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| --- | --- |
| Boulevard de Berlaimont 14 – BE-1000 Bruxellestél. +32 2 221 38 12 – fax + 32 2 221 31 04numéro d’entreprise: 0203.201.340RPM Bruxelleswww.nbb.be | BNB EU Bil N&B Pos |
|  |  |
|  | Brussels, 28 May 2019 |
| Annexe 1 to the handbook on assessment of fitness and propriety |
| Form 1 “New appointment” |
|  |

Scope

* *Insurance undertakings governed by Belgian law (including insurance undertakings subject to specific arrangements as referred to in Article 276 of the Solvency II Law);*
* *Reinsurance undertakings governed by Belgian law;*
* *Branches established in Belgium of insurance or reinsurance undertakings governed by the law of third countries;*
* *Insurance holding companies governed by Belgian law;*
* *Mixed financial holdings governed by Belgian law at the top of a financial conglomerate in which the insurance sector is the main sector.*

**Basic information for administrative purposes**

Name of the undertaking concerned:

Type of undertaking:

Address of the undertaking:

LEI code and NBB authorisation code of the undertaking:

Contact person:

Family name and first name of the appointee:

Sex:

Position:

 Board of directors (Chairperson/Non-executive member/Independent non-executive member)

 Management committee (Chairperson/Member director/Member non director)

 Independent control function (audit/compliance/risk/actuarial)

**PRELIMINARY INSTRUCTIONS**

1. **Aim of the questionnaire**

The information provided in this questionnaire will enable the National Bank of Belgium (hereinafter "the NBB") to carry out a prudential assessment on the suitability of the appointee.

The following documents should be consulted before completing the application:

* the handbook on assessment of fitness and propriety;
* guidelines Eiopa on the system of governance dated 14 September 2015, §11 to 14.

The appointee and the undertaking concerned are expected to correctly answer the questions set out below and to communicate all relevant material information which they are aware of. Answers shall not be limited to a mere reference to the C.V. Providing inaccurate or incomplete information slows down or hinders the processing of the questionnaire and may raise doubts as to the suitability of the appointee and governance of the undertaking concerned. **Any finding that incomplete or inaccurate information was intentionally communicated will result in a negative suitability assessment of the appointee.** **Consequently, if there is any doubt as to the relevance or importance of a piece of information, the information must be sent, or contact must be made with the supervisory authority through the usual channels.**  In this regard, attention is drawn specifically to sections 4.4.1 and 4.6.3 of the handbook on assessment of fitness and propriety.

It is important to note that the answers given should cover all aspects of the situation of the appointee, whether in Belgium or abroad.

In addition to the information required, both the appointee and the undertaking should notify the NBB of any information that the NBB may reasonably expect. The NBB shall be notified using Form 3 "NEW ELEMENTS" of any subsequent changes in relation to the responses provided in this form.

If so requested, or if the appointee so wishes, s/he may communicate verbally to the NBB any additional information deemed useful.

Please also note that pursuant to Article 608 of the law of 13 March 2016 on the legal status and supervision of insurance and reinsurance undertakings, all investigations and criminal proceedings resulting from infringement of the Insurance Supervision Law or any law referred to in Article 20 of the law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms must be notified to the Bank by the judicial authority.

1. **Who is concerned?**

This questionnaire concerns persons who wish to be appointed as member of the statutory governing body, member (director or non director) of the management committee, responsible person of an independent control function (compliance, risk management, actuarial function or internal audit), general manager of a branch or senior manager.

1. **Who should fill out and sign the questionnaire?**

**Part A** of this questionnaire must be completed by the appointee. The questions in **Part B** are addressed to the undertaking concerned.

However, the appointee and the undertaking concerned shall be jointly responsible for ensuring that complete and accurate information regarding the (proposed) appointment is provided to the NBB. Their respective declarations and signatures at the bottom of this questionnaire therefore cover all the information contained therein.

Save as otherwise provided in the articles of association with regard to representation of the statutory governing body, this questionnaire should be signed on behalf of the undertaking concerned as follows:

* If the form concerns the chairperson of the board of directors: signature by two other non-executive directors;
* If the form concerns a member of the management committee, a senior manager, a head of an independent control function or a general manager of a branch: signature by the chairperson of the statutory governing body and the chairperson of the management committee;
* If the form concerns the chairperson of the management committee: signature by the chairperson of the statutory governing body;
* If the form concerns another member of the statutory governing body: signature by the chairperson of the statutory governing body.
1. **What documents should be annexed to the questionnaire?**

The questionnaire **must** be accompanied by the following documents:

1. a curriculum vitae
2. a criminal record check, model 596 ‑ 1 (issued less than three months before the date of the introduction of this questionnaire)
3. a copy of the identity card or passport (in validity)
4. a function profile
5. minutes of the meeting of the Board of Directors or, where applicable, the nomination or remuneration committee regarding the appointment with (i) reference to the company's Fit & Proper policy and (ii) where applicable, a copy of the appraisal report of the person to be appointed
6. an updated version of the list of members of the board of directors, management committee, specialised committees of the board of directors and responsible persons of independent control functions as provided for in the circular on the NBB's prudential expectations regarding the system of governance for the insurance and reinsurance sector (including a division of tasks between the members of the management committee) showing the situation of the management bodies before and after the envisaged appointment
7. for directors and members of the management committee: the “skills matrix” summarizing the manner in wich the requirements for collective competences set out in the handbook on assessment of fitness and propriety are met (cf. point 4.4.2.7 of the handbook)
8. for a branch manager: the powers of attorney
9. (where appropriate, see the NBB regulation of 6 February 2018, approved by the Royal Decree of 15 April 2018) for a responsible person of the compliance function: (i) certificate attesting that the candidate has passed an examination with an institution whose examinations have been recognised by the FSMA and the NBB; (ii) certificates attesting to participation in training programmes at training institutions recognised by the FSMA, on the advice of the NBB

and any other document that may reasonably be considered necessary for the assessment by the supervisor of the suitability of the appointee.

Additionally, the questionnaire **may** be accompanied by any other document which may contribute to a positive assessment.

**Please make your national registry number unreadable on any document you submit to the NBB. In Belgium, the national registry number can be found, among others, on the reverse side of the identity card and on the criminal record check.**

1. **How should the questionnaire be sent?**

Once it has been fully completed and signed, the questionnaire should be scanned and sent to the NBB by e-mail.

The form should be sent to insurance.supervision@nbb.be.

1. **What happens next?**

The questionnaire will subsequently be processed by the NBB. The result of the assessment will be notified by the NBB to the undertaking involved.

**PART A - TO BE COMPLETED BY THE APPOINTEE**

**TITLE I. PERSONAL DATA**

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| --- |
| **a) Personal details** |
|  | **Identity** |
|  | Title:  |  |
|  | Family name:  |  |
|  | First name(s): |  |
|  | Any previous name you may have had |
|  |  |  |
|  | **Domicile** |
|  | Address: |  |
|  | Town: |  |
|  | Country: |  |
|  |  |  |
|  | **Place of residence (if different from the address indicated above)** |
|  | Address: |  |
|  | Town: |  |
|  | Country: |  |
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| --- | --- |
|  | **Other details** |
|  | Sex: |  |
|  | Date of birth: |  |
|  | Place of birth: |  |
|  | Nationality: |  |
|  | Country where ID/passport was issued |  |
|  | Date of current ID/passport expiry |  |
|  | Telephone number (private and business if already available), including the country code: |  |
|  | E-mail address (private and professional if already available): |  |
| **b)** | **Previous assessments (positive or negative) by a supervisory authority in the financial sector** |
|  | **Competent authority involved** | **Undertaking involved** | **Position involved** | **Start date** | **End date** | **Date of the assessment**  | **Conclusion of the assessment (mentioning any validation conditions)** |
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|  | **Please explain the reasons for the non-approvals indicated above, if any:** |
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| **c)** | **Have you already been the object of a suitability assessment in a company subject to supervision by the FSMA (such a pension fund or an insurance intermediary)? If so, please describe the result of the assessment carried out by the FSMA.**  |
|  | **Undertaking** | **Function** | **Start date** | **End date** |  |
|  |  |  |  |  |
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| **d)** | **Have you already been approved as a compliance officer by the NBB/FSMA or is such a procedure under way? If this is the case, please provide below information on the authorisation obtained or on the current authorisation procedure.** |
|  |  |

**TITLE II. FUNCTION FOR WHICH THE QUESTIONNAIRE IS SUBMITTED**

|  |  |
| --- | --- |
|  | Please indicate below what function you wish to exercise within the undertaking concerned. |
|  |  |
|  | Please indicate the official title of the position within the undertaking. |
|  | Please indicate what function you wish to exercise within the undertaking concerned. If necessary, several boxes must be checked. executive director non-executive director chairperson of the statutory governing body vice-chairperson / deputy chairperson of the statutory governing body chairperson of the audit committee chairperson of the remuneration committee chairperson of the risk committee |

|  |  |
| --- | --- |
|  |  chairperson of the audit and risk committee chairperson of the nomination committee[[1]](#footnote-2) chairperson of the management committee vice-chairperson / deputy chairperson of the management committee member of management committee effective manager of an undertaking without a management committee branch manager member of a branch management committee responsible person of the compliance function responsible person of the internal audit function responsible person of the risk management function responsible person of the actuarial function reference person responsible for the outsourced compliance function  reference person responsible for the outsourced internal audit function reference person responsible for the outsourced risk management function  reference person responsible for the outsourced actuarial function member of the management committee designated senior officer responsible for the prevention of money laundering and terrorism financing person responsible for implementing the anti-money laundering policy (AMLCO) other: |
|  | If it is a non-executive director's position, please indicate in what capacity you aspire to be appointed: as shareholder, cooperator or mutual member of the undertaking concerned. as representative of a shareholder, cooperator or mutual member of the undertaking concerned. as independent director within the meaning of Article 526ter of the Code on Companies.[[2]](#footnote-3) In another capacity. Please specify: |
|  |  |
| b) | Please provide below as detailed a description as possible of the main duties, responsibilities and number of subordinates relating to the function in question. Please specify which other functions, if any, you will exercise within the undertaking concerned. |
|  |  |
|  | Please also specify on which sub-committees of the management body or other (management) committees you will sit, if applicable.  |
|  |  |
| c) | Please provide below additional details about the planned start date and the length of the term of mandate/function |
|  | (Planned) entry into function: |
|  | (Planned) term of the mandate function: |
|  | Is the appointee replacing somebody else? | [ ]  yes [ ]  no |
|  | If so, who and why? |
| d) | Nature of the arrangement between you and the undertaking concerned |
|  | [ ]  Free lance[ ]  Employee[ ]  Other – please specify:  |

**TITLE III. PROFESSIONAL INTEGRITY OF THE APPOINTEE**

In Title III of this questionnaire, “you” should be understood as you as physical person, but also includes any company, partnership or unincorporated entity with which you are or have been associated as board member, accredited statutory auditor; member of the management committee, controller, manager or qualifying shareholder.

The questions in this title relate to both Belgium and foreign countries.

|  |  |  |
| --- | --- | --- |
| **a)** | **Have you already been convicted in criminal proceedings? Have you already been convicted in relevant civil or administrative proceedings (i.e. where there is an impact on the reputation or significant impact on the financial soundness of the appointee)? Please indicate also convictions against whom an appeal has been introduced.** | [ ]  yes[ ]  no |
|  | If YES, please provide details below, including at least: nature of charge; length of time since the alleged wrongdoing; likely penalty if conviction ensues; any professional implications, stage of proceedings; any other mitigating or aggravating factors (e.g. a rehabilitation was obtained, recidivism, etc.). |
| **b)** | **Is there any pending criminal proceeding against you? Is there any relevant civil or administrative proceeding opened against you (including any formal notification of investigation or committal for trial)?**  | [ ]  yes[ ]  no |
|  | If YES, please provide details below, in particular: nature of charge; length of time since the alleged wrongdoing; likely penalty if conviction ensues; stage of proceedings; any other mitigating or aggravating factors. |
| **c)** | **Do you have any previous disciplinary measures or pending disciplinary actions (including disqualification as a company director, discharge from a position of trust)?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below. |
| **d)** | **Do you, or does an undertaking in which you are a member of the statutory governing body, have any previous or pending, insolvency or similar procedures (such as judicial reorganization or personal bankruptcy)?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below (including whether the bankruptcy or insolvency was voluntary or not). |

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| **e)** | **Have any of the proceedings described above been settled out of court or within the framework of alternative dispute resolution (e.g. mediation)?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below. |
| **f)** | **Have you, to the best of your knowledge, ever been included in a list of unreliable debtors or have you been the subject of an enforcement action on an outstanding debt obligation?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below. |
| **g)** | **Have you ever been the subject of a refusal of registration, authorisation, membership or licence to carry out a trade, business or profession, or have you had such withdrawn, revoked or terminated?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below. |
| **h)** | **Have you ever been sanctioned by any public authorities or professional bodies or are you the subject of any pending investigations or past investigations or enforcement proceedings?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below. |
| **i)** | **Have you been directly or indirectly involved in a case that led to suspicions of money laundering?** | [ ]  yes[ ]  no |
|  | If so, what was your intuitu personae involvement?  |
| **j)** | **Has any financial undertaking in which you perform or have performed a function that falls within the scope of the law, or whose management you influence or have influenced materially in any other way, or in which you hold or have held material interests, ever:**1. ever received a criminal conviction, or was an administrative or disciplinary action or equivalent administrative measure ever taken against it, or has it ever been suspended or excluded as a member of a professional association?
2. ever denied a license or was its license ever withdrawn?
 | [ ]  yes[ ]  no |
|  | If you answer this question with YES, please provide the necessary information below. Please also clearly identify the financial institution concerned. Make, as far as point 1 is concerned, a distinction between convicted sentences or actions and ongoing matters. |
| **k)** | **Has any financial undertaking in which you perform or have performed a function of manager, or whose management you influence or have influenced materially in any other way, or in which you hold or have held material interests, ever received state aid?** |
|  | If YES, please provide the necessary information below. Please also identify precisely the financial undertaking involved. |

**TITLE IV. EXPERTISE OF THE APPOINTEE**

In assessing a person's level of experience, the following criteria are relevant and shall be mentioned in completing the following fields: nature and hierarchical level of the exercised position; nature and complexity of the business where the position was held, including its organisational structure; scope of competencies, decision-making powers and responsibilities, and number of subordinates.

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| --- | --- | --- | --- | --- |
| **a)** | **Diploma (level + field of study)** | **Start date** | **End date** | **Identity of the establishment + type of education (secondary, higher, university, training institute, etc.)** |
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| **b)** | **Practical experience in the insurance / financial sector**[[3]](#footnote-4) |
|  | **Position (specify whether or not it was a managerial position)** | **Main responsibilities** | **Organisation, company, etc.** | **Size (number of employees, balance sheet total)** | **Number of subordinates** | **Start date** | **End date** | **Reason for termination of contract** |
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| **c)** | **Other relevant senior managerial**[[4]](#footnote-5) **experiences outside the financial sector** |
|  | **Position**  | **Main Responsibilities** | **Organisation, business, etc.** | **Size (number of employees, balance sheet total)** | **Number of subordinates** | **Start date** | **End date** | **Reason for termination of contract** |
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| **d)** | **Other relevant experiences outside the financial sector (e.g. academia, legal services, IT, engineering, human resources, political functions, other non-commercial mandates)** |
|  | **Position** | **Main Responsibilities** | **Organisation, business, etc.** | **Size** | **Number of subordinates** | **Start date** | **End date** | **Reason for termination of contract** |
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| **e)** | **For directors, in addition to the basic general knowledge required in the handbook on assessment of fitness and propriety, please describe of the specific areas of expertise you will bring in the Board of directors with regard to the collective expertise requirements of the members of the board of directors.** | **Explanations and sources** |
|  |  |
| **f)** | **References**  |
|  | Please provide contact information for at least two people who are willing to provide references.One of these persons should, if possible, represent a previous employer. By mentioning a person as a reference, you expressly authorise the NBB to contact that person after informing you thereof.Parents and allies in the direct or collateral line up to and including the third degree, the spouse, the registered partner or cohabitee, or a person of trust cannot be designated as a reference. |
|  | Family name and first name:Address:Telephone:Function:Relationship with the appointee: |
|  | Family name and first name:Address:Telephone:Function:Relationship with the appointee: |

**TITLE V. CONFLICTS OF INTEREST**

“You” throughout Title V of this questionnaire should be understood as “you personally”, but also includes your close relatives (spouse, registered partner, cohabitee, child, parent or other relation with whom you share living accommodation) and any legal person of which you are or were a board member or manager at the relevant time.

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| **a)** | **Do you have any personal relationship with:- other members of the management body and/or key function holders of the supervised entity, the parent undertaking or its subsidiaries or affiliated undertakings?- a person that has a qualifying holding in the supervised entity, the parent undertaking or subsidiaries of the afore-mentioned undertakings?** | [ ]  yes[ ]  no |
|  | If YES, please provide details below. |

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| **b)** | **Do you conduct business (in private or through a company) with the supervised entity, the parent undertaking or subsidiaries** **of the afore-mentioned undertakings?** | [ ]  yes[ ]  no |
|  | If YES, please provide the following information.- a description of the type and content of the business and the obligations of both parties- if relevant, the name of the company;- the relevant period of this relationship.In case of exercise of external functions, how do these functions comply with the internal rules validated by the undertaking?  |
|  |
| **c)** | **Do you, either personally or through a company you are closely connected with, have any substantial financial interest (such as ownership or investment) in the supervised entity, the parent undertaking or its subsidiaries or affiliated undertakings, or in competitors or clients of the supervised entity, the parent undertaking or subsidiaries of the afore-mentioned undertakings? If yes, please provide the following information:** |
|  | **Personally or through a company** | **Name of the entity**  | **Main activities of entity** | **Relationship between the entity and the supervised entity**  | **Relevant period** | **Size of the financial interest (% of the capital and voting rights, or value of investment)** |
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| **d)** | **Do you have any substantial financial obligation to the supervised entity, the parent undertaking or its subsidiaries or** **affiliated undertakings of the afore-mentioned undertakings?****In principle, loans and life insurance contracts under €100,000 and private mortgage loans which are negotiated at arm’s length and for which reimbursement are complied with would generally not be considered as substantial.** | [ ]  yes[ ]  no |
|  | If YES, please provide the following information:1. name of the undertaking to which you are indebted2. the type of obligation;2. the value of the obligation3. relevant period of this obligation. |
| **e)** | **Do you have or have you had over the past 2 years a position with political influence (either internationally, nationally or locally)?** | [ ]  yes[ ]  no |
|  | If YES, please provide the following information:1. the nature of the position;2. the specific powers related to or the obligations of this position;3. the relationship between this position (or the entity where this position is held) and the supervised entity, the parent undertaking or subsidiaries of the afore-mentioned undertakings. |
| **f)** | **Do you have any other relationships, positions or involvement that are not addressed in the questions above, which could adversely affect the interests of the supervised entity, the parent undertaking or subsidiaries of the afore-mentioned undertakings?** | [ ]  yes[ ]  no |
|  | If YES, please provide all necessary information (e.g. nature, content, period and, if relevant, the relation to/relationship with the supervised entity, the parent undertaking or its subsidiaries) |

**TITLE VI. TIME COMMITMENT**

If relevant, please verify that your data in eManex are complete and correct, and make any necessary amendments.

|  |  |
| --- | --- |
| **a)** | **What time commitment, expressed in days per week/month/year, is required for the function involved?**  |
|  |  |
| **b)** | **Is your commitment compliant with the internal rules which the company has valided in terms of external functions?**  |
|  |  |

|  |  |
| --- | --- |
| **c)** | **If relevant, please complete the list of executive and non-executive directorships and other professional activities. Please list the directorship for which this form is being completed first and then all other directorships and other professional activities held by the appointee** |
|  |  |
|   | a. Entity (please mark listed companies with\*) | b. Country | c. Description of the company’s activity | d. Size of entity[[5]](#footnote-6)  | e. Function within the entity: executive director/non-executive director/other | f. Additional responsibilities such as membership of committees, chair functions, etc. | g. Time commitment in number of days per month (to include additional responsibilities) | h. Term of mandate (as of – until) | i. Any additional comments | j. Number of meetings per year |
|  |  |  |  |  |  |  |  |  |   |  |
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**PART B - TO BE COMPLETED BY THE SUPERVISED INVOLVED ENTITY**

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| --- | --- | --- |
|  | Name of the entity concerned |  |
|  | Name/ LEI code of the undertaking applying |  |
|  | Contact person within the undertakingnamee‑mail addresstelephone number |  |

**TITLE I. EXPERTISE AND PROFESSIONAL INTEGRITY**

|  |  |
| --- | --- |
| **a)** | **If the appointee does not have relevant experience, then please list below any potential compensating factors (e.g. specific characteritics of the undertaking; other compensating experience; degree/academic experience; proven ability to challenge; overall suitability; specialised knowledge; limited appointment in terms of the role of the appointment; other special cases)** |
|  |  |
|  |  |
|  |  |
| **b)** | **Prior to the assumption of the function or within the first year of the assumption of the function, will the appointee follow specific training?** |
|  | **Content of training** | **Training provided by (internal or name of external organisation)** | **Specific information on the scope and duration of training (number of days/hours)**  |
|  |  |  |  |
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| --- | --- | --- |
| **c)** | **Has the management body of the supervised entity conducted a special consultation on any aspect of the professional integrity of the appointee?** | [ ]  yes[ ]  no |
|  | If YES, what was the subject of the consultation and what was its outcome? |
| **d)** | **Does the undertaking set an age limit for the function in question? If so, please provide references to the relevant document and specify the age limit.** |
|  |  |

**TITLE II. COLLECTIVE EXPERTISE**

|  |  |
| --- | --- |
| **a)** | **Please provide a general description of the points of attention that have been established as regards the composition of the management body and, where relevant, refer to the conclusions of the latest self-evaluation.**  |
|  |  |
| **b)** | **How does the appointee fit in the collective suitability of the management body (see the handbook on assessment of fitness and propriety, which refers to 5 areas of requirements in termes of collective suitability: a) insurance and financial markets, b) business strategy and business model, c) system of governance, d) financial and actuarial analysis, e) regulatory framework and requirements)? Please explain how the appointee can contribute to solving some or all of the points of attention referred to in the preceding question.** |
|  |  |

**ANNEXES**

|  |  |
| --- | --- |
| **a)** | **If there is any other information the appointee or the supervised entity considers to be relevant to the assessment, it must be included here.** |
|  |  |
| **b)** | **Please tick the boxes as proof of completeness of the attached information.** |
|  | Mandatory annexes:[ ]  CV[ ]  Criminal record check, model 596 – 1, subcategory 6[[6]](#footnote-7) (issued less than three months before the date of the introduction of this questionnaire)[ ]  Copy of ID card/passport (in validity)[ ]  a function profile[ ]  minutes of the meeting of the Board of Directors or, where applicable, the nomination or remuneration committee regarding the appointment with (i) reference to the company's Fit & Proper policy, (ii) where applicable, a copy of the appraisal report of the person to be appointed[ ]  an updated version of the list of members of the board of directors, management committee, specialised committees of the board of directors and responsible persons of independent control functions as provided for in the circular on the NBB's prudential expectations regarding the system of governance for the insurance and reinsurance sector (including a division of tasks between the members of the management committee) showing the situation of the management bodies before and after the envisaged [ ]  for directors and members of the management committee: the “skills matrix” summarizing the manner in wich the requirements for collective competences set out in the handbook on assessment of fitness and propriety are met (cf. point 4.4.2.7 of the handbook)[ ]  for a branch manager: the powers of attorney[ ]  (where appropriate, see the NBB regulation of 6 February 2018, approved by the Royal Decree of 15 April 2018) for a responsible person of the compliance function: (i) certificate attesting that the candidate has passed an examination with an institution whose examinations have been recognised by the FSMA and the NBB; (ii) certificates attesting to participation in training programmes at training institutions recognised by the FSMA, on the advice of the NBBOther annexes:**Please make your national registry number unreadable on any document you submit to the NBB. In Belgium, the national registry number can be found, among others, on the reverse side of the identity card and on the criminal record check.** |

**PRIVACY STATEMENT OF THE NATIONAL BANK OF BELGIUM**

1. Privacy statement for the processing of personal data related to fit and proper assessments as part of the supervision of financial institutions

1.1 Data Protection legal framework applicable to the National Bank of Belgium

Processing of personal data by the National Bank of Belgium (NBB) falls within the scope of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation – GDPR).

1.2 The NBB as controller of processing personal data

The NBB is the controller of the data processing operations in the context of supervision of financial institutions.[[7]](#footnote-8)

1.3 Purposes for processing personal data by the NBB

Personal data is collected and processed for the purpose of assessing whether the persons responsible for the management or for an independent control function meet the "fit and proper" requirements, i.e. whether they possess sufficient knowledge, skills and experience to fulfil their duties and are of sufficiently good repute.

1.4 Lawfulness of the NBB’s data processing operations

The processing of personal data for the aforementioned purposes is necessary within the meaning of Article 6(1)(c) and (c) of the GDPR, in conjunction with Article 12bis of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium, with the specific laws governing the supervision of financial institutions and with the European rules governing the Joint Supervisory Mechanism.

In particular, the NBB must ensure compliance with the relevant regulation that imposes requirements on financial institutions, including the requirement to have in place robust governance arrangements, including the fit and proper requirements for the persons responsible for the management of financial institutions or for independent control functions.

Moreover, the persons responsible for the management or for an independent control function of the financial institution shall at all times be of sufficiently good repute and possess sufficient knowledge, skills and experience to perform their duties.

In order to ensure that fit and proper requirements are met at all times, the NBB may initiate a new assessment based on new facts or issues or if the NBB becomes aware of any new facts that may have an impact on the initial assessment of the person responsible for the management or for an independent control function.

1.5 Categories of personal data processed by the NBB

The following personal data is processed in relation to fit and proper assessments.

1. a) Personal data provided by the applicants (in written form or during interviews) which relate to:
2. **personal details**, such as full name, ID/passport number, nationality;
3. **contact details**, such as address, email, phone number;
4. **knowledge, skills and experience**, such as information regarding practical, professional experience gained in previous occupations and theoretical experience (knowledge and skills) gained through education and training;
5. **reputation**, such as criminal record;
6. **conflicts of interest**, such as any close personal relationship with a member of a management body, any significant private business transactions with the supervised entity, positions of significant political influence, etc.;
7. **time commitment**, such as other professional or personal commitments or circumstances (e.g. involvement in a court case);
8. **collective suitability of the board**, such as the added value of a particular candidate in relation to the overall composition of the board.

b) Personal data that has come to the knowledge of the competent authority by other means (e.g. via the media).

c) Personal data that is not related to the applicant but to third parties.

d) Any comments by the ECB and/or NBB staff members regarding the performance of the applicant during the fit and proper procedure (e.g. comments that reflect the opinion or the assessment of the examiner on the individual performance of the applicant, particularly in relation to their knowledge and competences in the relevant field).

1.6 Access to personal data collected and processed by the European Central Bank

For the purposes set out in Section 3, access to personal data may be given to the following persons:

* NBB staff and members of the Management Committee of the NBB;
* ECB staff of Joint Supervisory Teams (ECB Directorate General Microprudential Supervision I or II);
* dedicated staff members of the ECB Directorate General Microprudential Supervision III, Directorate General Secretariat to the Supervisory Board and the Authorisation Division of the Directorate General Secretariat to the Supervisory Board;
* members of the Supervisory Board and of the Governing Council of the ECB;
* other dedicated ECB staff members providing opinions and advice in the context of fit and proper assessments, such as the staff of Directorate General Legal Services;
* external experts and contractors working on behalf of the NBB or ECB who provide opinions and advice in the context of fit and proper assessments, such as external legal counsel;
* a limited number of staff members of other Union institutions, bodies, agencies, supervisory authorities and national authorities (e.g. criminal prosecutors, Anti-Money Laundering authorities). ;
* third parties to whom the personal data are to be transferred in accordance with a legal provision.

1.7 Transfers of personal data to third countries

In the context of supervisory cooperation with authorities outside the European Economic Area (EEA), your personal data may be transferred outside the EEA upon request of a third country authority. In the absence of an adequacy decision, personal data may be transferred outside the EEA only if appropriate safeguards are in place, as set out in Article 46 of the GDPR. In exceptional cases, international transfers of personal data may also take place based on the derogation provided for by Article 49 of the GDPR.

1.8 Retention period

Unless otherwise provided by law, the personal data are stored as follows:

* for twenty years from the date of the request to withdraw the application before a formal decision is reached;
* for twenty years from the date of a negative decision;
* for twenty years from the date the data subjects cease to be members of the management bodies or of independent control functions of the supervised entity in the case of a positive decision;
* for twenty years from the date of the most recent decision in case of reassessment based on new facts.

In the event that administrative or judicial proceedings are initiated, the retention period is extended and ends one year after such proceedings are concluded by a final decision.

1.9 Your rights as a data subject

All persons whose data are being processed have the right, provided that the conditions laid down in the applicable laws and regulations in this respect are met:

(1) to have access to such data and possibly have such data rectified;
(2) to object to such processing on grounds relating to their particular situation;
(3) to obtain erasure of such data or restriction of processing in relation to such data;

1.10 Contact information in case of queries and requests

For all queries relating to personal data or for the exercise of your rights, please contact the NBB’s Data Protection Officer at dataprotection@nbb.be.

1.11 Addressing the Data Protection Authority

If you consider that your rights under the GDPR have been infringed as a result of the processing of your personal data, you have the right to lodge a complaint with the Data Protection Authority at any time.

1.12 Changes to this Privacy Statement

This Privacy Statement may be changed to take into account new legal developments.

Revision date: 08.11.2019

**FINAL DECLARATIONS**

**Declaration of the appointee**

The undersigned,

[ ]  confirms that the information provided in this questionnaire is accurate and complete to the best of his/her knowledge;

[ ]  declares to have the ability to commit sufficient time to duly perform his/ her function in the supervised entity;

[ ]  confirms that s/he will notify [name Supervised Entity] immediately if there is a material change in the information provided;

[ ]  authorises the NBB to make such enquiries and seek such further information as it thinks appropriate to identify and verify information that it considers relevant to the fit and proper assessment, inter alia from the following persons and undertakings;

* ...
* ...
* ...

[ ]  confirms that s/he is aware of responsibilities arising from the national, European and international legislation and standards which are of relevance to the function for which a positive assessment is sought, and also confirms the intention to ensure continued compliance with them.

Name:

Signature:

Date:

**Declaration of the undertaking concerned**

The undersigned

[ ]  confirm(s) that the information provided in this questionnaire is accurate and complete to the best of his/her/their knowledge;

[ ]  confirm(s) that the supervised entity will notify the NBB immediately if there is a material change in the information provided;

[ ]  confirm(s) that the supervised entity has requested the full information necessary to assess the appointee’s suitability and that it has given due consideration to that information in determining the appointee to be fit and proper;

[ ]  confirm(s) that the description of the function for which a positive assessment is sought accurately reflects the aspects of the activities of the supervised entity which it is intended that the appointee will be responsible for;

[ ]  confirm(s) that the supervised entity believes, on the basis of due and diligent enquiry and by reference to the fit and proper criteria as laid down in national and EU law, that the appointee is a fit and proper person to perform the function as described in this questionnaire;

[ ]  confirm(s) that the supervised entity has made the appointee aware of the regulatory responsibilities associated with the function as described in this questionnaire;

[ ]  confirm(s) that he/she/they has/have authority to make this notification/application and provide the declarations given by, and sign this questionnaire on behalf of, the supervised entity.

Name of the undertaking concerned:

Name(s):

Function(s):

Signature(s):

1. This is an internal committee within the board of directors that is not formally required by the Solvency II law but is recommended where justified on the grounds of the size of the undertaking. [↑](#footnote-ref-2)
2. It should be noted that it is the responsibility of the undertaking concerned to verify compliance with all legal criteria contained in Article 526ter of the Code on Companies. [↑](#footnote-ref-3)
3. It should be noted in this respect that practical experience in insurance intermediation is not considered to be equivalent to experience in the insurance and reinsurance sector. [↑](#footnote-ref-4)
4. Member of a board of directors or one or two levels below. [↑](#footnote-ref-5)
5. E.g. total assets year-end data for a financial institution, total turnover and international presence for other companies. [↑](#footnote-ref-6)
6. In the case of conglomerats or mixed financial holdings, subcategory 14 is also accepted. [↑](#footnote-ref-7)
7. Within the meaning of point (7) of Article 4 of the GDPR. [↑](#footnote-ref-8)