

# European Securities and Markets Authority (ESMA) publishes remuneration guidelines



On 31 March 2016, the European Securities and Markets Authority (ESMA) published its final guidelines on sound remuneration policies under the UCITS directive and Alternative Investment Fund Managers Directive (AIFMD). ESMA has also written to the European Commission, European Council and European Parliament on the proportionality principle and remuneration rules in the financial sector.

The UCITS remuneration guidelines, which apply from 1 January 2017, provide clarity on the requirements for management companies when establishing and applying a remuneration policy for key staff in accordance with the UCITS directive. The guidelines will ensure a convergent application of these provisions and provide guidance on the governance of remuneration, requirements on risk alignment and disclosure.

## Proportionality

ESMA has decided to follow an approach which is similar to that adopted by the European Banking Authority (EBA). It does not include in the final UCITS remuneration guidelines any guidance on the possibility not to apply certain specific requirements on the pay-out process set out in the UCITS directive. ESMA has also written to the European institutions suggesting that further legal clarity could be beneficial to all the interested parties. In its letter, ESMA sets out in its opinion that having regard to their size, internal organisation, and the nature and scope of their activities, it would be inappropriate for certain fund-managers to be subject to the requirements of the pay-out process in all circumstances.

## AIFMD remuneration guidelines

ESMA further amended guidelines with regards to AIFMD remuneration disclosure guidelines. The amendment to the AIFMD guidelines relates to the section of these guidelines dealing with the application of the remuneration rules in a group context and is intended to acknowledge the potential outreach of the CRD rules in a banking group.

The current AIFMD guidelines will not be amended to bring them into line with the UCITS guidelines pending clarification on the application of the proportionality principle. The amended AIFMD remuneration guidelines are also effective from 1 January 2017.

## Contact

If you have any questions on the above please contact a member of our team.

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