50 investment firms, a maximum of 50 shall be included;
 - c) At least 5 Reporting entities that constitute significant institutions in accordance with the definition referred to in the EBA GL on diversity benchmarking shall be included;
 - d) Changes to the sample should be avoided as much as possible to ensure that the sample remains stable, e.g. Data shall be collected over time from the same Reporting entities; where Reporting entities are merged or no longer exist, those Reporting entities shall be replaced by others that meet the criteria of this provision in order to keep the size of the sample stable;
 - e) Reporting entities of a different nature and, where applicable, different governance system (unitary board system (1-tier system) or a dual board system (2-tier system)) shall be represented;
 - f) Where the minimum number of credit institutions or investment firms referred to in points (a)(ii), (b) and (c) cannot be met as there is an insufficient number in the respective Member State, the Data shall be collected from all credit institutions or investment firms in that category.

Article 3 – Submission and reference dates

1. Competent authorities shall, after performing data quality checks, submit to the EBA the Data by 15 June. The Data shall be collected every 3 years. The reference date for the Data to be included in this submission shall be 31 December of the year before the Data is collected.
2. The EBA shall perform data quality checks and request corrections where the Data is incomplete or shall request further explanations, where needed, to further analyse the Data. Competent authorities shall submit the required Data revisions or provide additional explanations to the EBA without undue delay.

Article 4 – Technical specifications

1. The Data referred to in this Decision shall be regarded as information submitted through EUCLID and the EUCLID Decision shall apply.
2. Competent authorities shall not submit other data, unless they have previously obtained the EBA’s consent.

Article 5 – Amendment of EUCLID Decision

Decision EBA/DC/2020/335 is amended as follows:

The following acts setting out Data Reporting Obligations are added to the Annex: “29) *EBA Guidelines (EBA/GL/2023/08) on the benchmarking of diversity practices, including diversity policies and gender pay gap under Directive 2013/36/EU and Directive (EU) 2019/2034 and Decision concerning supervisory reporting for diversity benchmarking to the EBA.*”

Article 6 – Final provisions

This Decision enters into force on the day following its adoption and shall apply from the date when the EBA Guidelines on the benchmarking of diversity practices apply [date of application placeholder].

Done at Paris,

José Manuel Campa
Chairperson

For the Board of Supervisors