German Banking Industry Committee

Die Deutsche Kreditwirtschaft

# Comments

EU-COM Proposal: Banking Package 2021
CRD VI Draft

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## Comments

**Fit and Proper**: We urge for deletion of Article 91a to 91d. At least, we require the following changes. Any **ex ante-assessment** procedure of members of the supervisory board carried out by the institutions themselves or by the competent authorities would be unfeasible to comply with for such institutions which – due to existing legal requirements - have practically no influence on the recruitment process of members of the supervisory board. For some institutions any internal assessment of supervisory board members would contravene national law. For these cases an **exemption** is needed. The **supervisory assessment period** of up to 6 months would lead to problems in the recruitment process. To avoid long vacancies it should be shortened to 1 or 2 months. The requirements of **immediate replacement** must be revised. The **information on the renewal of members** represent a disproportionate administrative burden. Applying suitability standards comparable to those for managing directors to **key function holders** would be disproportionate.

- **Remuneration:** In regard to **more proportionality** the CRD VI provides an opportunity to further reduce administrative regulatory burdens for SNCIs. We therefore pledge for an exemption of SNCIs from the remuneration rules. Furthermore **Article 92 (2)(f)** requires a direct monitoring of the compensation of "senior staff in the internal control functions". In some member states, national law requires two-tier board structures, so the supervisory board and its Remuneration Committee have no decision-making power regarding the remuneration (amounts) of staff members who are not part of the management board. In case of two-tier-structures we suggest to replace "senior staff in the internal control function" by "heads of the internal control functions".

- **ESG risks, Art. 73:** According to the EBA's report on management and supervision of ESG risks (EBA/REP/2021/18), these risks represent factors that materialise through the traditional categories of financial risks (e.g. credit risks). Therefore, ESG risks **should not be treated as a separate risk category**, but as a risk driver within the framework for existing risk types. Due to some requirements (e.g. to hold internal capital explicitly for ESG risks; Art. 73), this principle does not seem to be sufficiently clearly anchored in the draft.

- **SREP, Art. 73 (1), 74 (1) and 76 (2):** Strategies and processes to assess and maintain internal capital now refer to all risks to which institutions are or might be exposed in the short-, medium- and long-term time horizon. While these time horizons are appropriate and necessary for strategies on climate risks, introducing those diverse time horizons for all risks would be unnecessary and counterproductive. We propose to skip the specification of the time horizon or at least to restrict it to climate risks.

- **ESG-risks, Art. 76 (2), 87a (4/5), 104 (1) m:** The requirement for banking supervisory authorities to examine the progress made to align the institution's business models to relevant **policy objectives of the Union** or broader transition trends **towards a sustainable economy** is **too far-reaching**. The specifications do not allow for a legally secure interpretation. Such a proposal is outside the scope of the current mandate of banking supervision. Responsibility for the business strategy and a viable business model must primarily lay with the institution's management body.

- **Stresstests, Art. 100 (3):** The proposed **ban on institutions, advisors and third parties** to refrain from benchmarking, the exchange of information etc. **in the context of supervisory stress**

**tests should be omitted**. The exchange between the banks and via the associations promotes a high quality and enables conceptual further development.

- **Adjustment of P2R / Outputfloor (OF):** We welcome the new Art. 104a (6) and (7) with the intention to mitigate the impact of the OF on P2R. Though the article should also address the overcapitalisation of risks.