A turning point for Dutch bonus rules: why financial institutions should reassess their "Identified Staff"

A significant change to the Dutch bonus regime for the financial sector is on the horizon. Last week, the Dutch House of Representatives approved an amendment to the Financial Supervision Act (*Wet op het financieel toezicht*) proposing to narrow the scope of the statutory 20% bonus cap on variable remuneration to 'identified staff' only.

According to the legislator, this creates more room for financial institutions to attract and retain specialist personnel, such as IT specialists. Another aim is to bring Dutch remunerations rules for the financial sector more in line with EU standards.

A review of the employee files also offers financial institutions an opportunity to bring their payroll administration in line with the requirements of the EU Pay Transparency Directive. In the Netherlands, these new requirements are expected to enter into force by the end of this year.

From "everyone" to "identified staff" only

Under the current Dutch regime, bonus rules are stricter than EU requirements in several respects. They apply to:

- all financial undertakings,
- all employees (regardless of role), and
- impose a cap of 20% on variable remuneration.

The proposed amendment would limit the scope of the bonus cap and related remuneration rules to so-called "identified staff" only. This refers to staff whose professional activities materially influence the risk profile of the institution (see article 92(3) of CRD IV).

In practical terms, identified staff include at least:

- all members of the management body and senior management;
- staff with managerial responsibility over internal control functions or material business units; and
- staff members with significant remuneration in the previous year (at least EUR 500,000 and at least equal to average senior management pay), provided their role materially impacts a significant business unit's risk profile.

Please note that also other people than as described above may qualify as "identified staff. This will depend on the circumstances under which these persons operate and their day-to-day influence on a financial institution's risk profile.

Which changes are expected?

Importantly, the amendment does not change:

- the level of the cap (which remains 20% for identified staff); or

- the broad sectoral scope (the rules will continue to apply across all financial undertakings).

If adopted, employees who are not classified as 'identified staff' will no longer be subject to several key remuneration requirements, including:

- the 20% bonus cap;
- the obligation that at least 50% of their variable remuneration must be based on non-financial criteria;
- specific restrictions on retention bonuses; and
- the five-year retention period for financial instruments that are included in fixed remuneration.

This represents a major shift in how Dutch financial institutions can structure compensation for large parts of their workforce, especially in commercial, operational and support functions. However, the general requirement to maintain a sound and controlled remuneration policy remains in place. Therefore, any changes to a financial institution's reward system and proposals for increasing bonusses for non-identified staff still need to meet the requirement of fitting within a controlled remuneration policy.

Timing and legislative outlook

Although the amendment to the bonus rules has already been adopted, the bill as a whole still needs to be approved by the House of Representatives and by the Senate. Current estimates for entry into force of the new bonus rules point to 1 January 2027, but earlier implementation cannot be ruled out.

For legal departments and HR teams of financial instutions with business in the Netherlands, the most urgent task is clear: determine who qualifies as identified staff within the Dutch entity.

This is not purely a formal exercise. It requires a substantive assessment of:

- which roles materially influence the institution's risk profile;
- which business units qualify as "material"; and
- whether remuneration thresholds and functional criteria under CRD IV are met.

Misclassification carries regulatory and reputational risks. Meanwhile, a correct classification may create new flexibility in remuneration structures for non-identified staff. This could offer room to redesign incentive schemes in a more competitive and tailored way.

EU Pay Transparency Directive

In addition to reviewing who qualifies as identified staff, this may also be a good time for Dutch financial institutions to review if their remuneration practices are compliant with the EU Pay Transparency Directive, which will be implemented into Dutch law later this year.

For example, pursuant to this directive employers must establish objective, transparent and gender-neutral pay structures that provide insight into how work is valued. This applies to all employers, regardless of the number of employees within their organisation. Employers are required to guarantee equal pay for work of equal value.

The new rules also introduce certain transparency obligations for employers, such as an obligation to proactively inform job applicants about the starting salary or the obligation to inform employees about average pay levels by gender for categories of workers performing the same or equivalent work.

In addition, employers with 100 or more employees must (i) comply with specific reporting obligations and (ii) carry out pay evaluations and report on them to a competent authority.

Although all member states are expected to implement the EU Pay Transparency Directive in national legislation by 7 June 2026, the Netherlands has already indicated that it is not able to meet this deadline. The EU Pay Transparency Directive is expected to be implemented in Dutch legislation and enter into force as per 1 January 2027.

Preparing your organisation

Considering the current developments, now is the right moment to:

1. map current roles against the CRD IV identified staff criteria;
2. review and prepare updated remuneration policies and bonus frameworks;
3. review if there are any pay gaps in your organisation;
4. align HR, compliance and legal for implementation of the new rules and policies; and
5. prepare internal communication for affected employees.

The direction of travel is clear: the Dutch remuneration rules for the financial sector are becoming more risk-based and more European in character. In addition, pay transparency rules may also affect your payroll administration and how your business communicates with employees and job applicants about remuneration.

Organisations that start preparing now will be best positioned to implement the new framework smoothly and defensibly and ensure they stay competitive and compliant.