EBA Public hearing on draft GL on sound remuneration policies

London, 08 May 2015

- CP on draft Guidelines on sound remuneration policies published 4 March 2015
- Consultation ends 4th June 2015, comments to be submitted via EBA's website
- Specific questions are raised in the document, in particular:
  - the application of proportionality
  - the pay out of share-linked instruments for listed companies

Why an update of GL was needed

Necessity to update the previous guidelines in particular to take into account:

- the requirements introduced by CRD IV regarding the limitation of the variable remuneration to 100 % (200 % with shareholders' approval) of the fixed remuneration (bonus cap)
- the RTS on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile
- the RTS on classes of instruments that are appropriate to be used for the purposes of variable remuneration
- the supervisory experience gained since the publication of CEBS GLs on sound remuneration policies and practices and EBA benchmarking reports on remuneration
- the legal view regarding the application of proportionality

Major change of the GL

- The application of the proportionality principle
  - CRD IV allows for some flexibility to adapt the application of the remuneration rules to the size, internal organisation and nature, scope and complexity of institutions' activities. However this cannot lead to the non-application of these rules
  - confirmed by the European Commission, that the requirements on deferral and payment in instruments have to be applied to all institutions
  - A specific question to the public on this point in the draft CP

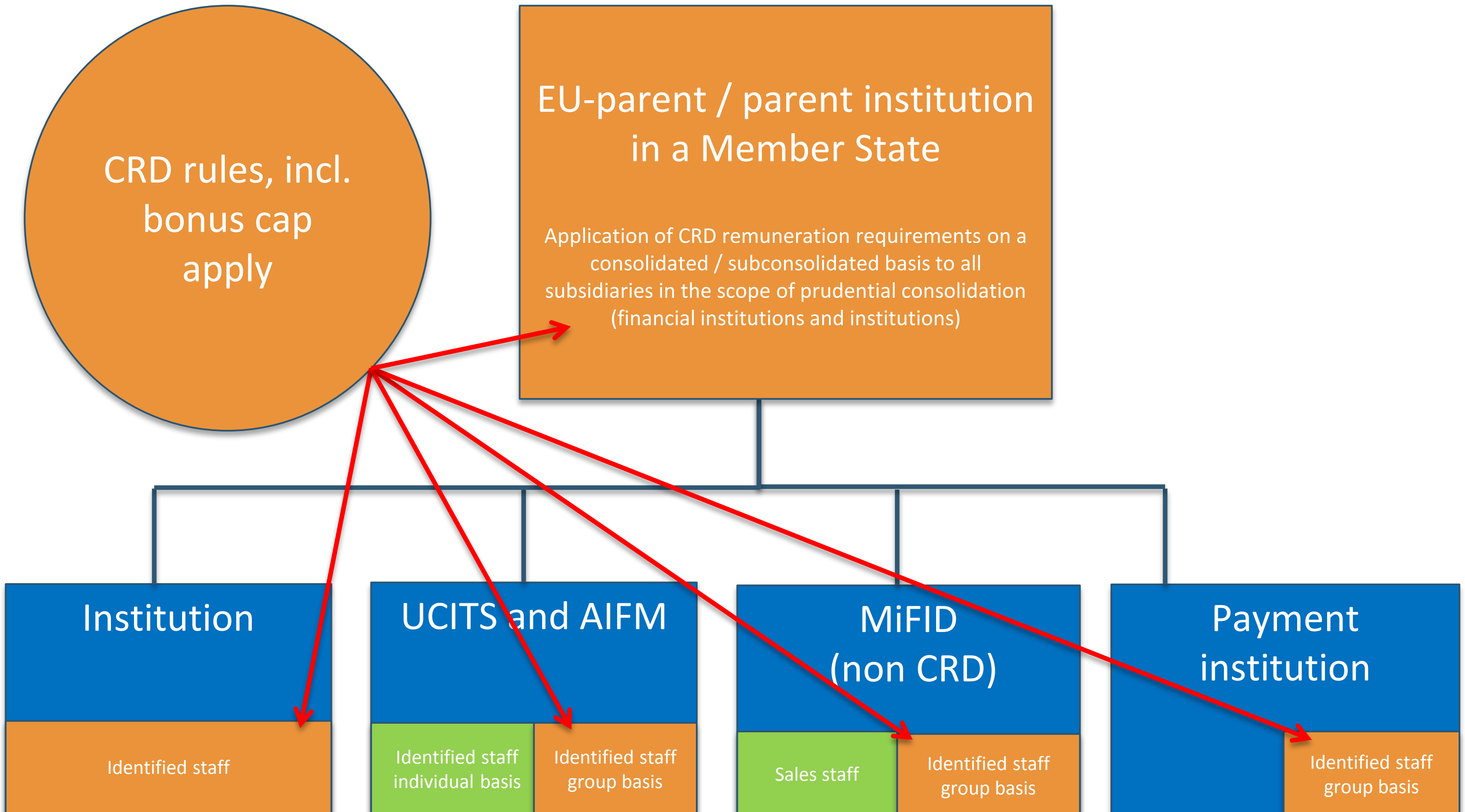
Main contents of the draft guidelines

- Governance of remuneration
  - guidance on governance processes to be applied when remuneration policies are implemented, taking into account the reinforcement of the oversight function within CRD IV
  - definition of significant institutions (GSII, OSII and other significant institutions established by the NCA) - Remuneration committee needed

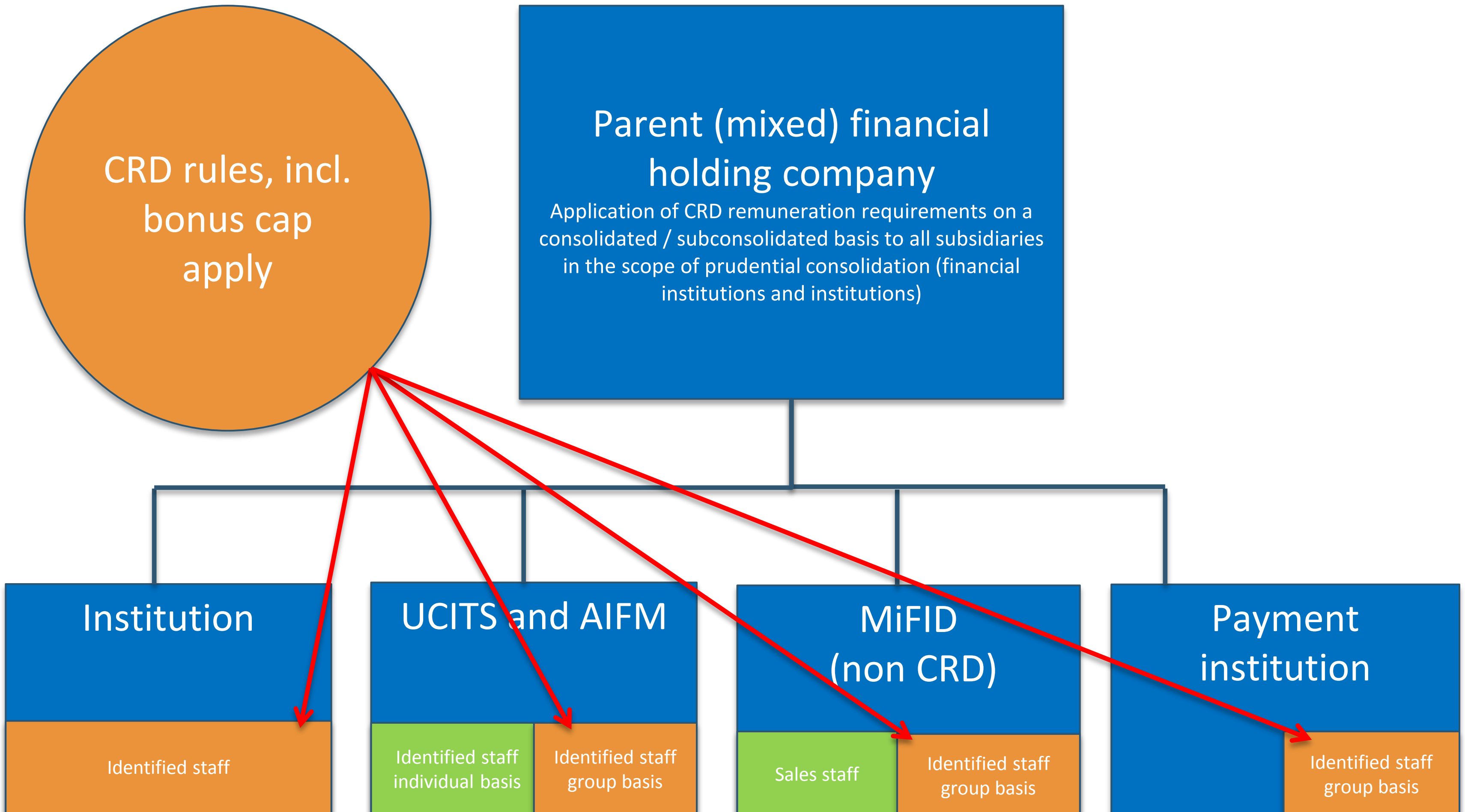
- Remuneration policies within a group
  - the responsible consolidating institution and NCAs should ensure that a group-wide remuneration policy is implemented and complied with by all entities within the group including subsidiaries which are not subject to CRD IV – (national implementations differ: accounting vs prudential scope of consolidation)

- The identification process
  - clarification the identification process of identified staff, in particular the notification and approval processes for the exclusion of staff identified only under the quantitative criteria
  - Criteria provided within the RTS on identified staff
  - Additional criteria needed in some cases (self assessment by institutions)
  - AIF and UCITS only included in the group context
- Notifications of exclusions (> 500 000 euro)
  - max 6 month after preceding financial year
  - Notification of staff excluded again under the same criterion not needed
  - Competent authority will object if criteria are not met
- Prior approval needed (>750 000 euro; 0.3 % of the highest earners)
  - max 6 month after preceding financial year, 3month for NSA to assess
  - Only granted for the following year, reapplication necessary

Application of remuneration requirements in a group context 6/11



Application of remuneration requirements in a group context 7/11



Main contents of the draft guidelines 8/11

- Fixed remuneration (sufficiently high) all criteria to be met:
  - predetermined
  - non discretionary
  - transparent to staff
  - permanent, i.e. maintained over a period of time tied to the specific role and organisational responsibilities
  - non-revocable (but amount can be changed via collective bargaining or via renegotiation)
  - the payment cannot (unilaterally) be reduced, suspended or cancelled by the institution
  - does not provide incentives for risk assumption
  - does not depend on performance
- All what is not fixed is variable remuneration

Main contents of the draft guidelines

- Pay out process
  - To ensure that the variable remuneration is aligned with the risks of the institution in the long term and that ex post risk adjustments can be applied as appropriate
  - Deferral arrangements (40 to 60 % of the variable remuneration for 3 to 5 years; senior management of significant firms at least 5 years)
  - 50% of variable remuneration comprise a balance of shares, equivalent ownership rights, share linked or equivalent non-cash instruments, in the case of a non-listed institutions
  - In line with the legal reading of article 94(1)(l)(i) CRD IV, for non-listed stock corporations, share-linked instruments are available;
  - listed stock corporations must not use share linked instruments

Envisaged timeline for the final GL

- Guidelines will apply to competent authorities
- Guidelines will apply to all institutions
- Implementation by the end of 2015, so that it is applied for the performance year 2016 and onwards
- Once the new Guidelines are adopted, the previous Guidelines on remuneration policies and practices from 2010 will be repealed
- However, CRD rules have to be complied with at all times
- The opinion on allowances has to be taken into account with regard to the calculation of the bonus cap as of end of 2014

Other EBA work in the area of remuneration 11/11

- Remuneration Benchmarking Report (2013 data) – expected end of June 2015
- Remuneration Benchmarking Report (2014 data) – expected December 2015
- Review clause on remuneration provisions (Art. 161 CRD) in close cooperation with EU COM
    - National implementation of CRD
    - Use of approved higher ratios in the EU
    - Follow up on allowances and lacunae in applying CRD
    - Impact of the interpretation of the proportionality principle
    - Remuneration trends and practices, impact of the bonus cap

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