

## **Consultation on the potential economic consequences of country-by-country reporting under Directive 2013/36/EU (Capital Requirements Directive or CRD)**

*Preliminary Remark: The following document has been drafted by the Services of the Internal Market Directorate General in order to collect views on the potential economic consequences of country-by-country reporting by institutions required by Article 89 of Directive 2013/36/EU. It does not reflect the views of the European Commission and will not prejudice its future decisions, if any, on further measures concerning country-by-country reporting by financial institutions.*

On 26 June 2013, the new regulatory and capital requirements package for banks and investment firms was adopted. The package is made up of a Regulation (CRR) and a Directive (CRD). They apply to credit institutions and to investment firms, referred to collectively as ‘institutions’ and are to be applied from 1 January 2014.

The Directive governs access to the activity of credit institutions and requirements for the prudential supervision of institutions, including provisions on corporate governance.

Disclosure and transparency requirements are key regulatory tools which help to ensure that firms effectively implement their obligations and are accountable for the business strategies which they adopt.

Article 89 CRD requires the public disclosure by institutions, on a country-by-country basis, of key specified information relating to their businesses. The information, specified in Article 89(1), is the following:

- a) name(s), nature of activities and geographical location;
- b) turnover,
- c) number of employees on a full time equivalent basis;
- d) profit on loss before tax;
- e) tax on profit or loss; and
- f) public subsidies received.

The provision in question, Article 89 CRD, provides that Member States will have to require each institution to disclose the information referred to above on an annual basis, by Member State and by third country in which it has an establishment, on a consolidated basis for the financial year.

Article 89 CRD also provides that the information to be disclosed is to be audited in accordance with Directive 2006/43/EC and to be published, where possible, as an annex to the annual financial statements or, where applicable, to the consolidated financial statements of the institution concerned.

However, as regards the timing for the first publication of the information specified in Article 89(1) CRD, the co-legislators drew a distinction between the information specified in subparagraphs a), b) and c) of that paragraph and the potentially more sensitive information

specified in sub-paragraphs d), e) and f). While institutions are required to disclose the information in a), b) and c) for the first time on 1 July 2014, the requirement to disclose the information in d), e) and f) will apply only from 1 January 2015. This allows time for the Commission to carry out, in consultation where appropriate with EBA, EIOPA and ESMA, “a general assessment as regards potential negative economic consequences of the public disclosure of such information, including the impact on competitiveness, investment and credit availability and the stability of the financial system” and to report its conclusions to the European Parliament and the Council accordingly, by 31 December 2014.

In the event that significant negative consequences are identified, the Commission will consider making an appropriate legislative proposal for an amendment and may decide to defer the obligations.

The purpose of the consultation is to obtain information and views from stakeholders on the potential economic consequences of country-by-country reporting by institutions required by Article 89 CRD, in particular as regards the information referred to in Article 89(1) (d), (e) and (f), including the impact on competitiveness, investment and credit availability and the stability of the financial system.

Pursuant to Article 89 of CRD, the Commission must carry out a general assessment as regards potential negative economic consequences of the public disclosure of certain country-by-country information. The purpose of this consultation is not only to receive views on any potential negative effects of disclosure, but also on the positive effects, so that a balanced picture of the consequences can be formed.

The responses will be taken into account in writing the Commission’s assessment and report required under Article 89(3) CRD, in parallel with the results of an economic study commissioned by the Commission.

Please note that this consultation is not intended to duplicate the work carried out by the external contractor with whom the Commission services are working (the contract was awarded to PwC after an open call for tender – Ref MARKT/2013/205/F). To this end, in case stakeholders have already replied to the survey carried out by the external contractor, their views will be taken on board in the external contractor’s report and they do not need to re-submit views in the context of this consultation.

The questionnaire contains questions about the potential economic consequences of the public disclosure by institutions on a country-by-country basis of their profit and loss before tax, tax on profit or loss and public subsidies received, with aim of highlighting in particular the effects on competitiveness, investment and credit availability and the stability of the financial system.

Responses to this consultation should be concise, focused specifically on the questions raised and sent **no later than 12/09/2014**.

The answers to the questionnaire should be given on-line.

For any further queries please contact by e-mail: [MARKT-F2-CBCR@ec.europa.eu](mailto:MARKT-F2-CBCR@ec.europa.eu)