

## Guidance consultation

# General guidance on proportionality: The Remuneration Code (SYSC 19A) & Pillar 3 disclosures on remuneration (BIPRU 11)

July 2012



Edition 2.0

**GENERAL GUIDANCE ON PROPORTIONALITY:  
THE REMUNERATION CODE (SYSC 19A) &  
PILLAR 3 DISCLOSURES ON REMUNERATION (BIPRU 11)**

PART A:	INTRODUCTION & INTERPRETATION .....	2
	<i>Introduction</i> .....	2
	Status of guidance statement .....	2
	Remuneration principles proportionality rule.....	2
	Guidance on the remuneration principles proportionality rule .....	2
	Guidance on proportionality in relation to remuneration committees and Pillar 3 remuneration disclosures.....	3
	Individual guidance.....	3
	Arrangement of guidance statement.....	3
	<i>Interpretation</i> .....	3
PART B:	PROPORTIONALITY LEVELS .....	5
PART C:	PROCESS FOR DIVIDING FIRMS INTO PROPORTIONALITY LEVELS .....	6
	<i>Overview</i> .....	6
	<i>Solo Remuneration Code firms</i> .....	6
	BIPRU firms and Third Country BIPRU firms .....	6
	<i>Groups with more than one Remuneration Code firm</i> .....	7
PART D:	GUIDANCE TO FIRMS IN PARTICULAR PROPORTIONALITY LEVELS .....	9
	<i>Purpose of proportionality levels</i> .....	9
	<i>Firms to continue to consider proportionality in their individual circumstances, etc.</i> .....	9
	<i>Disapplication of certain remuneration principles for firms in particular proportionality levels</i> .....	10
PART E:	GUIDANCE ABOUT PART-YEAR REMUNERATION CODE STAFF .....	10
	<i>Introduction</i> .....	10
	<i>Part-year Remuneration Code staff for more than three months</i> .....	11
	<i>Certain part-year Remuneration Code staff for three months or less</i> .....	13
	<i>Part-year Remuneration Code staff for three months or less, but where exceptional etc. payments made</i> .....	13
PART F:	REMUNERATION COMMITTEES.....	14
	<i>General</i> .....	14
	<i>Subsidiaries of overseas groups / third country BIPRU firms</i> .....	14
PART G:	PILLAR 3 REMUNERATION DISCLOSURES (BIPRU 11) .....	15
	<i>Requirement to make Pillar 3 remuneration disclosures</i> .....	15
	<i>Pillar 3 remuneration disclosures &amp; proportionality</i> .....	15
APPENDIX 1:	SUPPLEMENTAL GUIDANCE ON DIVIDING FIRMS INTO PROPORTIONALITY LEVELS..	16
	<i>Groups with more than one Remuneration Code firm: examples</i> .....	16
	<i>Role of individual guidance</i> .....	17
APPENDIX 2:	PILLAR 3 DISCLOSURE REQUIREMENTS BY PROPORTIONALITY LEVEL .....	18

## **PART A: INTRODUCTION & INTERPRETATION**

### **Introduction**

#### Status of guidance statement

1. This statement is general *guidance* given under section 157(1) of the Financial Services and Markets Act (FSMA). It relates both to:
  - (1) the *Remuneration Code* of SYSC 19A of the *Handbook*, and
  - (2) the requirement to make Pillar 3 disclosures in relation to *remuneration* (in accordance with *BIPRU* 11 of the *Handbook*).
2. Paragraphs 14 and 15 make provision about the interpretation of this *guidance* statement. Expressions in italics either bear the meaning given in the *Handbook Glossary*, or in the table in paragraph 15.
3. This *guidance* statement has effect from [ ] 2012.

#### Remuneration principles proportionality rule

4. The *remuneration principles proportionality rule* is set out in SYSC 19A.3.3R(2).
5. The *Remuneration Code* requires (amongst other things) a *firm* to apply requirements in SYSC 19A.3 to *Remuneration Code staff*. The *remuneration principles proportionality rule* requires a *firm*, when establishing and applying the total *remuneration* policies for *Remuneration Code staff*, to comply with SYSC 19A.3 in a way and to the extent that is appropriate to its size, internal organisation and the nature, the scope and the complexity of its activities.

#### Guidance on the remuneration principles proportionality rule

6. General *guidance* is given in relation to specific aspects of the *remuneration principles proportionality rule* in SYSC 19A.3 itself.<sup>1</sup>
7. Part D of this *guidance* statement provides additional general *guidance* in relation to the application of the *remuneration principles proportionality rule* to different types of *firm*.
8. Part E of this *guidance* statement provides additional general *guidance* in relation to the application of the *remuneration principles proportionality rule* to *Remuneration Code staff* who have, in relation to a given performance year, been *Remuneration Code staff* for only part of the year.
9. This *guidance* statement represents our *guidance* in a field where new requirements relating to *remuneration* are being implemented within the EEA. We recognise this will be an evolving process, and intend to keep the *guidance* set out here under review.

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<sup>1</sup> The main provisions of guidance which specifically refer to the *remuneration principles proportionality rule* are SYSC 19A.3.34G (giving guidance in relation to *Remuneration Code staff* and certain rules on *remuneration* structures).

Guidance on proportionality in relation to remuneration committees and Pillar 3 remuneration disclosures

10. The *remuneration principles proportionality rule* does not apply to the requirement to establish a *remuneration* committee or to make disclosures in relation to *remuneration* under *BIPRU 11* (as part of Pillar 3). But these requirements are governed by similar proportionality tests, on which *guidance* is given in Parts F and G of this *guidance* statement.

Individual guidance

11. We may give individual *guidance* to a *firm*, either on its own initiative or on the application of the *firm*. Our policy on individual *guidance* is set out in *SUP 9*. In consequence, we may give individual *guidance* to a *firm* in relation to the *remuneration principles proportionality rule* (*SYSC 19A.3.3R*). Such *guidance* may relate to the application of the *rule* by the *firm* generally, or in specific areas.

Arrangement of guidance statement

12. This general *guidance* statement is divided into seven Parts:
- (1) This Part, Part A: Introduction & interpretation.
  - (2) Part B: Proportionality levels.
  - (3) Part C: Division of firms into proportionality levels.
  - (4) Part D: Guidance to firms in particular proportionality levels.
  - (5) Part E: Guidance about part-year Remuneration Code staff.
  - (6) Part F: Remuneration committees.
  - (7) Part G: Pillar 3 remuneration disclosures (*BIPRU 11*).
13. It is supplemented by two Appendices:
- (1) Appendix 1: Supplemental guidance on dividing firms into proportionality levels.
  - (2) Appendix 2: Pillar 3 disclosure requirements by proportionality level.

**Interpretation**

14. This *guidance* statement is to be interpreted as if it was an Annex to *SYSC 19A.3* (other than Part G and Appendix 2, which are to be interpreted as if they were an Annex to *BIPRU 11*). In consequence, *GEN 2* (interpreting the Handbook) applies to the interpretation of this *guidance* statement.
15. In particular, an expression in italics which is defined in the *Glossary* has the meaning given there (*GEN 2.2.7R*). Where an expression in italics is not defined in the *Glossary*, it has the meaning given by the following table:

**Table 1: Glossary of terms defined in this guidance statement**

<b>Defined expression</b>	<b>Definition</b>
<i>CEBS Guidelines</i>	Guidelines on Remuneration Policies and Practices of 10 December 2010 of the Committee of European Banking Supervisors.

<i>group</i>	has the meaning given in the <i>Glossary</i> under paragraph (3).
<i>proportionality level</i>	has the meaning given in paragraph 17, and references to <i>proportionality level one</i> , etc. are to be construed accordingly.
<i>Remuneration Code firm</i>	a <i>BIPRU firm</i> or <i>third country BIPRU firm</i> to whom the Remuneration Code applies (in accordance with SYSC 19A.1.1R).
<i>relevant total assets</i>	has the meanings given in paragraph 24(3).
<i>relevant date</i>	has the meanings given in paragraph 24(3).
<i>solo Remuneration Code firm</i>	a <i>Remuneration Code firm</i> which is not part of a <i>group</i> containing one or more further <i>Remuneration Code firms</i> .

**PART B:           PROPORTIONALITY LEVELS**

16. SYSC 19A.1.1R provides that the *Remuneration Code* applies to a *BIPRU firm* and a *third country BIPRU firm* (in the case of a *third country BIPRU firm*, in relation to the activities carried on from an establishment in the *UK*). In this *guidance statement*, such *firms* are referred to as *Remuneration Code firms*.
17. This *guidance statement* provides for the division of *Remuneration Code firms* into three categories:
  - (1) *proportionality level one*,
  - (2) *proportionality level two*, and
  - (3) *proportionality level three*
18. The process by which firms are divided into *proportionality levels* is provided in Part C (as supplemented by Appendix 1), and may also depend on individual *guidance*.
19. The *proportionality levels* provide a framework for the operation of the *remuneration principles proportionality rule*. Guidance is given to *firms* in different *proportionality levels* in Part D.
20. The *proportionality levels* are also used as the basis for guidance on separate proportionality tests which apply in relation to *remuneration committees* (Part F) and Pillar 3 remuneration disclosures (Part G and Appendix 2).

## **PART C: PROCESS FOR DIVIDING FIRMS INTO PROPORTIONALITY LEVELS**

### **Overview**

21. This Part provides the process by which a *Remuneration Code firm* should ascertain the *proportionality level* into which it falls. Appendix 1 provides supplementary *guidance* (including examples).
22. A *Remuneration Code firm*, in order to ascertain its *proportionality level*, must first establish whether it is part of a *group* which contains one or more other *Remuneration Code firms*:
  - (1) If the *firm* is not part of such a *group* (a *solo Remuneration Code firm*), its *proportionality level* will depend on its individual characteristics (as determined in accordance with paragraph 24).
  - (2) If the *firm* is part of such a *group*, its *proportionality level* will depend on a two-stage process (as provided in paragraphs 25 and 26).

(This requires all *Remuneration Code firms* that are part of the *group* to fall into the highest *proportionality level* that any individual *Remuneration Code firm* in the *group* would fall into on the assumption that it was a *solo Remuneration Code firm*.)
23. Individual *guidance* may vary the *proportionality level* into which a *firm* would otherwise fall under paragraphs 24 to 26.

### **Solo Remuneration Code firms**

#### BIPRU firms and Third Country BIPRU firms

24. The following table shows the *proportionality level* into which a *solo Remuneration Code firm* that is a *BIPRU firm* or a *third country BIPRU firm* falls:
  - (1) A *firm* of the description given in the second column falls into the *proportionality level* listed in the first column.
  - (2) Where applicable, the *firm's proportionality level* will further depend on whether it held *relevant total assets* on the *relevant date* of the amount listed in the third column of the table.
  - (3) In (2) —
    - (a) 'relevant total assets' means:
      - (i) for *BIPRU firms*, the average of the *firm's total assets* on the *firm's last three relevant dates*; and
      - (ii) for *third country BIPRU firms*, the average of the *firm's total assets* that covered the activities of the branch operation in the *United Kingdom* on the *firm's last three relevant dates*;
    - (b) 'relevant date' means:
      - (i) for *BIPRU firms*, an accounting reference date; and
      - (ii) for *third country BIPRU firms* 'relevant date' means 31 December.

The limit confining *relevant total assets* to those that cover the activities of the branch operation in the UK is taken from *SUP 16.12.3R(1)(a)(iv)*, which relates to a reporting requirement in relation to *non-EEA banks* (among others). We consider that a *firm* which needs to ascertain its *relevant total assets* should apply the general policy on valuation set out in *GENPRU 1.3*.

**Table 2: Proportionality levels: solo Remuneration Code firms which are BIPRU firms or third country BIPRU firms**

<b>Proportionality level</b>	<b>Type of firm</b>	<b>Relevant total assets on relevant date of firm (where applicable)</b>
<i>Proportionality level one</i>	<i>UK Bank.</i>	Exceeding £50bn
	<i>Building society.</i>	Exceeding £50bn
	<i>BIPRU 730k firm that is a full scope BIPRU investment firm.</i>	Exceeding £50bn
<i>Proportionality level two</i>	<i>UK Bank.</i>	Exceeding £15bn but not exceeding £50bn
	<i>Building society.</i>	Exceeding £15bn, but not exceeding £50bn
	<i>BIPRU 730k firm that is a full scope BIPRU investment firm.</i>	Exceeding £15bn, but not exceeding £50bn
<i>Proportionality level three</i>	<i>UK Bank.</i>	Not exceeding £15bn
	<i>Building society.</i>	Not exceeding £15bn
	<i>Any full scope BIPRU investment firm that does not fall within proportionality level one or proportionality level two (in accordance with this Table).</i>	Not applicable
	<i>BIPRU limited licence firm.</i>	
	<i>BIPRU limited activity firm.</i>	

**Groups with more than one Remuneration Code firm**

25. This paragraph applies where a *Remuneration Code firm* is part of a *group* containing one or more other *Remuneration Code firms*:
  - (1) Each *Remuneration Code firm* in the *group* must determine the *proportionality level* into which it would fall on the assumption it was a *solo Remuneration Code firm*.
  - (2) Where each *Remuneration Code firm* falls into the same *proportionality level* on the assumption that it was a *solo Remuneration Code firm*, each *firm* falls into that *proportionality level*.



- (3) Where the *Remuneration Code firms* fall into different *proportionality levels* on the assumption that they were *solo Remuneration Code firms*, each *firm* falls into the highest *proportionality level*.
  - (4) For the purposes of (3), *proportionality level one* is the highest and *proportionality level three* is the lowest.
26. Appendix 1 provides examples of this approach. A *firm* which has a higher *proportionality level* as a result of the *guidance* in paragraph 25 than would have been the case had the *firm* been a *solo Remuneration Code firm* should note the scope to apply for individual *guidance* to vary its *proportionality level* (as discussed in paragraphs 5 and 6 of Appendix 1).

## **PART D: GUIDANCE TO FIRMS IN PARTICULAR PROPORTIONALITY LEVELS**

### **Purpose of proportionality levels**

27. In relation to the *remuneration principles proportionality rule*, the *proportionality levels* provide the following:
- (1) A framework for our supervisory approach, and a broad indication of our likely expectations.
  - (2) *Guidance* on which remuneration principles may normally be disapplied under the *remuneration principles proportionality rule*.
28. The *proportionality levels* also provide *guidance* on the separate but similar *proportionality rules* that apply in relation to:
- (1) *remuneration* committees (Part F), and
  - (2) Pillar 3 disclosures in relation to *remuneration* (Part G and Appendix 2).

### **Firms to continue to consider proportionality in their individual circumstances, etc.**

29. It follows from the nature of the *remuneration principles proportionality rule*, and the limited purposes noted in paragraph 27, that the *proportionality levels* do not provide comprehensive *guidance* on how the *remuneration principles proportionality rule* will apply to a particular *firm*. A *firm* will still need to consider the application of the *remuneration principles proportionality rule* to its individual circumstances.
30. A *firm* should bear in mind that the Remuneration Code may require different responses from *firms* that fall into the same *proportionality level*. This is illustrated by the following example:
- (1) Firm A is a global bank with *relevant total assets* of £800bn, with substantial investment banking business, foreign exchange exposures and a complex business model seeking aggressive growth. It falls into *proportionality level one*.
  - (2) Firm B is a large mortgage and savings bank with *relevant total assets* of £100bn and a comparatively simple, conservative business model. It falls into *proportionality level one*.
  - (3) Firm C is a large building society, with *relevant total assets* of £25bn and a comparatively simple, conservative business model. It falls into *proportionality level two*.
  - (4) Remuneration Principle 8 requires, amongst other things, a *firm* to risk-adjust performance measures to take account of all types of current and future risks (SYSC 19A.3.22R(1)(a)).
  - (5) Clearly the processes necessary to identify such risks will need to be more sophisticated for Firm A than for Firm B, despite the fact that they fall into the same *proportionality level*. Indeed, the difference in the necessary sophistication is likely to be greater as between Firm A and Firm B than as between Firm B and Firm C.

## Disapplication of certain remuneration principles for firms in particular proportionality levels

31. The *Banking Consolidation Directive* can be interpreted such that it may not be necessary for certain *firms* to apply certain *remuneration* principles at all.<sup>2</sup> This has been endorsed and elaborated in the *CEBS Guidelines*.<sup>3</sup>
32. In our view, it will normally be appropriate for a *firm* in *proportionality level three* to disapply under the *remuneration principles proportionality rule* the following *rules*—
  - (1) retained *shares* or other instruments (SYSC 19A.3.47R),
  - (2) deferral (SYSC 19A.3.49R),
  - (3) performance adjustment (SYSC 19A.3.51R), and

It may also be appropriate for *BIPRU limited licence firms* and *BIPRU limited activity firms* to disapply under the *remuneration principles proportionality rule* the ratios between fixed and variable components of total *remuneration* (SYSC 19A.3.44R).

We also endorse the *CEBS Guidelines* where they state that such firms may ‘take into account the specific features of their types of activities’ in applying the ‘requirement on the multi-year framework ..., in particular the accrual and ex-ante risk adjustment aspects of it’ as discussed further in section 4.2.2.a of the *Guidelines*.<sup>4</sup>

33. However, *firms* should also note that some *remuneration* principles set specific numerical criteria (such as on the minimum period of deferral, the minimum portion to be deferred and the minimum portion to be issued in *shares*). The following *guidance* applies where such principles apply to *Remuneration Code staff* and are not capable of disapplication under the approach set out above. In such circumstances, in line with the *CEBS Guidelines*, we do not consider that the *remuneration principles proportionality rule* permits a *firm* to apply lower numerical criteria.<sup>5</sup> (For the avoidance of doubt, this *guidance* does not apply where a *firm* chooses to use deferral or issuance in shares more widely than required by SYSC 19A.3, for example in order to comply with the *Remuneration Code general requirement*.)

## PART E: GUIDANCE ABOUT PART-YEAR REMUNERATION CODE STAFF

### Introduction

34. SYSC 19A.3.34G provides *guidance* on when we do not generally consider it necessary for a *firm* to apply to certain *Remuneration Code staff* certain *rules* relating to *remuneration* structures. This Part provides supplementary guidance on how certain *rules* on *remuneration* structures might normally be applied to

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<sup>2</sup> *Banking Consolidation Directive*, Annex V, paragraph 23 provides that the principles should be applied ‘in a way and to the extent that is appropriate to their size, internal organisation and the nature, the scope and complexity of their activities’ (emphasis added).

<sup>3</sup> *CEBS Guidelines*, paragraphs 19 to 23.

<sup>4</sup> *CEBS Guidelines*, paragraph 20

<sup>5</sup> *CEBS Guidelines*, paragraph 19.

*Remuneration Code staff* who have, in relation to a given performance year, been *Remuneration Code staff* for only part of the year.

35. In giving this *guidance*, we have taken account of the *remuneration principles proportionality rule*.

### **Part-year Remuneration Code staff for more than three months**

36. This paragraph applies where an individual (A) has, in relation to a given performance year, been *Remuneration Code staff* for a period more than three months, but less than 12 months:

(1) Sub-paragraphs (3) and (4) explain how the *guidance* in SYSC 19A.3.34G (as mentioned in the introduction to this Part) is to be applied in relation to A. Sub-paragraphs (5) and (6) provide that in certain circumstances it may be appropriate to apply certain *rules* to only a proportion of A's variable *remuneration*. Sub-paragraphs (7) to (9) provide examples.

(2) In this paragraph:

(a) 'relevant fraction' means the fraction derived by dividing the number of days in the given performance year for which A has been *Remuneration Code staff* by the number of days in the year;

(b) 'qualifying fixed *remuneration*' means A's annual fixed *remuneration* in A's capacity as *Remuneration Code staff* multiplied by the relevant fraction;

(c) 'qualifying variable *remuneration*' means:

(i) in the case where A was an *employee* of the *firm* for the whole of the given performance year, A's variable *remuneration* in relation to the performance year multiplied by the relevant fraction;

(ii) in the case where A was only ever employed in the given performance year as *Remuneration Code staff*, A's actual variable *remuneration*;

(d) 'total qualifying *remuneration*' means qualifying fixed *remuneration* added to qualifying variable *remuneration*;

(e) 'threshold amount' means £500,000 multiplied by the relevant fraction.

(3) We does not generally consider it necessary for a *firm* to apply the rules referred to in (4) where, in relation to A, the following conditions are satisfied:

(a) Condition 1 is that A's qualifying variable *remuneration* is no more than 33% of total qualifying remuneration, and

(b) Condition 2 is that A's total qualifying remuneration is no more than the threshold amount.

(4) The rules referred to in (3) are those relating to:

(a) guaranteed variable *remuneration* (SYSC 19A.3.40R),

(b) retained *shares* or other instruments (SYSC 19A.3.47R),

(c) deferral (SYSC 19A.3.49R), and

(d) performance adjustment (SYSC 19A.3.51R).

- (5) Sub-paragraph (6) applies where the conditions in (3) are not satisfied and the *firm* should apply the rules referred to in (6).
- (6) Where this sub-paragraph applies, we generally consider that it would be appropriate to apply the following rules to qualifying variable *remuneration* only:
- (a) retained *shares* or other instruments (SYSC 19A.3.47R),
  - (b) deferral (SYSC 19A.3.49R), and
  - (c) performance adjustment (SYSC 19A.3.51R).
- (7) The examples in (8) and (9) illustrate this *guidance*. The performance year in each case is 1 January to 31 December.
- (8) Example 1:
- (a) A1 is an *employee* of the *firm* through the performance year and is promoted to a *Remuneration Code staff* role with effect from 1 September. A1's previous fixed *remuneration* was £150,000. In his *Remuneration Code staff* role A1's fixed *remuneration* increases to £250,000. For the performance year, A1 is awarded variable *remuneration* of £130,000.
  - (b) The relevant fraction is 122/365. A1's qualifying fixed *remuneration* is £83,560 (£250,000 multiplied by 122/365). A1's qualifying variable *remuneration* is £43,452 (£130,000 multiplied by 122/365). A1's total qualifying *remuneration* is £127,012. The threshold amount is £167,120 (£500,000 multiplied by 122/365).
  - (c) A1's total qualifying *remuneration* is below the threshold amount, so condition 2 of (3) is satisfied. But A1's qualifying variable *remuneration* is more than 33% of A1's total qualifying *remuneration*, and condition 1 of (3) is not satisfied.
  - (d) The *rule* on guaranteed variable *remuneration* applies to A1. In addition, the *rules* on retained shares and other instruments, deferral and performance adjustment must be applied to A1's qualifying variable *remuneration* of £43,452.
- (9) Example 2:
- (a) A2 joins the *firm* as a *Remuneration Code staff* member with effect from 1 July. A2's annual fixed *remuneration* is £450,000. For period of 1 June to 31 December, A2 is awarded variable *remuneration* of £50,000.
  - (b) The relevant fraction is 184/365. A2's qualifying fixed *remuneration* is £226,850 (£450,000 multiplied by 184/365). A2's qualifying variable *remuneration* is £50,000 (the actual amount). A2's total qualifying *remuneration* is £276,850. The threshold amount is £252,050 (£500,000 multiplied by 184/365).
  - (c) A2's qualifying variable *remuneration* is not more than 33% of A2's total qualifying *remuneration*, and condition 1 of (3) is satisfied. But A2's total qualifying *remuneration* is more than the threshold amount, so condition 2 of (3) is not satisfied.

- (d) The *rule* on guaranteed variable remuneration applies to A2. In addition, the *rules* on retained shares and other instruments, deferral and performance adjustment must be applied to A2's qualifying variable *remuneration* of £50,000.

**Certain part-year Remuneration Code staff for three months or less**

- 37. Paragraphs 38 and 39 apply where:
  - (1) an individual (B) has, in relation to a given performance year, been *Remuneration Code staff* for a period of three months or less, and
  - (2) an exceptional or irregular payment (such as a sign-on award) has not been or is not to be made in relation to B's appointment as *Remuneration Code staff*.
- 38. Where this paragraph applies, we do not generally consider it necessary to apply the following rules in relation to B for the performance year in question:
  - (1) retained *shares* or other instruments (SYSC 19A.3.47R),
  - (2) deferral (SYSC 19A.3.49R), and
  - (3) performance adjustment (SYSC 19A.3.51R).
- 39. Where this paragraph applies, the guidance in paragraph 36(2), (3) and (4)(a) should be applied for the purposes of determining whether or not it will generally be necessary to apply the rule on guaranteed variable *remuneration* to B (substituting in that paragraph, for references to 'A', references to 'B').

**Part-year Remuneration Code staff for three months or less, but where exceptional etc. payments made**

- 40. Paragraph 41 applies where an individual (C) has, in relation to a given performance year, been *Remuneration Code staff* for a period of three months or less, but where an exceptional or irregular payment (such as a sign-on award) has or is to be made in relation to C's appointment.
- 41. The guidance in paragraph 36 applies in relation to C (substituting in that paragraph, for references to 'A', references to 'C'). The amount of exceptional or irregular payment is to be added to C's qualifying variable *remuneration* without pro rating.

## PART F: REMUNERATION COMMITTEES

### General

42. Remuneration Principle 4 (Governance) provides, in SYSC 19A.3.12R(1), that a firm that is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities must establish a *remuneration* committee.
43. The following table provides guidance on when we consider it would be appropriate for a *remuneration* committee to be established under SYSC 19A.3.12R, based on the *proportionality level* into which the *firm* falls (as determined in accordance with Part C of this *guidance* statement (as supplemented by Appendix 1)):

**Table 4: Guidance on whether remuneration committee required**

<b>Proportionality level</b>	<b>SYSC 19A.3.12R remuneration committee?</b>
<i>Proportionality level one</i>	A <i>remuneration</i> committee should be established.
<i>Proportionality level two</i>	A <i>remuneration</i> committee should be established.
<i>Proportionality level three</i>	It would be desirable for such a <i>remuneration</i> committee to be established, and we would normally expect larger <i>proportionality level three</i> firms to do so.  But we accept that it may be appropriate for the <i>governing body</i> of the <i>firm</i> to act as the <i>remuneration</i> committee.

### Subsidiaries of overseas groups / third country BIPRU firms

44. This *guidance* relates, broadly speaking, to a *Remuneration Code firm* which is a *third country BIPRU firm*, or a *BIPRU firm* that is part of a *group* not subject to consolidated supervision by the *FSA*.
45. We accept that it may be possible for certain such *firms* to justify on the ground of proportionality not establishing under SYSC 19A.3.12R at solo level a *remuneration* committee of the *Remuneration Code firm*. However, in such circumstances it would be necessary to show how the functions which would otherwise have been performed by such a *remuneration* committee would be discharged with sufficient authority, and with sufficient independence from those performing executive functions within the *firm*. Where, for example, members of the *governing body* of the *firm* acted together with a *group remuneration* committee to discharge these functions, we would expect as a minimum to be satisfied that the operational arrangements ensured sufficient independence from those performing executive functions at *Remuneration Code firm* or *group* level, and allowed the *governing body* of the *firm* to exercise sufficient authority in relation to the *Remuneration Code firm*.

## **PART G: PILLAR 3 REMUNERATION DISCLOSURES (BIPRU 11)**

### **Requirement to make Pillar 3 remuneration disclosures**

46. *BIPRU 11* requires certain *Remuneration Code firms* to disclose a series of qualitative and quantitative information relating to *remuneration* (*BIPRU 11.3* and *BIPRU 11.5.18R*).
47. *BIPRU 11* applies only to *BIPRU firms*.

### **Pillar 3 remuneration disclosures & proportionality**

48. Two proportionality tests apply in relation to the requirement to make Pillar 3 disclosures in relation to *remuneration*:
  - (1) A *BIPRU firm* that is significant in terms of its size, internal organisation and the nature, scope and the complexity of its activities must also disclose the quantitative information referred to in *BIPRU 11.5.18R* at the level of *senior personnel* (*BIPRU 11.5.20R(1)*).
  - (2) *BIPRU firms* must comply with the requirements set out in *BIPRU 11.5.18R* in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities (*BIPRU 11.5.20R(2)*).
49. We consider that it is appropriate to give *guidance* on these proportionality tests by reference to the *proportionality levels* determined in accordance with Part C of, and Appendix 1 to, this *guidance* statement. However, as the disclosure requirement applies only to *BIPRU firms*, when applying the guidance in paragraph 25, only *Remuneration Code firms* which are *BIPRU firms* should be taken into account.
50. In relation to the proportionality test referred to in paragraph 48(1) the *FSA* considers that a firm should be regarded as 'significant' if it falls into *proportionality level one*.
51. In relation to the proportionality test set referred to in paragraph 48(2) the table in Appendix 2 sets out the categories of information that we consider *firms* in different *proportionality levels* should disclose.



## APPENDIX 1: SUPPLEMENTAL GUIDANCE ON DIVIDING FIRMS INTO PROPORTIONALITY LEVELS

### Groups with more than one Remuneration Code firm: examples

1. The following non-exhaustive examples illustrate the operation of the guidance provided in paragraph 25 of Part C. (It should be borne in mind that in each case individual *guidance* could vary the outcome provided by the operation of the guidance provided in that paragraph.)
2. Example 1:
  - (1) Firm A is the *parent undertaking* of Firm B.
  - (2) Firm A is a *UK bank* that had *relevant total assets* of £800bn on its last *accounting reference date*. Firm B is a *limited activity firm*.
  - (3) On the assumption that they were *solo Remuneration Code firms*, Firm A falls into *proportionality level one* and Firm B falls into *proportionality level three*.
  - (4) As a result of the guidance at paragraph 25 of Part C, both Firms A and B fall into *proportionality level one*.
3. Example 2:
  - (1) Firm C is the *parent undertaking* of Firm D.
  - (2) Firm C is a *limited activity firm* and Firm D is a *UK bank* that had *relevant total assets* of £100bn on its last *accounting reference date*.
  - (3) On the assumption that they were *solo Remuneration Code firms*, Firm C falls into *proportionality level three* and Firm D falls into *proportionality level one*.
  - (4) As a result of the guidance at paragraph 25 of Part C, both Firms C and D fall into *proportionality level one*.
4. Example 3:
  - (1) Company E is the *parent undertaking* of Firms F and G and Company H. Company H is the *parent undertaking* of Firm I. Firm J is a member of the group because of an *Article 12(1) consolidation relationship*.
  - (2) The firms and companies have the following characteristics:
    - (a) Neither Companies E nor H are *Remuneration Code firms*.
    - (b) Firm F is a *BIPRU 730k firm* that is a *full scope BIPRU investment firm* and that had *relevant total assets* of £400bn on its last *accounting reference date*.
    - (c) Firms G and J are *limited activity firms*.
    - (d) Firm I is a *UK bank* that had *relevant total assets* of £10bn on its last *accounting reference date*.
  - (3) On the assumption that they were *solo Remuneration Code firms*—
    - (a) Firm F falls into *proportionality level two*,
    - (b) Firms G and J fall into *proportionality level three*, and

- (c) Firm I falls into *proportionality level three*.
- (4) As a result of the guidance at paragraph 25 of Part C, Firms F, G, I and J all fall into *proportionality level two*.

### **Role of individual guidance**

- 5. Individual *guidance* may vary the *proportionality level* into which a *firm* would fall under the general *guidance* set out in Part C and supplemented by this Appendix. In consequence, the definitions and thresholds provided in Part C do not provide an immutable classification. The *CEBS Guidelines* also provide guidance on applying proportionality between different institutions.<sup>6</sup>
- 6. The following provide non-exhaustive high level examples of where we might consider providing individual guidance to vary a *proportionality level*:
  - (1) Where a *firm* was just below the threshold for a particular proportionality level (as determined in accordance with Part C), but where features of its business model or growth strategy suggest that it should fall within the higher *proportionality level*.
  - (2) Where a *group* of *firms* contained several *firms* falling into a common *proportionality level*, but where the aggregate prudential risk posed by the group suggested that a higher *proportionality level* was more appropriate.
  - (3) Where a *firm* falls into a higher proportionality level as a result of the guidance at paragraph 25 of Part C than would be the case on the assumption that it was a *solo Remuneration Code firm*, depending on the particular circumstances of the case.

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<sup>6</sup> *CEBS Guidelines*, paragraphs 24 and 25.

**APPENDIX 2: PILLAR 3 DISCLOSURE REQUIREMENTS BY PROPORTIONALITY LEVEL**

<b>BIPRU 11.5.18R disclosure requirement</b>	<b>Relevant proportionality level</b>		
	<b>Proportionality level one</b>	<b>Proportionality level two</b>	<b>Proportionality level three</b>
BIPRU 11.5.18R (1) ( <i>‘information concerning the decision-making process used for determining the remuneration policy, including if applicable, information about the composition and the mandate of a remuneration committee, the external consultant whose services have been used for the determination of the remuneration policy and the role of the relevant stakeholders’</i> )	✓	✓	✓
BIPRU 11.5.18R (2) ( <i>‘information on link between pay and performance’</i> )	✓	✓	✓
BIPRU 11.5.18R (3) ( <i>‘the most important design characteristics of the remuneration system, including, information on the criteria used for performance measurement and risk adjustment, deferral policy and vesting criteria’</i> )	✓	✓	
BIPRU 11.5.18R (4) ( <i>‘information on the performance criteria on which the entitlement to shares, options or variable components of remuneration is based’</i> )	✓		
BIPRU 11.5.18R (5) ( <i>‘the main parameters and rationale for any(...) variable component scheme and any other non-cash benefits’</i> )	✓		
BIPRU 11.5.18R (6) ( <i>‘aggregate quantitative information on remuneration, broken down by business area’</i> )	✓	✓	✓
BIPRU 11.5.18R (7) ( <i>‘aggregate quantitative information on remuneration, broken down by senior management and members of staff whose actions have a material impact on the risk profile of the firm...’</i> ) ...indicating the following:	✓	✓	✓
BIPRU 11.5.18R (7)(a) ( <i>‘amounts of remuneration for the financial year, split into fixed and variable remuneration, and number of beneficiaries’</i> )	✓	✓	
BIPRU 11.5.18R (7)(b) ( <i>‘amounts and form of variable remuneration, split into cash, shares and share-linked instruments and other’</i> )	✓		
BIPRU 11.5.18R (7)(c) ( <i>‘amounts of outstanding deferred remuneration, split into vested and unvested portions’</i> )	✓		
BIPRU 11.5.18R (7)(d) ( <i>‘the amounts of deferred remuneration awarded during the financial year, paid</i>			

<i>out and reduced through performance adjustments'</i>	✓		
BIPRU 11.5.18R (7)(e) ('new sign-on and severance payments made during the financial year, and number of beneficiaries of such payments')	✓		
BIPRU 11.5.18R (7)(f) ('the amounts of severance payments awarded during the financial year, number of beneficiaries, and highest such award to a single person')	✓		