
Consultation Response

CP15/22 - Remuneration: Ratio between Fixed and Variable Components of Total Remuneration ('Bonus Cap')

31 March 2023

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on **CP15/22 – REMUNERATION: RATIO BETWEEN FIXED AND VARIABLE COMPONENTS OF TOTAL REMUNERATION ('BONUS CAP')**. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

Executive Summary

AFME welcomes the opportunity to provide comments on CP15/22 ("the CP"). Our key messages are:

- **Timing of implementation:** we note that a variety of factors will influence the timelines within which firms will respond to the change, including internal governance procedures and employment law considerations. However we also request that the PRA considers allowing firms early adoption of the rules (with effect from the date that the final policy is published), rather than waiting for the next performance year;
- **Relationship to wider rules review:** in order to help firms plan their implementation, we request clarity as to how this change fits within a wider review of the UK remuneration regime and related rules (such as the Senior Managers and Certification Regime). In particular, we request that the UK considers its variable remuneration deferral rules in light of the dampening effect they are likely to have on meeting the objectives of the bonus cap removal.

We remain available to discuss these points in further detail as necessary.

AFME Comments

We would like to raise the following comments for consideration:

Timing of implementation

We understand it is the PRA's proposal that the changes resulting from the CP would come into force the next calendar day after the publication of the final policy – anticipated for Q2 2023 - and would apply to firms' performance year starting after that (so for most firms that is likely to be performance years starting 2024).

Association for Financial Markets in Europe

London Office: 39th Floor, 25 Canada Square, London E14 5LQ, United Kingdom T: +44 (0)20 3828 2700

Brussels Office: Rue de la Loi 82, 1040 Brussels, Belgium T: +32 (0)2 883 5540

Frankfurt Office: Neue Mainzer Straße 75, 60311 Frankfurt am Main T: +49 (0)69 710 456 660

www.afme.eu

We note that firms will each need to follow their internal governance procedures in effecting any response to the change. For some firms, this may include seeking shareholder approval, for which there will already be a fixed timeline in place that may impact the ability of a firm to apply the change from the 2024 performance year.

We also understand that the change proposed in this CP is likely to have an impact on the use of role-based allowances (RBAs), the increased use of which has been noted in the CP as an unintended consequence of the bonus cap. However, the approach firms take to RBAs in terms of their retention or discontinuation will depend upon individual firm appetite, reward policy, the contractual terms under which they have been implemented, equality law and employment law. This will also impact the timing of firms' responses to this change.

Finally, we note that there may be some firms for whom the timeline for effecting a response to this change will be less constrained by the above factors. Therefore we also ask whether the PRA would consider allowing fixed pay paid up to the date of the adoption of the new rules to be annualised for the remainder of 2023 for the purposes of bonus cap compliance (i.e. for the annualised amount to be the reference value/denominator for the 2023 performance year bonus ratio). This would give firms full flexibility to implement their responses according to their own timelines.

Relationship to Wider Rules Review

We note that the wider reassessment of financial services legislation (the "Edinburgh Reforms") includes a review into reforming the Senior Managers & Certification Regime ("SMCR")¹ and that a fuller review of remuneration rules is also being considered². Both of these are highly relevant to discussions regarding the bonus cap, given that the SMCR is a significant factor in determining the categorisation of Material Risk Takers and that the remuneration framework also contains important measures relating to the treatment of variable remuneration (malus, clawback and deferral). Any clarity that can be provided on the content and timing of a wider set of remuneration-related reforms would be welcomed, in order to help firms plan their own reviews of internal policy and how this will be communicated to affected employees.

In particular, we note that removing the bonus cap will potentially result in employees receiving larger proportions of their total compensation as variable remuneration, which can be deferred up to 7 years under current UK rules. While we support the use of variable remuneration measures such as deferrals to strengthen the link between conduct and remuneration, we note that the UK's deferral periods are currently longer than those applied in other financial centres. Therefore, while one key objective of removing the bonus cap is to lower fixed remuneration, an increase in the proportion of total compensation subject to these longer deferrals will likely impact and/or delay this effect. Furthermore, retaining deferral periods that are longer than comparable financial centres will continue to be a hurdle to encouraging the movement of talent within the global industry, particularly for non-UK firms who may have to combine the application of UK rules with additional requirements from their home state.

AFME Contacts

Louise Rodger
Director, Head of Compliance
louise.rodger@afme.eu
+44 (0)20 3828 2742

Fiona Willis
Associate Director
fiona.willis@afme.eu
+44 (0)20 3828 2739

¹ <https://www.gov.uk/government/collections/financial-services-the-edinburgh-reforms>

² <https://www.bankofengland.co.uk/speech/2022/october/sam-woods-speech-at-mansion-house>