

# BIPAR Response to consultation

October 2020

**Consultation Paper on  
Draft joint ESMA and EBA Guidelines  
on the assessment of the suitability of members of the  
management body and key function holders under  
Directive 2013/36/EU and Directive 2014/65/EU**

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**BIPAR  
Avenue Albert-Elisabeth 40  
B-1200 Brussels**

**Tel: +32/2/735 60 48  
Fax: +32/2/732 14 18  
bipar@bipar.eu  
www.bipar.eu**

*BIPAR is the European Federation of Insurance Intermediaries. It groups 50 national associations in 30 countries. Through its national associations, BIPAR represents the interests of insurance agents and brokers and financial intermediaries in Europe.*

*Besides some large multinationals, the insurance intermediation sector is composed of hundreds of thousands of SMEs and micro-type operators. It accounts for 0.7% of European GDP, and over one million people are active in the sector. Insurance and financial intermediaries facilitate the insurance and financial process for several hundreds of millions of customers. The variety of business models, the high level of competition and the geographical spread in the sector ensure that everyone in Europe has easy access to tailor-made insurance and financial services.*

*BIPAR is a member of the World Federation of Insurance Intermediaries (WFI).*

**Question 1: Are subject matter, scope of application, definitions and date of application appropriate and sufficiently clear?**

BIPAR welcomes the opportunity provided by EBA and ESMA to comment on the revision of the guidelines on the assessment of the suitability of the management body and key function holders.

BIPAR represents 50 national associations of insurance and financial intermediaries. Many of the financial intermediaries who are members of our national associations, are micro to SME-type companies. Under MiFID II, many of these firms fall under “opt-out” national regimes (according to Article 3 of MiFID II). Some of these small firms however, are investment firms that do not fall under an Article 3 exemption.

BIPAR believes that it is very important that the revised Guidelines take a proportionate approach when it comes to micro-size/small firms. Proportionality indeed still figures in Title I “*Application of the proportionality principle*”, but we want to emphasize again that this is key, in particular re. the “independence of mind” requirement and also for diversity/ gender equality (see our reply to question 4 in this respect).

**Question 4: Are the requirements in section 12 sufficiently clear; are there additional measures that should be required to ensure that diversity is appropriately taken into account by institutions and that the principle of equal opportunities for all genders is appropriately reflected?**

Re. diversity policy, the draft revised guidelines add in point 107 that: “*Such measures should include that the aspect of appropriate gender representation is also taken into account when selecting staff for management positions or when providing management training*”

In point 102, the draft revised guidelines add: “*Institutions should aim at an appropriate representation of all genders within the management body and ensure that the principle of equal opportunities is respected when selecting members of the management body. Having employee representatives, where required under national law, of the underrepresented gender alone is not sufficient to ensure that the management body in its supervisory function has an appropriate gender balance.*”

Due to their size, it may be difficult for very small firms to comply with diversity policy requirements for the management body. Also here, we therefore once again stress the importance of application of the appropriateness principle. We believe that this regulation should not be relevant for non-CRD investment firms that have one or two managing directors. The burden would be too high.

Investment firms should also not be “punished” if there are not sufficient applicants of the “underrepresented gender”.