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## COVER NOTE

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From: Mr José Manuel CAMPA, Chairperson of the European Banking Authority (EBA)

To: General Secretariat of the Council

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Subject: Submission of draft RTS on criteria to define managerial responsibility and control functions, a material business unit and a significant impact on its risk profile, and categories of staff whose professional activities have a material impact on an institution's risk profile under Article 94(2) of Directive 2013/36/EU

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Delegations will find attached a letter regarding EBA's submission of a draft regulatory technical standard on the subject mentioned above.

EBA's full report can be viewed here:

[https://eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Draft%20Technical%20Standards/2020/RTS/885803/EBA-RTS-2020-05%20RTS%20on%20identified%20staff.pdf](https://eba.europa.eu/sites/default/documents/files/document_library/Publications/Draft%20Technical%20Standards/2020/RTS/885803/EBA-RTS-2020-05%20RTS%20on%20identified%20staff.pdf)

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Encl.

E-MAIL

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THE CHAIRPERSON



Floor 24-27, Europlaza,  
20 avenue André Prothin, La Défense 4,  
92400 Courbevoie, FRANCE

T: +33 186 526 832  
E: JoseManuel.Campa@eba.europa.eu

<https://eba.europa.eu>

EBA-2020-D-3070

Ms Salla Saastamoinen  
Acting Director General  
Directorate-General for Justice and Consumers (JUST)  
European Commission  
1049 Brussels  
Belgium

18 June 2020

**Subject: Submission of draft RTS on criteria to define managerial responsibility and control functions, a material business unit and a significant impact on its risk profile, and categories of staff whose professional activities have a material impact on an institution's risk profile under Article 94(2) of Directive 2013/36/EU**

Dear Ms Saastamoinen,

The EBA has been mandated under Article 94 (2) of Directive 2013/36/EU as amended by Directive (EU) 2019/878 (CRD) to developed draft regulatory technical standards to set out criteria to define (a) managerial responsibility and control functions, (b) material business unit and significant impact on the relevant business unit's risk profile and (c) other categories of staff not expressly referred to in Article 92(3) CRD whose professional activities have an impact on the institution's risk profile comparably as material as that of those categories of staff referred to therein.

With this letter I am submitting to you today the draft RTS on criteria to define managerial responsibility and control functions, a material business unit and a significant impact on its risk profile, and categories of staff whose professional activities have a material impact on an institution's risk profile as endorsed by the EBA's Board of Supervisors.

I trust your awareness, that a separate RTS on criteria has been mandated for investment firms that will set out the criteria for the identification of staff under Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms (IFD). The timelines for the entry into force for the CRD (implementation by Member States by 28 December 2019) and the IFD (implementation by Member States by 26 June 2020) and the respective RTS for the identification of risk takers differ, which creates, in particular, for those investment firms that remain subject to the requirements under the CRD only until 26 June 2020, additional implementation challenges, if the requirements of the submitted RTS would have to be applied also by those investment firms. To deduce the regulatory burden, we found that the most

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appropriate solution would be to apply the submitted RTS only to credit institutions, while investment firms would remain subject to the existing regulatory framework, until it is replaced by the respective RTS under IFD. Such a solution would reduce the implementation costs for smaller investment firms, which would be appropriate considering the principle of proportionality.

Yours sincerely,



José Manuel Campa

CC:

Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs European Parliament

Maric Zdravko, Deputy Prime Minister and Minister of Finance, Croatia

Maija Laurila, Head of Unit Just A.3, Company law (JUST.A.3)

John Berrigan, Director General, DG FISMA

Martin Merlin, Director Dir D, Regulation and prudential supervision of financial Institutions, DG FISMA

Nathalie Berger, Head of Unit D1, Bank regulation and supervision, DG FISMA

Dominique Thienpont, Legal Counsellor to Dir D, DG FISMA

Encl: Draft regulatory technical standards on criteria to define managerial responsibility and control functions, a material business unit and a significant impact on its risk profile, and categories of staff whose professional activities have a material impact on an institution's risk profile under Article 94(2) of Directive 2013/36/EU