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## I. Introduction

The remuneration scheme is an integral part of the organization of a financial institution and can exert considerable influence on its capital, liquidity and risk situation. In addition, remuneration creates incentives. Such incentives must not serve to incite the taking of inappropriate risks, the infringing of applicable law or regulations, internal rules or the violation of agreements. Instead, remuneration schemes at financial institutions should motivate employees to contribute to the long-term success and stability of the company. The risks taken should be considered in the remuneration. 1

This circular defines minimum standards for the design, implementation and disclosure of remuneration schemes in financial institutions. The application of these minimum standards is subject to the principle of proportionality. In this connection, the following factors shall be taken into account: the complexity, size and risk profile of the financial institution and of its constituent units; the function, job activities and level of compensation of the persons in question. 2

For financial institutions, this circular serves to supplement the rules contained in the Swiss Code of Obligations, in particular the Ordinance against Excessive Compensation with respect to Listed Stock Corporations (OaEC; SR 221.331), as well as the disclosure provisions concerning remuneration applicable under stock exchange regulations, albeit without replacing them. This circular applies regardless of the legal form of the financial institution and whether or not said institution is publicly listed. 3\*

## II. Scope

This circular applies to banks, financial groups and conglomerates, insurance companies, insurance groups and conglomerates that are subject to Swiss financial market supervision. It also applies to licence holders under Article 13 para. 2 of the Collective Investment Schemes Act (CISA; SR 951.31) and Article 2 para. 1 let. c–e of the Financial Institutions Act (FinIA; SR 954.1). All of the above are referred to hereinafter as “firms”. A firm which belongs to a financial or insurance group/conglomerate is not required to issue remuneration regulations (margin no. 18), nor to appoint a remuneration committee (margin no. 21), nor to prepare a remuneration report (margin no. 62 ff.) where the group/conglomerate are addressees to this circular, the institution is subject to the group’s/conglomerate’s remuneration regulations and guidance of a remuneration committee and the remuneration report prepared by the group/conglomerate adequately includes the firm. 4\*

This circular is applicable to the firms’ domestic and foreign subsidiaries and branches which are mandatorily included in consolidations. If mandatory foreign regulations conflict with the application of this circular or if a firm is seriously disadvantaged by this circular in a foreign labour market, it shall inform FINMA. FINMA shall assess the situation and may consult foreign supervisory authorities. FINMA may exempt a firm, in part or in full, from implementing the present provisions in the foreign labour market in question. 5

For the following firms implementation of this circular shall be mandatory:

- Banks, securities firms, financial groups and conglomerates who in their capacity as a single entity or at the financial group or conglomerate level are required to maintain equity capital (minimum requirements pursuant to Articles 7 ff. and Article 42 of the Capital Adequacy Ordinance [CAO; SR 952.03]) in the amount of at least CHF 10 billion. 6\*

- Insurance companies, insurance groups and conglomerates, which in their capacity as an insurance company or at the insurance group or conglomerate level are required to hold equity capital amounting to at least CHF 15 billion in line with the risks to which they are exposed (target capital in accordance with Articles 22, para. 2, 198 and 204 of the Insurance Supervision Ordinance [ISO; SR 961.011]). 7\*

Firms which are not required to implement this circular are recommended to take its principles as best practice guidelines into account for their remuneration schemes. 8\*

In justified cases, FINMA may require a firm which is not required to implement this circular nevertheless to implement some or all of its provisions. This may be appropriate, for example, in light of the firm's risk profile, its business activities or its business relationships, or where its remuneration scheme entails inappropriate risks. 9\*

This circular applies to all persons who are employed by a firm or by an affiliate of such firm and who are remunerated for work performed in respect of the firm. The circular also applies to persons entrusted with the executive management ("executive board") and to persons responsible for the overall direction, oversight and control ("board of directors"). It does not apply, however, to the remuneration of associates of the firm who are partners of unlimited liability, or to persons who directly or indirectly hold at least 10 per cent of the firm's capital. 10

### III. Definitions

#### **Total remuneration:**

The totality of any monetary value which the firm distributes to a person directly or indirectly for the work performed for the firm, e.g. in the form of cash payments, non-cash benefits, disbursements which create or increase rights to social security benefits, pensions, shares or other allocation of shareholding rights as well as the forgiving, extinguishing or renunciation of any claims or debts. 11

#### **Variable remuneration:**

Any part of the total remuneration, the granting or the amount of which is at the discretion of the firm or which is contingent on fulfilment of predefined conditions. This includes remuneration contingent on performance or meeting certain targets such as brokerage fees or commissions. Sign-on payments or severance payments also fall within the scope of the definition of variable remuneration. 12

#### **Sign-on payment:**

Remuneration which is agreed on the conclusion of an employment agreement to be paid or be due once. Also deemed to constitute a sign-on payment shall be compensation for benefits foregone vis-à-vis a previous employer. 13

#### **Severance payment:**

Remuneration which is agreed in connection with the termination of an employment relationship. 14

**Total pool:**

The sum of all variable remuneration which a firm allocates for a given financial year, regardless of its form, the time of allocation and payment, or any conditions or restrictions to which it may be subject. It includes any such amount allocated whether or not it is contractually binding, vested or non-vested. Any sign-on or severance payments provided during the financial year concerned are to be attributed to the total pool. 15

**IV. Principles**

**Principle 1: The board of directors is responsible for the design and implementation of a remuneration policy and issues the rules relating thereto** 16

The board of directors shall design the remuneration policy of the firm and, in its capacity as the organ responsible for the overall direction, supervision and control of the firm, shall be responsible for its implementation. 17

Towards this end, the board of directors shall issue remuneration rules that cover all persons employed by the firm and that comply with the principles and provisions set out herein. It shall review these rules regularly. 18

The board of directors can in principle adopt an existing group-wide remuneration scheme provided such scheme conforms to the provisions of this circular. 19

The board of directors shall approve the remuneration of senior management, heads of the control functions and the total pool of the firm on a yearly basis. 20\*

The board of directors shall establish a remuneration committee. In the case of listed companies, this is decided at the annual general meeting. Said committee shall ensure the board of directors has impartial and competent advice at its disposal. 21\*

The board of directors shall take all necessary steps to be kept regularly informed of the operational implementation of the remuneration rules and of how remuneration is developing at the firm. 22

**Principle 2: The remuneration scheme is simple, transparent, implementable and oriented towards the long term** 23

The remuneration scheme should be understandable and justifiable. The elements of the remuneration scheme shall be clearly communicated to the persons concerned. No transactions (e.g. hedging transactions) which run counter to the effectiveness of the elements of the remuneration system should be carried out. 24\*

The remuneration scheme shall ensure a sufficient degree of continuity. It is to be designed in such a manner that it is acceptable irrespective of the firm's actual business performance. 25

The firm shall ensure that contractual agreements are in conformity with the requirements of 26

this circular and of the firm's own remuneration rules. To the extent necessary, existing agreements should be amended accordingly.

### **Principle 3: The firm's independent control functions and experts are involved in designing and applying the remuneration policy and rules** 27

The design and implementation of the remuneration scheme should be carried out in an impartial and objective manner. Human resources experts and control functions (e.g. risk management or compliance) should be involved to ensure a consistent design and implementation of the remuneration scheme across all business lines of a firm. 28

The board of directors shall ensure, at reasonable intervals, that an impartial body, (e.g. internal audit) review whether the design and implementation of the remuneration scheme is in compliance with the board of director's remuneration policy and the requirements of this circular. 29

### **Principle 4: The structure and level of total remuneration is aligned with the firm's risk policies and designed so as to enhance risk awareness** 30

In the context of this circular, risk is defined as any risk that the firm bears in the course of its business activities. These risks include, in particular, market, credit and liquidity risk, underwriting risk, operational risk (including legal and compliance risk) as well as reputational risk. 31

The more strategic or operational responsibility a person has, the more their remuneration needs to take into account the risks such persons takes or are responsible for. 32

All significant risks attributable to a person's sphere of influence must be considered in this context. This also covers risks which arise in the organizational units under their responsibility. 33

Risks, the size and probability of occurrence of which are difficult to assess in advance, must also be considered to the extent reasonable. 34

The relevant risk assessment should be undertaken and monitored by the units responsible for the firm's risk control. 35

Neither the nature of the remuneration nor the criteria applicable for its allocation must create any incentive for taking inappropriate risks or for violating applicable law, regulations, internal rules or agreements. 36

Risks are inappropriate, in particular, if they: 37

- are not consistent with the strategic or operational objectives and risk capacity of the firm;
- cannot be properly managed or controlled with the existing organization, procedures and employees;
- may unfairly disadvantage the firm's stakeholders, including its customers.

The remuneration instruments, the proportion of variable remuneration to total remuneration and the relationship between immediate and deferred remuneration are to be designed in line 38

with the requirements of this principle.

**Principle 5: Variable remuneration is funded through the long-term economic performance of the firm** 39

Variable remuneration is to be incorporated into capital and liquidity planning. It must not be allowed to jeopardize the attainment of capital targets. 40

The size of the total pool shall depend on the long-term performance of the firm. For this purpose, the profit sustainability as well as the risks borne are to be taken into account. The entirety of any capital costs, including the costs of equity capital, is to be considered in a comprehensive manner. The capital costs shall reflect the risk profile of the firm. 41

If results are poor, the total pool is to be reduced or omitted completely. 42

The models and processes which a firm uses to determine variable remuneration at the level of the firm as a whole or at the level of its units shall be in accordance with the business strategy and risk policies of the firm. 43

**Principle 6: Variable remuneration shall be granted according to sustainable criteria** 44

The allocation of variable remuneration to individual units and persons shall depend on sustainable and justifiable criteria that reflect the firm's business and risk policies. 45

A serious violation of internal rules or external provisions shall result in a reduction or forfeiture of variable remuneration (malus). 46\*

Sign-on and severance payments are only to be granted in justified cases. They must be governed by the remuneration rules of the firm. Those payments above an amount set in the remuneration rules are to be approved by the board of directors. 47

**Principle 7: Deferrals link remuneration with the future development of performance and risk** 48

To the extent required in light of its risk profile, a firm shall defer payment of part of the remuneration. 49

Deferred remuneration is remuneration that the beneficiary is entitled to freely dispose of only after expiry of a certain time period and the value of which is subject to change during this time period. 50

Deferred remuneration is to be designed in such a way that it takes into account the business strategy and risk policies of the firm. It shall be structured in such a way so as promote optimally the risk awareness of the beneficiaries and encourage them to operate the business in a sustainable manner. 51

The time period should be based on the time horizon of the risks the beneficiary is responsible for. For members of senior management and persons with relatively high total remuneration, as well as persons whose activities have a significant influence on the risk profile of the firm, the 52

time period should last at least three years. Any definitive vesting of the remuneration within the time period in question shall take place, at most, on a pro-rata basis.

The greater the responsibility of a beneficiary and the greater her/his total remuneration, the greater the percentage of her/his remuneration that shall be deferred. For members of senior management, for persons with relatively high total remuneration and for persons whose activities have a significant influence on the risk profile of the firm, a significant percentage of remuneration is to be subject to deferred payment. A person may receive remuneration without deferral to the extent a deferral is not appropriate or reasonable in light of such person's function or amount of total remuneration. 53

Any changes in value of deferred compensation during the time period in question shall be symmetrical to the development of clearly defined and objective assessment criteria, which shall take ample account of earnings, expenditures and capital costs or shall depend on the value of the company. Negative developments of such assessment criteria must lead to a considerable reduction in value of the deferred compensation up to a total forfeiture. If positive developments of the assessment criteria lead to an increase in value of the deferred compensation, such increase must not be disproportional to the potential reduction in value or the assessment criteria themselves. 52

Where this promotes risk awareness and sustainability and is appropriate, the company should structure its compensation policy and rules so as to make it possible to cancel deferred remuneration in whole or in part where losses have been generated in the area of responsibility of the person concerned. 55

In the event of poor business performance, in particular in the case of losses recorded in the annual financial reporting, the allocation of variable remuneration which is not subject to deferral shall be reduced to a minimum. 56

### **Principle 8: Control functions are remunerated in a way so as to avoid conflicts of interest** 57

Control functions within the meaning of this principle include all persons responsible for quantitative or qualitative risk management or risk control, legal, compliance, actuarial, internal audit or internal control systems. 58

Remuneration schemes for control functions may not create incentives that lead to conflicts of interest with the tasks of these functions. The calculation of variable remuneration of these persons must not be directly dependent on the performance of the business units, specific products, or transactions these persons monitor. 59

Total remuneration of the control functions must be sufficient in order to attract qualified and experienced persons. 60

### **Principle 9: The board of directors shall report annually on the implementation of the remuneration policy** 61

As part of the annual reporting, the board of directors shall prepare a remuneration report. In said report it shall explain the implementation of the remuneration policy and rules. 62



The remuneration report shall address the following matters:

- the most important design characteristics and functioning of the remuneration scheme as well as responsibilities of those involved in managing and implementing the scheme and the applicable procedures; 63
- the design, assessment criteria, valuation principles and valuation of the remuneration instruments used; 64
- the following information on compensation for the financial year (excluding charges and credits that derive from remuneration for previous financial years), broken down by instrument (cash payment, shares, options, etc.):
  - the total amount of total remuneration; 65
  - the amount of the total pool and number of beneficiaries; 66
- the sum of outstanding deferred remuneration broken down by instrument (cash payment, shares, options, etc.); 67
- any charges and credits affecting net income that derive from remuneration for previous financial years; 68
- with regard to senior management as well as persons whose activities have a significant influence on the risk profile of the firm:
  - the sum of all sign-on payments made during the financial year and the number of beneficiaries; 69
  - the sum of all severance payments made during the financial year and the number of beneficiaries. 70

Disclosure of the remuneration report shall take place in accordance with the provisions governing publication of the annual report. Such disclosure shall in any event be made to FINMA. 71

**Principle 10: Any deviation from these principles is permissible only in justified exceptional circumstances and must be disclosed** 72

The firm must justify the facts of any deviation from these principles and disclose these in addition to those disclosures required under Principle 9. In addition to such justification, the firm must disclose, in particular, the structure, form and amount of the remuneration which is subject to deviation from these principles, as well as the business units or functions of the firm benefiting from this deviation. 73

The provisions governing reporting and disclosure (margin nos. 61 to 71) must be observed in any case. 74

## V. Implementation

Each firm shall assess its implementation of this circular and compliance therewith and shall 75

report to FINMA by 30 April 2011 at the latest according to such instructions as FINMA shall promulgate. This report shall be certified by the firm's external auditors.

FINMA reserves the right to inspect a firm in respect of compliance with the requirements of this circular. It may do it either itself or with the assistance of third parties. Such measures shall be in lieu of a regular audit on the subject requested by the firm's external auditor. 76

FINMA may, in justified cases, place additional requirements on a firm's remuneration scheme beyond those set out in this circular. 77

FINMA may take measures against firms that derogate from the provisions of this circular, including requiring them to maintain additional capital. 78

FINMA reserves the right to limit the variable remuneration that a firm can grant where this would clearly jeopardize the meeting of capital targets decreed or expected. 79

FINMA shall evaluate the effectiveness of this circular, such as on the basis of the self-assessments by the firms or through additional investigations or benchmark analyses. Such evaluations shall serve for the further development of this circular, which will also consider any policy developments at the international level. 80

## **VI. Transitional provisions**

The provisions of this circular must be fully complied with as of 1 January 2011. 81

The disclosure requirements contained in margin nos. 65 to 71 first apply to the financial reporting for the 2010 financial year. 82

Should any existing mandatory obligations hinder a firm from complying fully with the provisions contained herein as of 1 January 2011, it shall prepare a binding time plan for implementation. 83

**This circular has been modified as follows:**

These modifications were adopted on 1 June 2012 and will enter into force on 1 January 2013.

*References to the Capital Adequacy Ordinance (CAO; SR 952.03) have been adapted according to the version which will enter into force on 1 January 2013.*

This modification was adopted on 3 December 2015 and will enter into force on 1 January 2016.

modified margin no. 7

These modifications were adopted on 22 September 2016 and will enter into force on 1 July 2017.

modified margin nos. 3, 4, 6, 8, 9, 20, 21, 24, 46

*The references and terms were adjusted upon the entry into force of FinIA and FinSA on 1 January 2020.*