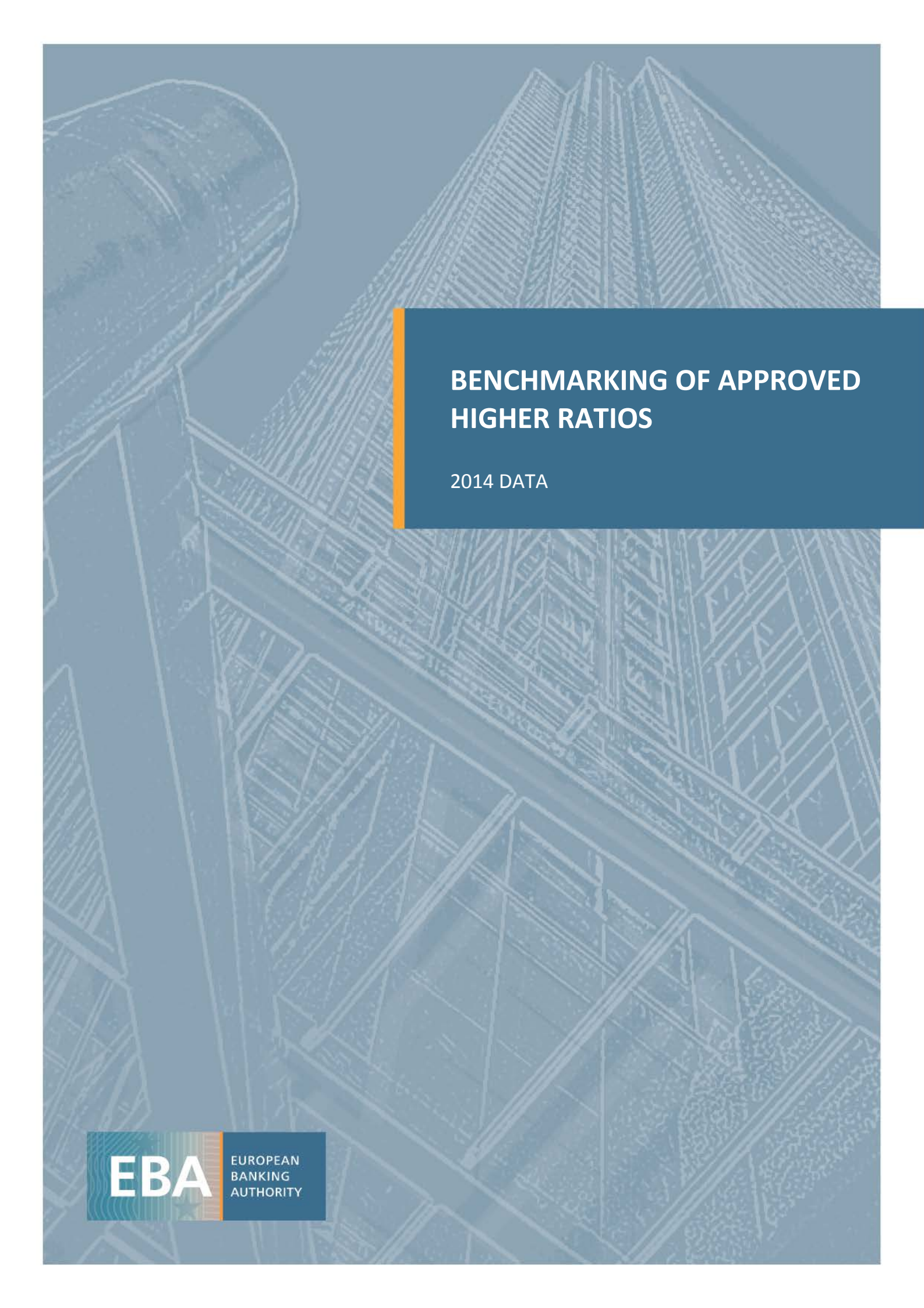




BENCHMARKING OF APPROVED HIGHER RATIOS

2014 DATA

EBA

EUROPEAN
BANKING
AUTHORITY

Benchmarking of approved higher ratios

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Benchmarking of approved higher ratios under Article 94(1)(g)(ii) of Directive 2013/36/EU

Introduction and legal basis

1. As part of its tasks to monitor and assess developments in the area of remuneration and to ensure consistent, efficient and effective application of the remuneration provisions set out in Directive 2013/36/EU,¹(CRD) the European Banking Authority (EBA) has collected information regarding the application of Article 94(1)(g)(ii) of Directive 2013/36/EU. In line with this provision, the ratio between the variable component and the fixed component of the total remuneration shall not exceed 100%, with the possibility for Member States to allow shareholders to approve a higher maximum level of the ratio (up to 200%). In addition, this provision sets out the requirements for shareholders' involvement, and the information to be provided to them in the cases where approval for the higher maximum level of the ratio is requested. This information also needs to be sent to the competent authorities.
2. The competent authorities shall use the information received within that process to benchmark the practices of institutions in that regard and shall provide the EBA with that same information. As the provision to allow for a higher ratio than 100% is subject to national discretion, the benchmarking of such practices is only relevant for those Member States that have made use of that discretion. Moreover, in some Member States, no institution made use of the possibility to increase the ratio. As a consequence, the report looks at practices in 15 Member States only where higher ratios have been approved. A few Member States have implemented CRD in a way that the limitation of the ratio has to be complied with for all staff by institutions; this practice is not analysed in the present report.
3. The benchmarking results are presented and published by the EBA on an aggregate home Member State basis using a common reporting format, as required by Article 94(1)(g)(ii) of Directive 2013/36/EU.

Benchmarking sample

4. Competent authorities from **all Member States of the European Union (EU)** have submitted information to the EBA regarding the approved higher ratios in their jurisdictions with the reference date of December 2014.
5. Regarding the participating jurisdictions, the following should be noted:

¹ 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 and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

- a. All Member States, except Belgium, Slovenia, Sweden and Romania, have implemented the possibility for shareholders to approve a higher maximum ratio of up to 200%.
- b. **Norway, Poland** and **Iceland** have not yet implemented Directive 2013/36/EU and are therefore excluded from this benchmarking exercise.²
- c. **Belgium, Slovenia, Slovakia, Sweden** and **Romania** have not exercised the national discretion under Article 94(1)(g)(ii) of Directive 2013/36/EU and do not allow for a higher ratio than 100% between the variable component and the fixed component of the total remuneration. These jurisdictions are therefore excluded from this benchmarking exercise.
- d. **Bulgaria, Cyprus, Estonia, Greece, Hungary, Lithuania** and **Malta** have exercised national discretion under Article 94(1)(g)(ii) of Directive 2013/36/EU but have not yet received any request for the approval of higher ratios.
- e. **Luxembourg** was in the process of assessing the requests for approval of higher ratios for a number of institutions.
- f. **The Netherlands** allowed for higher ratios in 2014 but, since February 2015, a new law has been in force that (after a transitional period) only allows a higher ratio than 100% for staff located in countries that are not Member States. The maximum ratio between variable and fixed remuneration in the EU is limited to 100%, and in the Netherlands to 20% (with some exceptions).
- g. **France** and **the United Kingdom** do not apply the bonus cap to all institutions. In the United Kingdom, the bonus cap applies to all level 1 and level 2 firms (banks, building societies or full-scope investment firms with total assets exceeding GBP 15 billion). All other institutions remain subject to the existing requirement to 'maintain an appropriate balance between fixed and variable remuneration'. In France, under certain conditions, the bonus cap is waived for institutions with a balance sheet total below EUR 10 billion. Consequently, in both Member States, institutions to which the requirement of the limitation of the ratio does not apply are also not required to gain approval from shareholders if they want to use a ratio of above 100%. These institutions would be able to use even higher ratios without shareholders' approval.

Benchmarking results at Member State and EU levels

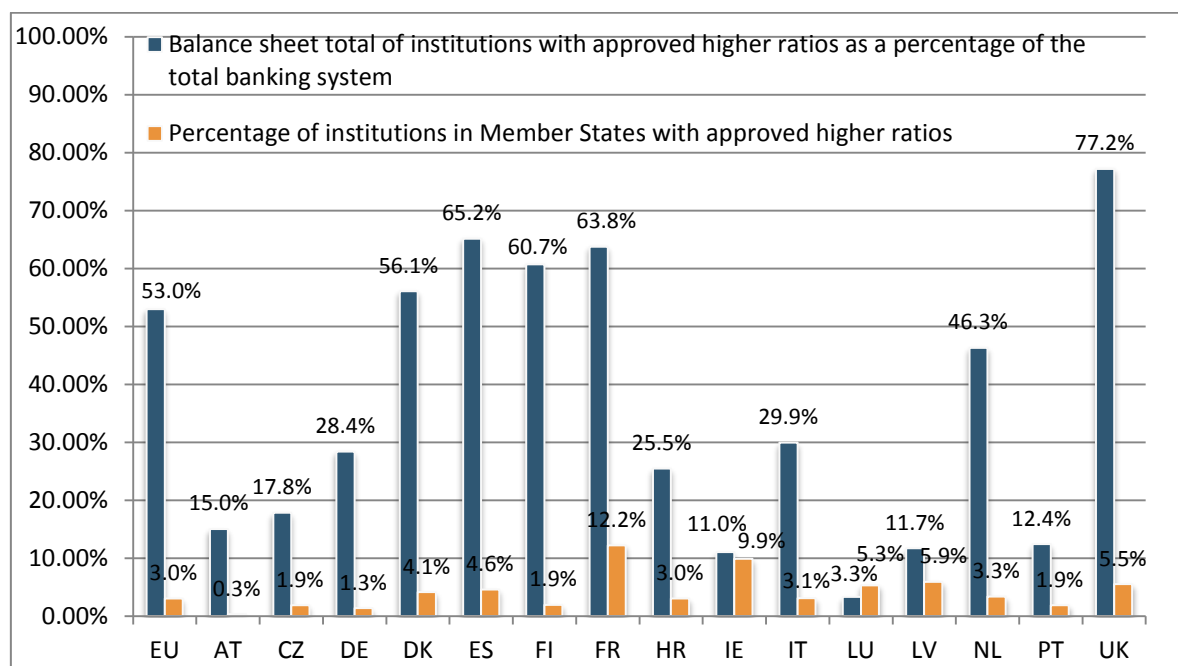
6. The Annex presents the benchmarking results aggregated by Member States and also for the EU. The benchmarking results at the European Union level include all the Member States that have exercised the national discretion under Article 94(1)(g)(ii) of Directive 2013/36/EU and which allow for a ratio higher than 100% between the variable component and the fixed component of the total remuneration, even if they have not yet approved higher ratios.

² In Iceland, CRD remuneration legislation was partly implemented into Icelandic legislation on 2nd July 2015. In Norway, CRD was partly implemented and remuneration provisions were implemented in Norwegian law as of 1 January 2015. In Poland, the implementation of CRD is pending.

Share of institutions with approved higher ratios per Member State

7. The share of institutions with approved higher ratios was measured by two different metrics: the number of institutions and the balance sheet total (Figure 1). At EU level, the figures are based on the aggregated data provided by 15 Member States where higher ratios have been approved by shareholders.
8. The share of institutions with an approved higher ratio in the total number of institutions in each Member State ranges from 0.3% (Austria) to 12.2% (France).³ One quarter of the institutions with an approved higher ratio are listed institutions. In 94% of the cases the maximum ratio of 200% was approved, and in 6% of the cases a ratio between 100% and 200% was approved.
9. At EU level the institutions with approved higher ratios represent 53.0% of the balance sheet total of all institutions. The market share in terms of the balance sheet total of institutions with approved higher ratios in Member States ranges from 3.3% (Luxembourg) to 77.2% (United Kingdom).⁴ The extent to which staff whose professional activities have a material impact on the institutions' risk profile (identified staff) are actually affected by a higher ratio is analysed in the following section (Figures 2 and 3).

Figure 1: Percentage of the number of institutions with approved higher ratios and their balance sheet total as a percentage of the total banking system for each Member State and for the EU (15 Member States)



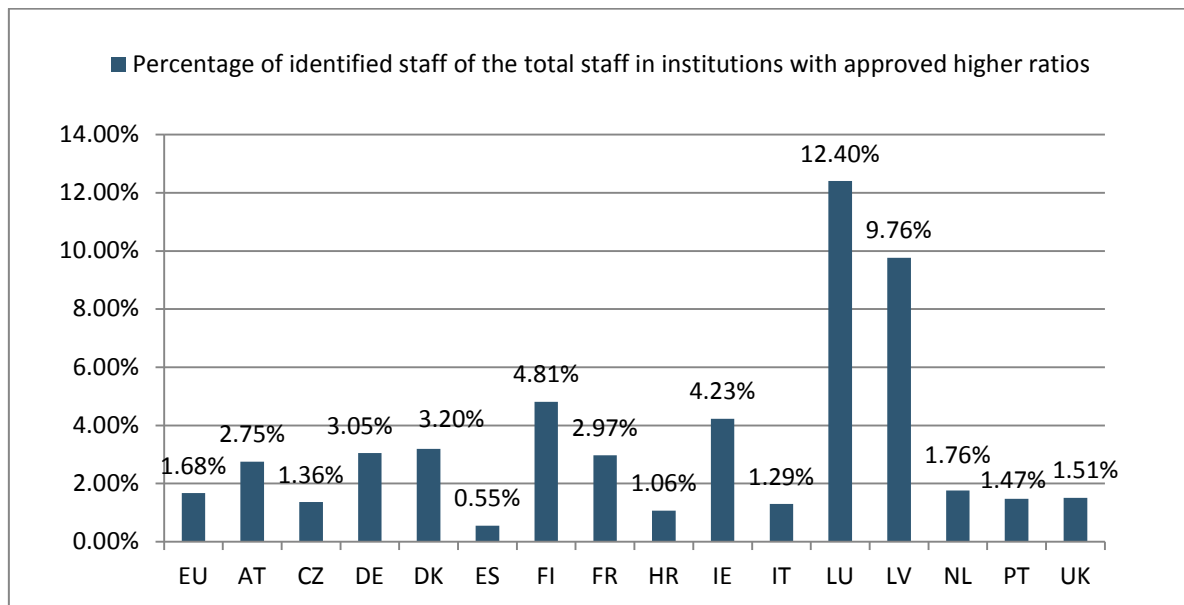
³ The number of institutions with approved higher ratios for the United Kingdom and France reflect the number of institutions that have to comply with the requirement of the limitation of the ratio between variable and fixed remuneration and, in this context, have approved or are covered on the group level by a higher ratio. Institutions that are not subject to the requirement of an 'approved higher ratio' would be able to use even higher ratios without shareholders' approval.

⁴ See footnote 3.

Identified staff in institutions with approved higher ratios

10. At EU level in institutions with approved higher ratios 1.68% of the staff was identified as having a material impact on the risk profile. The percentage of identified staff of the total staff varies between 0.55% (Spain) and 12.40% (Luxembourg) (Figure 2).

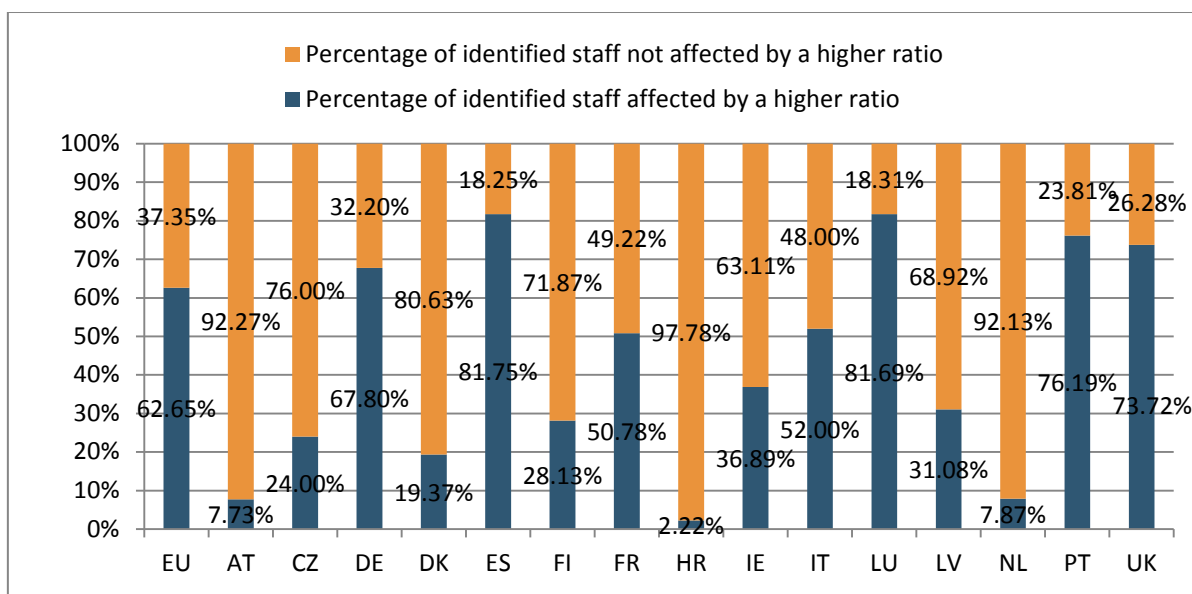
Figure 2: Percentage of identified staff of the total staff in institutions with higher ratios for each Member State and for the EU (15 Member States)



11. Where a higher ratio was approved, the ratio was set in nearly all institutions at 200% for all identified staff. However, not all identified staff in institutions with approved higher ratios have remuneration packages with a variable remuneration of more than 100% of the fixed remuneration. At EU level, 62.7% of the identified staff in institutions with approved higher ratios were affected by these higher ratios and could therefore receive a bonus of up to 200% of their fixed remuneration. This figure reaches 81.8% in Spain, 81.7% in Luxembourg, 76.2% in Portugal, 73.7% in the United Kingdom⁵ and 67.8% in Germany while, in other Member States, institutions apply higher ratios to a limited number of identified staff (Figure 3).

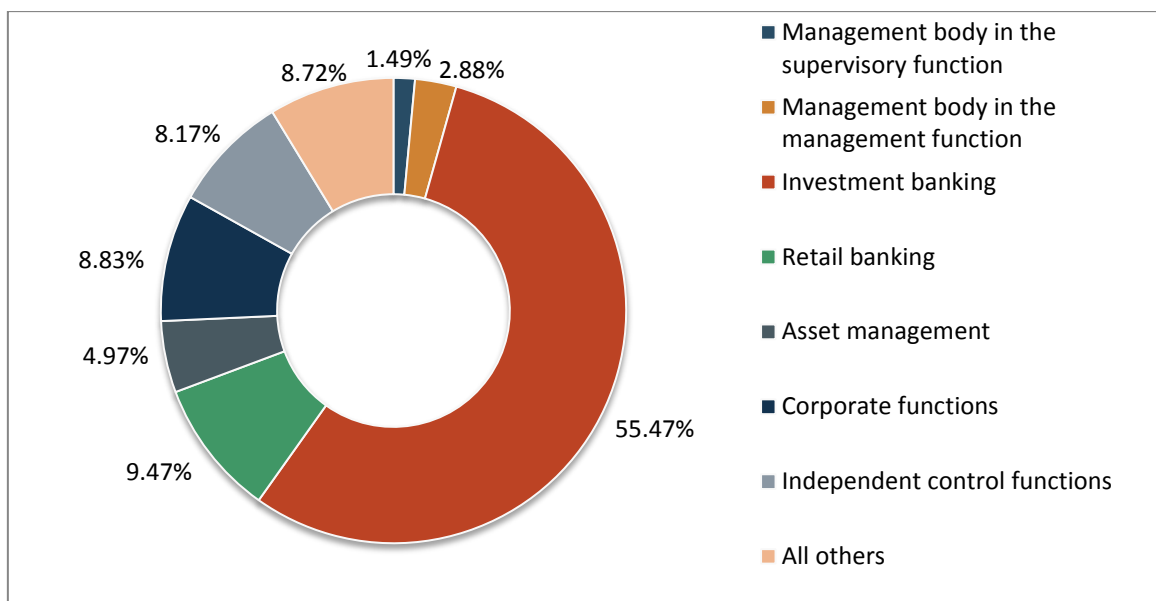
⁵ See footnote 3.

Figure 3: Percentage of identified staff affected and not affected by the approved higher ratio in Member States and in the EU (15 Member States)



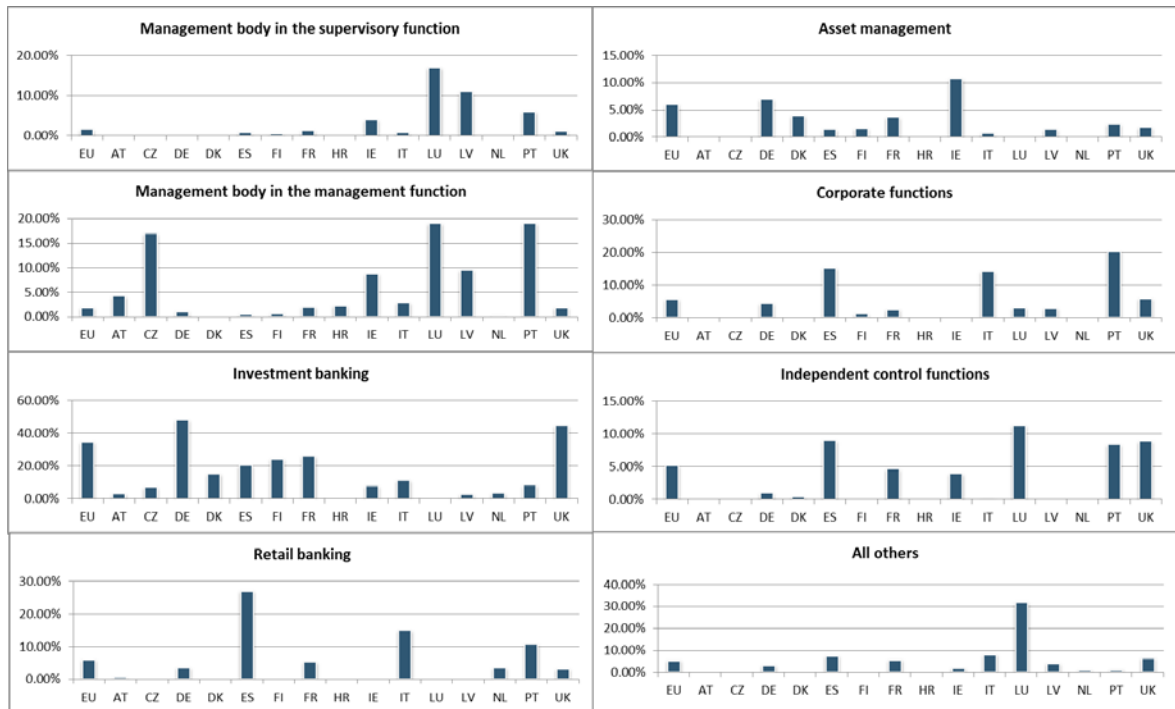
12. In most cases, institutions did not implement a differentiation of the ratio between different categories of identified staff. In the EU, the majority of identified staff affected by approved higher ratios work in investment banking. In Germany and the United Kingdom,⁶ around half of the identified staff that could receive variable remuneration of up to 200% of the fixed remuneration work in investment banking (Figure 4). The distribution of affected identified staff between business areas and functions differs significantly between Member States (Figure 5).

Figure 4: Identified staff affected by a higher ratio broken down by business area in the EU (15 Member States)



⁶ See footnote 3.

Figure 5: Percentage of identified staff affected by higher ratios in each business area compared to all identified staff in each Member State and the EU (15 Member States)



Summary of the reasons for approved higher ratios

13. The main reasons presented by institutions to justify the increase of the ratio were the following: i) to remain competitive with EU and international peers; ii) to maintain the ability to attract and retain highly qualified staff (in particular, for senior positions); iii) to recognise a clear link between pay and performance and to use variable remuneration not only to reward exceptional performance but also as a motivating factor for staff; iv) to keep cost flexibility by being able to reduce costs in response to weaker performance; and v) to minimise the increase in fixed compensation costs, which is important for certain investment firms in light of the prudential own funds requirements.
14. The main reasons given and criteria used by institutions to demonstrate that increased higher ratio does not conflict with prudential requirements and, in particular, the own funds requirements were the following: i) the own funds ratios are high enough to support higher variable remuneration and do not limit their ability to strengthen the capital base; ii) the variable amount of the remuneration is closely linked with the results of the institution and takes into account the institution's strategy, objectives, market share, acceptable level of risk, all relevant financial and business indicators, and long-term interests; and iii) the approved maximum higher ratio is effectively applied, in most cases, to a small number of individuals/functions.
15. Competent authorities were not aware of cases where shareholders have rejected a proposed higher ratio or where shareholders have withdrawn their initial approval.

Assessment by competent authorities

16. In all Member States, with the exception of Germany and France,⁷ institutions are obliged to demonstrate that the approved higher ratio does not conflict with the institution's obligations under Directive 2013/36/EU and Regulation (EU) No 575/2013, having regard, in particular, to the institution's own funds obligations. These assessments are underway in Italy (for 23 institutions), Luxembourg (for six institutions) and Denmark (for one institution). Also, in Germany, most cases are assessed by the competent authority in detail. For all other Member States, all institutions have already satisfactorily demonstrated to the competent authorities that there is no conflict between the higher ratio of variable remuneration and the requirement to have a sound capital base or any other CRD or CRR provision.

Conclusion and next steps

17. All Member States, except Belgium, Slovenia, Sweden and Romania, have implemented the possibility for institutions to increase the maximum ratio between the variable and the fixed remuneration to 200% with shareholders' approval. The extent to which institutions have made use of this possibility and the corresponding market share differs significantly between Member States. In particular, institutions located in Member States where, in the past, higher levels of remuneration and higher ratios between variable and fixed components of remuneration were observed made use of the possibility to increase the maximum ratio.
18. At EU level, considering 15 Member States where the possibility to have higher approved ratios was actually used, institutions with an approved higher ratio represent 53% of the balance sheet total and 48% of the number of staff in the EU⁸ banking system. On average, 1.68% of the staff in these institutions is identified staff; to 63% of these, the higher ratio is effectively applied. Most of the staff that can receive a higher ratio of variable remuneration are active in the area of investment banking. In eight Member States, no institution has so far made use of the possibility to increase the maximum ratio.
19. It can be observed that in Member States with institutions that apply higher ratios, institutions that apply a ratio of 100% can also be found. Such institutions obviously have not yet seen the need to increase the maximum ratio. In addition, institutions do not apply the higher ratio to all identified staff. In terms of the total remuneration, the main amount is driven by the remuneration of non-identified staff. The EBA will use the data provided on the use of higher ratios together with the data collected in the remuneration benchmarking exercise to further analyse the effect of the so-called bonus cap on the cost flexibility of institutions.

⁷ In line with the requirement in Article 94(1)(g)(ii) 4th indent of Directive 2013/36/EU, in Germany, institutions must be able to demonstrate that the approved higher ratio does not conflict with the institution's obligations under Directive 2013/36/EU and Regulation (EU) No 575/2013. Where deemed necessary and not already provided for on own initiative, institutions are asked to demonstrate that there is no conflict between the higher ratio and the institution's obligations; in particular, with regard to the soundness of their capital. In France, the legal obligation is to demonstrate the compliance with the conditions to the general assembly of shareholders; the number of cases where a supervisory review was performed is not available.

⁸ The percentages refer to 15 Member States where the practice of approved higher ratios can be observed and includes the activities of institutions (credit institutions and investment firms) as defined by CRD.

20. The EBA and competent authorities will continue to monitor development with regard to the approval of higher ratios for variable remuneration and will take into account its findings in the review of the remuneration provisions mandated under Article 161 of Directive 2013/36/EU.

Annex: Overview Member State by Member State⁹

	Number of institutions with approved higher ratios	Number of institutions with an approved higher ratio equal to 200%	Number of institutions with approved higher ratios which are listed	Total number of institutions in the MS (excluding subsidiaries in other MS)	Balance sheet total of the institutions with approved higher ratios (bn EUR)	Balance sheet total of all institutions in the MS (bn EUR)	Total number of staff for the institutions with approved higher ratios	Total number of staff for all institutions in the MS	Total number of identified staff for institutions with approved higher ratios	Total number of identified staff affected by a higher ratio
Austria	2.00	2.00	0.00	669.00	125.76	836.53	6 116.00	72 383.00	168.00	13.00
Bulgaria	0.00			28.00		43.50		31 300.00		0.00
Cyprus	0.00			30.00		76.00		13 143.00		0.00
Czech Republic	1.00	1.00	1.00	54.00	31.10	174.60	7 578.00	38 846.00	103.00	25.00
Germany	33.00	31.00	6.00	2 456.00	2 262.50	7 963.50	164 589.00	558 407.00	5 013.00	3 399.00
Denmark	4.00	4.00	1.00	97.00	672.90	1 199.90	17 768.00	48 290.00	568.00	110.00
Estonia	0.00	0.00	0.00	9.00	0.00	21.30	0.00	5 600.00	0.00	0.00
Greece	0.00			23.00		311.00		45 685.00		0.00
Spain	10.00	10.00	6.00	219.00	2 332.10	3 578.90	336 021.00	464 400.00	1 842.00	1 506.00
Finland	6.00	4.00	0.00	316.00	375.90	619.00	9 271.00	28 046.00	446.00	126.00
France	61.00	61.00	5.00	499.00	5 398.60	8 465.00	158 798.00	392 977.00	4 720.00	2 397.00
Croatia	1.00	0.00	1.00	33.00	13.40	52.60	4 233.00	21 043.00	45.00	1.00
Hungary	0.00	0.00	0.00	164.00	0.00	92.40	0.00	37 189.00	0.00	0.00
Ireland	8.00	8.00	3.00	81.00	56.20	508.80	2 436.00	30 981.00	103.00	38.00
Italy	23.00	23.00	6.00	749.00	1 202.50	4 017.60	110 808.00	304 862.00	1 434.00	749.00
Lithuania	0.00	0.00	0.00	7.00	0.00	19.20	0.00	6 952.00	0.00	0.00
Luxembourg	0.00	6.00		113.00	23.80	721.70	1 145.00	27 735.00	142.00	116.00
Latvia	1.00	0.00	0.00	17.00	3.60	30.80	758.00	8 300.00	74.00	23.00
Malta	0.00	0.00	0.00	25.00	0.00	51.87	0.00	4 625.00	0.00	0.00
Netherlands	4.00	2.00	1.00	120.00	1 137.47	2 455.75	40 559.00	80 000.00	712.00	56.00
Portugal	3.00	2.00	0.00	160.00	42.40	341.60	5 712.00	46 741.00	84.00	64.00
Slovakia	0.00			13.00		53.80		16 899.00		0.00
United Kingdom	57.00	57.00	5.00	1 036.00	9 721.30	12 593.00	579 367.00	728 806.00	8 764.00	6 461.00
EU	214.00	211.00	35.00	6 918.00	23 399.53	44 228.35	1 445 159.00	3 013 210.00	24 218.00	15 084.00

⁹ For the United Kingdom, the total number of staff does not include institutions within proportionality tier 3 (balance sheet total < GBP 15 billion).

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