# Regulatory brief

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## EU Bonus Cap: Fewer bankers likely impacted in 2014

In May 2013, the European Banking Authority (EBA) published draft regulations greatly expanding the number of bankers impacted by the EU bonus cap, which limits bonuses to a banker's fixed salary (or twice that level with shareholder approval).[1] The EU bonus cap passed the EU Parliament in April 2013 as part of CRD IV (which implements Basel III in Europe) and goes into effect on January 2014.[2] However due to delay in finalizing the EBA's draft regulations, it is now highly likely that the cap will not impact an expanded number of bankers until 2015.

Instead, in January 2014 the bonus cap will be limited to senior management and certain "material risk takers" (MRTs). EU regulators had been concerned with the wide differences in the criteria used by firms and national supervisory authorities to identify MRTs, so the draft regulation broadened the definition of MRTs to include employees who meet any of the following criteria:

- Earn more than €500,000
- Are within the top 0.3% of the bank's earners
- Are in senior management's earnings bracket
- Received a bonus greater than €75,000 and greater than 75% of their fixed salary

Further complicating matters, the UK government, which is concerned about the impact of the bonus cap on London's financial services market, recently challenged the draft regulation in the European Court of Justice. The legal challenge argues among other issues that giving the EBA the power to decide whose bonus should be capped goes beyond its legal authority.

The UK's legal action may make it more difficult politically for the UK to gain concessions from the rest of the EU to pare back the draft regulation's broad definition of MRTs. As a consequence, it is more likely that the draft regulation will be adopted with little amendment, if the legal challenge is unsuccessful. The draft regulation's comment period expired in August, so its finalization is underway (even if delayed).

With these developments, banks should continue planning for CRD IV to be implemented in 2014. The UK has made it clear that it will implement CRD IV, including the bonus cap, while its legal challenge is pending.

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[1] See PwC's *Financial Services Regulatory Brief: EU bonus cap update – Cap to apply more broadly* (May 2013).

[2] See PwC's *Financial Services Regulatory Brief: EU bonus cap to take effect January 1, 2014 – US-based subsidiaries and branches impacted* (July 2013).

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# *Additional information*

For additional information about PwC's Financial Services Regulatory Practice and how we can help you, please contact:

**Dan Ryan**
Financial Services Regulatory Practice Chairman
646 471 8488
daniel.ryan@us.pwc.com

**Alison Gilmore**
646 471 0588
alison.gilmore@us.pwc.com

**Contributors:** Scott Olsen, Ed Donovan, Armen Meyer, Gary Welsh, and Roozbeh Alavi.

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