



Memorandum on application for authorisation as a
stockbroking firm under Belgian law

March 2019

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This memorandum is a manual intended to help applicants for an authorisation prepare the dossier to be submitted in support of their application. The memorandum does not provide a detailed explanation of the regulations applicable. Users of this memorandum are invited to consult these regulations (legislation, circulars, communications and forms to be completed) on the NBB's website (<https://www.nbb.be/en/financial-oversight/prudential-supervision/areas-responsibility/stockbroking-firms>). Incidentally, no passage from the memorandum may be considered a derogation from these regulations. Additionally, the memorandum in no way affects the NBB's ability to request additional information from the persons concerned in the context of its analysis of their dossier.

The NBB stresses the importance of providing accurate information in the authorisation dossier. In particular, applicants should be aware of the consequences of the statement included in point 2.6 of this memorandum.

Memorandum on application for authorisation as a stockbroking firm under Belgian law

1. Introduction

1.1. Introduction

Before commencing operations, investment firms under Belgian law should obtain one of the following authorisations from the supervisory authority, regardless of where they intend to carry out their activities:

- 1° authorisation as a stockbroking firm;
- 2° authorisation as a portfolio management and investment advice company.

Authorisation as a portfolio management and investment advice company can be requested for the investment services as referred to in Article 2, 1°, 1, 2, 4 and 5, and for the ancillary services as referred to in Article 2, 2°, 3, 5 and 7 of the Law of 25 October 2016 on access to the activity of investment services and on the supervision of portfolio management and investment advice companies. Portfolio management and investment advice companies are subject only to the supervision of the Financial Services and Markets Authority (FSMA). Authorisation as a portfolio management and investment advice company is granted by the FSMA in accordance with the rules and conditions set out in Title III of the Law of 25 October 2016 on access to the activity of investment services and on the supervision of portfolio management and investment advice companies.

Authorisation as a stockbroking firm can be requested for all investment services, investment activities and ancillary services as referred to in Article 2 of the Law of 25 October 2016 on access to the activity of investment services and on the supervision of portfolio management and investment advice companies. Stockbroking firms are subject to the prudential supervision of the National Bank of Belgium (NBB) and to the supervision of the FSMA as regards compliance with the codes of conduct. Authorisation as a stockbroking firm is granted by the NBB, upon the advice of the FSMA, in accordance with the rules and conditions set out in Articles 492 to 496 of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms (hereinafter "the Law"). The supervision and establishment, activities and potential resolution of stockbroking firms operating in Belgium are regulated in Book XII of the Law. In this memorandum, references to the Law should be read as references to the Articles of Book XII of the Law, which declare the Articles of Books II to X of the same Law applicable to stockbroking firms.

This memorandum – which is available in Dutch, French and English – describes the procedure for submitting an application for authorisation as a stockbroking firm under Belgian law. Other procedures apply for requests to open a branch of an investment firm, whether or not the firm is established in another Member State of the European Economic Area (hereinafter "the EEA"), whose authorisation in its country of origin is limited to providing investment services which may be provided by a stockbroking firm under Belgian law.

Authorisation is granted by the NBB on the basis of an application for authorisation that applicants are required to submit to it. Anyone wishing to apply for authorisation as a stockbroking firm under Belgian law should first contact the services of the NBB. In principle, the authorisation procedure itself consists of two phases.

Phase one

During phase one, applicants provide the NBB with a dossier in which they set out their entire project in detail. As this is the conceptual phase of the project, it does not yet have to be in any stage of implementation.

Point 2 ("Phase one") of this memorandum provides an overview of the chief items of information that should in principle be included in the dossier by the applicants during this first phase. In order to enable the NBB to possess all relevant information for each specific project, applicants should bear in mind that they are expected to provide all information required by this memorandum, taking into account the specific characteristics of their project, and that the NBB's services may request any additional information they deem useful.

An authorisation dossier submitted by a firm that has already been established, should be signed by a person who is authorised to making binding agreements on behalf of the firm. In the case of a firm that has not yet been established, the dossier should be signed by the future controlling shareholder or by the future chairman of the board of directors or the management committee.

Phase one should enable the NBB's services to make a preliminary analysis of the submitted authorisation dossier on the basis of a programme of operations. This programme of operations should meet the conditions set by the NBB (Article 492 in conjunction with Article 8 of the Law). The NBB's services will assess the project based on its legal, organisational and financial aspects, and will examine whether the firm appears capable of operating in conformity with the legal requirements and with the imperatives for sound financial management.

Where an authorisation is requested by a stockbroking firm which is a subsidiary of a regulated company supervised by the FSMA, or which is controlled by the same natural or legal persons as those controlling a regulated company under Belgian law, the NBB will consult the FSMA prior to making a decision (Article 493 in conjunction with Article 10 of the Law).

Where an authorisation is requested by a stockbroking firm which is a subsidiary of another regulated firm with authorisation or permission in another EEA Member State, or a subsidiary of the parent company of another regulated firm with authorisation or permission in another EEA Member State, or which will be controlled by the same natural or legal persons as those controlling another regulated firm with authorisation or permission in another EEA Member State, the NBB will, prior to making a decision, consult the national supervisory authorities competent in those other countries for the supervision of the regulated firms to which they granted authorisation or permission in accordance with their national law (Article 493 in conjunction with Article 10 of the Law).

Phase two

The NBB informs applicants when they can proceed to phase two, during which they are to give substance to their project. This includes ensuring that the legal conditions are met, that the formalities required for obtaining the authorisation are fulfilled and that the organisation is set up. These conditions and formalities are covered in point 3 ("Phase two") of this memorandum.

At the end of phase two, an accredited auditor selected by the applicants in consultation with the NBB should prepare a report confirming that the conditions for obtaining an authorisation have been fulfilled and that an appropriate organisation has been developed. The accredited auditor will act as an independent expert and will be remunerated by the applicants. The said report will complete the dossier on the basis of which the NBB will decide on the authorisation application. Additionally, the NBB's services may make an on-site visit to verify the effectiveness of the organisation developed, as described in the manual of procedures, and thereby ensure that the firm is ready to commence its operations.

Should they wish, candidates may opt not to conduct their application in two phases. They are not required to wait until the NBB's services have made a preliminary analysis of the dossier and may submit an application for authorisation to the NBB as soon as they deem that their dossier is complete and that they have satisfied all the conditions for obtaining an authorisation. In that case, however, they run the risk of incurring substantial costs for the operational start-up of their company without having received the analysis of their dossier by the NBB's services.

During the authorisation procedure, applicants should take care to ensure that the requested information provided by them is as detailed and comprehensive as possible. The information requested in this memorandum is not exhaustive. Depending on the specific nature of a dossier, it may prove necessary to request additional information.

Applicants should be aware of the importance of the information provided by them. A false statement or the concealment of relevant details may lead to their authorisation being refused or to administrative sanctions being imposed on the firm or on the person(s) responsible for providing the information. Furthermore, during the processing phase of the authorisation application, applicants are required to notify the NBB's services in writing of any changes made to the dossier submitted in support of the authorisation application.

If the company meets the conditions of Articles 497 to 512 of the Law, the NBB will grant the authorisation. Given the need for a sound and prudent management of the company, the NBB may, in the authorisation granted by it, attach certain conditions to the exercise of some of the activities envisaged (Article 495, § 1, paragraph 3 of the Law).

Point 4 ("*After authorisation*") of this memorandum draws attention to a number of obligations that are to be met after the authorisation has been granted.

1.2. Period within which the NBB is required to reach a decision

The NBB must reach a decision on an application within six months after submission of a complete dossier (Article 495, § 1, paragraph 1 of the Law).

The quality and completeness of the dossier facilitate the proceedings. Similarly, the fact that the applicant has obtained an authorisation as an investment firm in an EEA country will be taken into account when the dossier is being processed.

Decisions on the authorisation will be communicated to the applicants within fifteen days by registered or recorded delivery letter (Article 495, § 1, paragraph 4 of the Law). The firm is required to commence its activities within twelve months after the authorisation is granted. If it fails to do so, the NBB will revoke the authorisation. The NBB will report its decision to revoke authorisation and the underlying reasons to the European Securities and Markets Authority (ESMA) (Article 582 in conjunction with Article 233 of the Law).

1.3. Possibility of appeal against the NBB's decision

In accordance with Article 36/22, 4° of the Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium and with the Royal Decree of 15 May 2003 on summary proceedings in the case of appeal to the Council of State against certain decisions of the NBB, applicants may file an appeal with the Council of State against authorisation decisions taken by the NBB pursuant to Article 495 of the Law. Applicants may likewise file an appeal where the NBB has not reached a decision within the period laid down in the aforementioned Article 495, § 1, paragraph 1 of the Law. In that case, the appeal will be treated as though the application had been rejected.

2. Phase one

In respect of the compilation of the authorisation dossier, please answer the questions set out in this point in the correct order. For each question, you should give (i) the question number, (ii) your answer and (iii) any annexes that your answer may refer to. For certain questions, you need only to complete a pre-printed form provided as an annex to this memorandum, following the same procedure.

The dossier in support of the authorisation application should be delivered in duplicate, on paper, to the NBB. Additionally, an electronic copy should be sent to tb@nbb.be.

2.1. General information

Q1. On the form in Annex 1 to this memorandum, provide all relevant information on the person responsible for the authorisation application (i.e. the person signing the authorisation dossier) and on the contact person charged with preparing the dossier.

Q2. On the form in Annex 2 to this memorandum, provide all relevant information on the firm.

2.2. Scope of the authorisation application

Q3. On the form in Annex 3 to this memorandum, state the services (investment services and/or activities as well as ancillary services) for which an authorisation is requested.

Q4. Briefly explain your business plan. In particular, state why the firm wishes to provide the services that require an authorisation and describe the role that it is looking to play in the Belgian financial world and, if applicable, in the European financial world. Additionally, provide an overall assessment of the expected importance (expressed in percentages) of each of the activities that the company is looking to provide, each time indicating the various customer types addressed (institutional customers, private individuals, etc.) and their expected importance. Moreover, where applicable, add the market studies used as a basis for this assessment and for your financial plan. Applicants from abroad are also required to state why they have chosen Belgium as country of establishment, and subsidiaries of EEA investment firms should state why a subsidiary was preferred over a branch.

2.3. Legal and organisational aspects

2.3.1. Shareholders

Q5. Provide the full composition of the direct and indirect shareholding structure.

2.3.1.1. Information on significant shareholders

Pursuant to Article 500 in conjunction with Article 18 of the Law, the NBB should be able to verify whether the significant shareholders or partners, whether natural or legal persons, possess the qualities required to guarantee the sound and prudent management of the stockbroking firm. Where the NBB has reason to believe that this is not the case, the application will be refused. A shareholder or partner is deemed significant where that person, directly or

indirectly, has a participation – whether or not with voting rights – of at least 10 percent of the capital or of the voting rights, or is in any other way able to exercise a significant influence on the management of the firm in which the participation subsists (see Article 3, 28° of the Law, which also clarifies the method for calculating this percentage).

Q6. In view of the requirements for ensuring sound and prudent management, each significant shareholder or partner is required to fill in a form¹.

Q7. Where the company is already established, provide a brief description of the development of the shareholder structure over the past five years.

Q8. State whether any agreements between shareholders exist and, if they do, provide a copy.

2.3.1.2. Information on the group of which the significant shareholders of the company are a part

A “group” refers to all companies that, alone or together, exercise control over the company concerned, as well as to all companies over which the company concerned, alone or with others, exercises control within the meaning of Article 5 of the Companies Code. Any close ties between the company concerned and other natural or legal persons should be clarified.

Q9. For each significant shareholder or partner that forms a part of a group, provide a full description of that group by schematically elucidating its structure and indicating the importance of each participation.

For each person that forms a part of a group to which a significant shareholder of the company belongs, supplement that description by providing the same information that is requested from the persons that are a part of the applicant’s group².

2.3.1.3. Information on the group of which the investment firm is a part

Q10. Provide a full description of the group of which the stockbroking firm is a part by schematically elucidating the structure of this group and indicating the importance of each participation.

For each person that forms a part of the group, supplement that description by submitting the information requested in the form for providing information on each person belonging to the stockbroking firm’s group, which is included as Annex 5 to this memorandum.

Q11. Specify the activities of the firms that are a part of this group.

2.3.1.4. Other entities that are a part of the group and are subject to the supervision of a financial sector supervisor

Q12. Where, in consequence of their specific legal status, certain significant shareholders or partners or certain firms belonging to the same group as the stockbroking firm are subject to the supervision of a financial sector supervisor, state in particular the types of activities carried out, the type of authorisation

¹ The forms to be completed by all significant shareholders or partners are available on the NBB’s website, cf. link included as Annex 4.

² The form for providing information on each person that is part of the investment firm’s group is included as Annex 5 to this memorandum.

obtained, and the authority charged with supervision (name, address, contact person). If the supervision in question is not exercised by an authority from an EEA Member State, describe the nature and extent of the supervision to which those companies are subject in their country of origin, referencing the legal texts applicable.

The NBB will contact the supervisors concerned if deemed useful.

2.3.2. Governing bodies

2.3.2.1. Draft Articles of Association

Q13. For stockbroking firms yet to be established, the dossier should include the firm's draft Articles of Association; for firms already established, it should include the existing Articles of Association, the draft amendments to the Articles of Association and the draft co-ordinated Articles of Association.

2.3.2.3. Composition of the statutory governing body

Q14. Provide a list of the members of the statutory governing body.

The purpose of this section is to collect information on the directors who do not participate in the firm's senior management, i.e. the non-executive directors. Using this information, the NBB may, inter alia, verify whether the firm has a management structure appropriate to the exercise of its activities, which implies in particular that its board of directors is composed in such a way that it can exercise the powers granted to it by the Law effectively. This information also enables the NBB to verify whether the non-executive directors have the required professional integrity and appropriate expertise (Article 501 in conjunction with Article 19 of the Law; see also Circular NBB_2018_25 on the suitability of directors, members of the management committee, responsible persons of independent control functions and senior managers of financial institutions). Furthermore, these persons are subject to a number of prohibitions (Article 501 in conjunction with Article 20 of the Law) and a system of incompatibilities (Article 525 in conjunction with Article 62 of the Law).

Q15. In view of the requirements regarding professional integrity and appropriate expertise and of the prohibitions, each candidate director is required to fill in a form³.

Incompatibilities are governed by Article 525 in conjunction with Article 62 of the Law, the NBB Regulation of 9 July 2002 on the exercise of external functions by managers of credit institutions and investment firms⁴ (and NBB Circular PPB-2006-13-CPB-CPA on the exercise of external functions by managers of regulated companies)⁵.

Q16. As an annex to the authorisation dossier, include the internal rules which will be adopted pursuant to Article 525 in conjunction with Article 62, § 3 of the Law and to Article 2 of the NBB Regulation of 9 July

³ The form to be completed by all persons applying for a director position is also available on the NBB's website.

⁴ The NBB Regulation of 9 July 2002 on the exercise of external functions by managers of credit institutions and investment firms can be found on the NBB's website.

⁵ NBB Circular PPB-2006-13-CPB-CPA on the exercise of external functions by managers of regulated companies can be found on the NBB's website.

2002 in order to govern the conditions under which external functions may be exercised by persons falling within the scope of the system of incompatibilities. Where appropriate, describe the rules that apply specifically to non-executive directors.

In accordance with Article 525 in conjunction with Article 62, § 8 of the Law, the company should promptly notify the NBB of functions exercised outside the company by the persons referred to in § 2 of the latter Article.

Q17. Specify all other (executive or non-executive) mandates and/or functions exercised by the candidate directors in other firms. Indicate whether the mandate is exercised in a listed company, in a company that is a part of the group to which the firm belongs or in another regulated company, or whether other functions are exercised.

Q18. Specify which members of the board of directors are independent directors, using the criteria set out in Article 526ter of the Companies Code as supporting evidence. Compliance with certain additional independence criteria included in § 91 of Guidelines EBA/GL/2017/12 can be considered a good practice (recommended).

2.3.2.4. Committees within the statutory governing body

Q19. State whether the firm will establish an audit committee, a risk committee, a remuneration committee and a nomination committee.

It should be noted that, depending on their size, some firms are required to establish some or all of these committees pursuant to Articles 504 et seq.

Q20. If one or more of these committees are established, specify the composition.

Q21. In addition to, where appropriate, the above-mentioned committees, which committees will be established within the stockbroking firm's board of directors (strategic committee, etc.)?

For each of these specialised committees, draw up a charter - to be included in the manual of procedures - with the following information:

- the powers delegated to them;
- the interaction between their powers and, on the one hand, those of the Board of Directors as a whole and, on the other, those of the management committee (where applicable);
- the principles that will govern their internal functioning;
- the rules relating to the composition of these committees (number of members and selection criteria);
- their composition.

Also include these committees in the company's organisational chart.

2.3.2.5. Board of Directors

Q22. Provide the list of the members of the management committee and clarify the planned division of tasks between the members of the management committee. Also mention the conditions for delegation of powers to the management committee.

Senior managers should possess the required professional integrity and the appropriate expertise (Article 501 in conjunction with Article 19 of the Law; see also Circular NBB_2018_25 on the suitability of directors, members of the management committee, responsible persons of independent control functions and senior managers of financial institutions). Furthermore, these persons are subject to a number of prohibitions (Article 501 in conjunction with Article 20 of the Law) and a system of incompatibilities (Article 525 in conjunction with Article 62 of the Law).

Q23. In respect of the internal rules regulating the conditions under which external functions may be exercised by persons falling within the scope of the system of incompatibilities, which should be added as an annex to the authorisation dossier in accordance with question 16, describe – where applicable – the rules that will apply specifically to senior managers.

Q24. State which manager will be responsible for establishing the organisation required to comply with the applicable legal and regulatory provisions relating to the incompatibilities for directors and senior managers, and under whose authority the information requested will be communicated to the NBB.

2.3.3. Persons responsible for the independent control functions and key functions

2.3.3.2. Independent control functions

The persons responsible for the independent control functions within the meaning of Article 3, 47° of the Law should possess the required professional integrity and the appropriate expertise (Article 60 of the Law). In view of the requirements regarding professional integrity and appropriate expertise, each person responsible for an independent control function is required to fill in a form.⁶

Additionally, the person responsible for the compliance function should meet the fitness requirements set out in the Regulation of the National Bank of Belgium of 6 February 2018 on the fitness of the responsible persons for the compliance function (approved by Royal Decree of 15 April 2018).

2.3.3.3. Key functions

Where the planned organisation involves allocating a number of key functions for the sound and prudent management of the stockbroking firm to persons who, because of their function, participate in the control of the firm, an appropriate organisation as required pursuant to Article 502 in conjunction with Article 21 of the Law implies that these persons should possess the appropriate qualities to exercise those functions.

Q25. In the planned general organisation, indicate the key functions that, in your opinion, fall within this category.

For each of these functions, specify the criteria that will be used when allocating them (the required profile) and the allocation procedure to be followed, including verification of the stated criteria.

Include the curriculum vitae of the persons who will be performing key functions.

⁶ The form to be completed by all persons applying for an independent control function is also available on the NBB's website.

2.3.4. Organisational chart

2.3.4.1. General organisational chart

Q26. *As an annex to the authorisation dossier, include the organisational chart as it will look when the firm for which an authorisation is requested, commences its activities.*

This organisational chart should inter alia include the following information:

1. *the distribution of functions and responsibilities within the governing bodies for the various services and committees to be established within the firm;*
2. *for each activity of the firm, the identity of the person(s) responsible for that activity and the number of persons engaged in it;*
3. *the identity of the person responsible for the compliance function;*
4. *the identity of the person(s) responsible for the application of the Law of 18 September 2017 on preventing the use of the financial system for purposes of money laundering and terrorist financing, insofar as this is not the same person as the person responsible for the compliance function;*
5. *the identity of the other persons responsible for the key functions mentioned in point 2.3.3.3. above.*

2.3.4.2. Number of staff

Q27. *For the first year of the firm's activities, provide the following information:*

- § *total number of staff in subordinate positions, differentiating between executive and non-executive staff;*
- § *seniority of the firm's executive staff.*

2.3.4.3. Planned development for the first three years

Q28. *Indicate the scope and timing of proposed adjustments to the organisational chart to be carried out during the first three financial years to enable the firm's organisation to continue to meet the expected growth.*

2.3.5. Commercial approach

2.3.5.1. Business network

Q29. *Indicate whether, in the three years after the authorisation has been granted, the stockbroking firm plans to establish or acquire, in Belgium or abroad, either directly or indirectly, subsidiaries, branches or places of business, more particularly own offices. If so, specify for each entity in what place and country and within what period, and describe the activities to be performed by each entity as well as the integration of these activities in the organisational chart in terms of both management and supervision. Provide the same information for the activities which the company plans to develop abroad by means of the free provision of services.*

Q30. *State whether there are plans to enter into relationships with customers or carry out transactions through intermediaries in banking and investment services.*

If so, provide the number of intermediaries, indicate how the firm will integrate these intermediaries' activities in its organisational chart in terms of both management and supervision, and include the draft agreement to be concluded with the intermediaries as an annex to the authorisation dossier.

Q31. Indicate whether the company will have a website and, if so, whether this website will be transactional (i.e. a website through which orders can be placed, contracts for the provision of financial services can be concluded and/or financial services can be provided remotely, and if so, specify which services).

Q32. State whether the website will be directed towards a customer base outside Belgium and, if so, indicate which type of customers will be the target group, in what country and for what services.

2.3.6. General organisation

Pursuant to Article 502 in conjunction with Article 21 of the Law, every stockbroking firm should have sound and appropriate structures for the organisation of the business, including supervisory measures, to ensure effective and prudent management of the institution, founded on the pillars mentioned in the Law (inter alia appropriate management structure and appropriate administrative and accounting procedures).

Also refer to European Regulation (EU) 2017/565 of 25 April 2016, Articles 21-33, 72-76 and Annex I as regards organisational requirements for institutions providing investment services and to the relevant communications of the FSMA on its website (see <https://www.fsma.be/en/conduct-rules>).

Q33. Using a manual of procedures, provide a description for each of the areas mentioned below of the organisational measures, standards, processes, documents and systems that are general in scope, i.e. which apply to all of the company's activities. Include the manual of procedures as an annex to the authorisation dossier.

The more specific organisational and control measures containing different stipulations for particular services or products are addressed under point 2.3.7. "Specific organisation per activity".

For instance, the general rules of conduct regarding the general organisation should be mentioned in this point, while the more specific rules of conduct should be detailed in section 2.4.

The comprehensive policy on the identification and prevention of conflicts of interest should also be mentioned. This policy should be without prejudice to the implementation of the provisions of the Companies Code or to other applicable specific regulations (investment services; market abuse). The firm's policy on conflicts of interest should be included in the manual of procedures to be added as an annex to the authorisation dossier.

Pursuant to Article 502 in conjunction with Article 21, § 3, of the Law, a governance memorandum should be drawn up which includes the entire internal organisational structure of the institution in question and, where applicable, of the group or subgroup of which it is the final parent company. In this regard, see Circular PPB-2007-6-CPB-CPA on the CBFA's prudential expectations relating to the sound governance of financial institutions, which contains a model governance memorandum as an annex. Include the governance memorandum as an annex to the authorisation dossier.

2.3.6.1. Delegation of power: representation, authorised signatures and limits to the authority delegated

Q34. Describe the powers of the senior managers by answering the questions below.

1. What limits will be set on the senior managers' power of representation and which powers will require various signatures?
2. What internal limits will be set on the senior managers' decision-making power and who, and from what hierarchical level, will be authorised to make decisions in matters where those limits are exceeded?

2.3.6.2. IT organisation

Q35. Describe the firm's IT organisation and the set-up of its IT environment.

More particularly, your dossier should specify:

- § the organisation of the company's IT function, including a description of the roles and responsibilities defined and an overview of the resources used;
- § the company's IT strategy;
- § the IT infrastructure (data centres, overarching network architecture, server environment, user network and workstations, etc.);
- § the external network connections (remote access by staff or service providers, internet, etc.);
- § the software packages used, particularly asset management software and software used for market transactions and back office purposes;
- § the professional electronic channels used for operational purposes or the exchange of information (e.g. SWIFT, EUCLID, ISABEL, Reuters, Bloomberg, ADP, FET and other);
- § the internal IT policy and the (logical and physical) internal IT security;
- § the IT continuity policy and measures (back-ups, emergency site, etc.);
- § the IT services outsourced and the SLAs concluded.

2.3.6.3. Data retention

Q36. Specify the rules for classifying and archiving (periodicity, form, place, duration) data regarding the transactions carried out by the company on behalf of its customers, its staff or its officers or on its own behalf (see Articles 23 to 25 of the Regulation of 5 June 2007). Also describe the data classification policy applied, which should enable the company to distinguish between sensitive and less sensitive information, as well as the specific protection measures implemented by the company regarding sensitive information.

2.3.6.4. Accounting organisation

Q37. Describe how accounting is organised within the stockbroking firm and specify which member of the management committee is responsible for the accounting. If external persons are used for this purpose, provide their identification information as well.

2.3.6.5. Sound management practices in respect of business continuity

The NBB will assess the appropriateness of the firm's business continuity policy on the basis of the CBFA Circular PPB 2005/2 of 10 March 2005 on sound management practices aimed at ensuring the business continuity of financial institutions.

Q38. Describe the measures the company will take to ensure the continuity of its services and its operations at all times. Specify the procedures, the organisation and the systems that have been established to ensure that, in the case of a serious unplanned interruption of business, the company can maintain its critical functions or restore them as soon as possible and resume its normal activities within a reasonable timeframe. Additionally, clarify what measures the company will take to limit any data loss in the case of an unplanned interruption of the IT systems. Given the significant increase in cyber threats, also mention which cyber scenarios (e.g. permanent data loss due to a ransomware attack) the company takes into account in the context of the continuity of service and which steps are taken to limit these risks (e.g. offline backup policy).

2.3.6.6. Outsourcing

The NBB will assess the appropriateness of the relevant measures adopted by the firm on the basis of Articles 17 to 22 of the Regulation of 5 June 2007 and the CBFA Circular PPB 2004/5 of 22 June 2004 on sound management practices in outsourcing by credit institutions and investment firms.

“Outsourcing” refers to any recourse to third parties for carrying out activities or business processes that are specific to the financial institution. Both services to customers (call centres, etc.) and administrative (accounting, etc.) and specialised functions (IT, internal audit, data management, etc.) can be outsourced. The scope of this definition is specified further in the Circular of 22 June 2004.

Q39. Describe the measures the company will take to comply with the sound management principles posited in the Circular. In particular, state which activities would potentially be outsourced. If the company is considering outsourcing general services, state which person would be used for this purpose. As an annex to the authorisation dossier, include the company's general outsourcing policy and a written draft agreement.

2.3.6.7. Internet use

The NBB will assess the appropriateness of the measures adopted by the firm with regard to the protection of its website(s) and underlying IT system on the basis of the CBFA Circular CBFA_2009_17 of 7 April 2009, “Financial services via the Internet: Prudential requirements”.

Q40. Where the company intends to provide financial services via the internet (see Q31 and Q32), describe those services from a technical point of view and show that the company has an appropriate organisation and internal control system to satisfy the requirements and recommendations set out in the Circular.

The company should clarify:

- § the technical options and the security policy, particularly as regards the security of its website(s), its web servers and the services it provides via the internet, as well as the measures aimed at protecting its internal IT systems (e.g. anti-virus firewalls, network segmentation, server hardening, timely installation of updates, etc.) against threats arising from this internet connectivity;*
- § its risk management, showing that it ensures control of the legal, operational and reputational implications, including the attendant risks.*

2.3.6.8. Internal control

Article 502 in conjunction with Article 21 of the Law provides that each stockbroking firm should have a management structure, administrative and accounting procedures, supervision and security measures relating to electronic data processing, and internal control that are appropriate for its activities or envisaged activities.

Each stockbroking firm should organise an appropriate internal control, the functioning of which should be assessed at least annually. As regards its administrative and accounting procedures, it should organise an internal control system that provides a reasonable degree of certainty on the reliability of the financial reporting process, ensuring that the annual accounts are in conformity with the applicable accounting regulations. Each stockbroking firm should take the measures necessary to have an appropriate independent internal audit function at all times.

Circular NBB_2015_21 concerning the internal control system and the internal audit function specifies how the NBB will assess the proper functioning and the organisation of the internal control system and the internal audit function.

The content of this requirement is also clarified in Articles 14 and 15 of the Regulation of 5 June 2007.

Q41. Describe the company's internal control system, the components of this system and the general and specific measures (see also Circular NBB_2015_21). Also describe how the board of directors and the management committee will exercise their responsibilities in this area. These descriptions may consist of references to the manual of procedures that should be added as an annex to the authorisation dossier.

2.3.6.9. Risk management

Article 502 in conjunction with Article 21, § 1, 3° of the Law requires stockbroking firms to have appropriate procedures for the identification, measurement, management, monitoring and internal reporting of the significant risks to which they are exposed as a result of their activities or envisaged activities.

The content of this requirement is clarified in Article 13 of the Regulation of 5 June 2007.

Q42. For each risk type, describe how the risk management will be organised: definition and review of the policy, risk measurement methodology, system of limits, monitoring of compliance with limits (overnight and intra-day for market risks).

The following risks should be addressed:

- *credit risk, in particular regarding banking counterparties, settlement risk and concentration risk (per counterparty);*
- *liquidity risk;*
- *market risk: exchange rate, interest rate, credit, shares, raw materials, precious metals and other;*
- *operational risk (including legal and litigation risks);*
- *strategic risk.*

Describe the organisation of the risk management function (human and technical resources, profile of the person heading it and of the members of the division, nature of the relationship between the local risk

manager and the risk manager of the parent company where applicable, list of the risks managed by the risk management function, approach to other risks).

Q43. State what policy will be pursued and what application rules will be used to cover the risks by means of insurance policies.

2.3.6.10. Compliance

Article 509 in conjunction with Article 36, § 1 of the Law provides that each stockbroking firm should develop an appropriate integrity policy that is updated regularly. Without prejudice to Article 87bis of the Law of 2 August 2002, it should take the measures necessary to have an appropriate independent compliance function at all times, in order to ensure that the company, its directors, senior managers, employees and representatives comply with the legal and regulatory rules on integrity and conduct that are applicable to the stockbroking firm.

The content of this requirement is clarified in Articles 8 to 10 of the Regulation of 5 June 2007.

Circular NBB_2012_14 of 4 December 2012 specifies how the NBB will assess the proper functioning and organisation of the compliance function.

Q44. Describe how the compliance function will be organised in the company and include the note on the company's integrity policy and the compliance charter as annexes to the authorisation dossier. Where applicable, specify the nature of the relationship between the compliance officer of the company and the compliance officer of the parent company.

Q45. Describe the measures taken to ensure compliance with legislation relating to the protection of privacy, own account transactions by the company's staff, the prevention and management of conflicts of interest and, in general, all other measures aimed at ensuring the integrity of the company's staff or governing relationships between the company and its customers. As an annex to the authorisation dossier, include the internal code of conduct with the relevant appropriate rules and procedures.

Clarify how the asset management activities (if any are carried out) will be separated from the other activities.

Additionally, specify the rules for the concrete application of the internal code of conduct as well as the scope, frequency and method of monitoring compliance with that code.

As previously stated, the entirety of point 2.3.6. "General organisation", and therefore this section as well, covers the general measures and provisions that are applicable to all of the company's activities or staff. The more specific measures, standards and procedures that are applicable to a specific activity of the company are addressed in point 2.3.7. "Specific organisation per activity"

The person responsible for the compliance function should meet the fitness requirements set out in the Regulation of the National Bank of Belgium of 6 February 2018 on the fitness of the responsible persons for the compliance function (approved by Royal Decree of 15 April 2018).

§ *Prevention of money laundering and terrorist financing*

For the regulatory framework in question, we refer to the NBB's specific AML website: <https://www.nbb.be/en/aml>. This website contains all relevant texts as well as additional comments and recommendations from the NBB regarding the prevention of money laundering and terrorism financing that apply to, among others, stockbroking firms.

Q46. Describe how the stockbroking firm will comply with anti-money laundering regulations and how the compliance function will organise its tasks in this context, particularly as regards:

- *the personal status and the authority and powers of the person responsible for the prevention of money laundering and terrorist financing;*
- *the technical and human resources placed at his disposal to carry out his responsibilities (in terms of the number of staff);*
- *the development of an appropriate customer acceptance policy;*
- *the system for implementing the due diligence requirements, including the identification of customers and beneficial owners and the first- and second-line monitoring of business relationships and transactions.*

Q47. The anti-money laundering procedures should be included in the manual of procedures to be added as an annex to the authorisation dossier.

§ Special mechanisms

In the context of monitoring compliance with Article 502 in conjunction with Article 21 of the Law, the NBB will assess the appropriateness of the measures taken to prevent the establishment of special mechanisms of which the aim or result is to promote tax fraud by third parties, as referred to in Article 104, § 3 of the Law or in Article 46 of the Law of 2 August 2002, on the basis of the general principles formulated in CBFA Circular D4/EB/5 of 18 December 1997 on the special mechanism prevention policy for investment firms.

Q48. Describe the relevant measures taken.

§ Other areas indicated by the management committee

Q49. Mention any other area that will be the subject of a specific investigation by the compliance unit.

2.3.6.11. Internal audit function

In the context of monitoring compliance with Article 509 in conjunction with Article 39 of the Law, the NBB will assess the proper functioning of the stockbroking firm's internal audit function on the basis of the principles mentioned in the NBB Regulation of 19 May 2015 on the internal control and the internal audit function, which are clarified in Circular NBB_2015_21 of 13 July 2015 concerning the internal control system and the internal audit function.

Q50. State how the firm's internal audit will be organised and what measures will be taken to comply with the principles set forth in the Regulation and the Circular.

More particularly:

- § specify the status of the internal audit function and the measures taken to ensure its independence and impartiality, explain the role of the statutory governing body and the management committee in this context, provide the identity of the head of the internal audit function as well as, where appropriate, the nature of his/her relationship with the internal audit function of the parent company,*

and state the resources made available to the internal audit function. Include the internal audit charter as an annex to this authorisation dossier or to the manual of procedures;

- § *describe the methodology for determining the scope of the internal audit function as well as the strategy for covering this scope, and include the draft (multi-annual) audit plan and the underlying risk analysis as an annex;*
- § *specify the procedures for an audit mission (control programme, sampling, reporting, follow-up, etc.);*
- § *describe how, in carrying out its activities, the internal audit division will refer to a regularly updated manual of all administrative and accounting procedures to be applied in the stockbroking firm, and mention how the internal audit division will be consulted whenever those procedures are amended;*
- § *specify the system for following up recommendations and for reporting on activities (assessment of the internal control, observance of the planning).*

2.3.6.12. Accredited auditor

Pursuant to Article 578 in conjunction with Article 220 et seq. of the Law, each stockbroking firm is required to appoint an accredited auditor.

Q51. State who will be appointed as accredited auditor to conduct audits within the stockbroking firm once it has been granted an authorisation. Specify the duration of the mandate and the allocated budget. Indicate whether the appointed accredited auditor will assist the firm in preparing the dossier submitted in support of the authorisation application. Finally, mention whether the appointed accredited auditor recently carried out special assignments for the stockbroking firm and, if so, specify which assignments.

Usually, the person entrusted with preparing the report preceding the firm's establishment is appointed as accredited auditor, insofar as an auditor is used to prepare such a report. Note that, in accordance with Article 578 in conjunction with Article 223 of the Law, the appointment of an accredited auditor requires prior consent from the NBB.

Q52. Where the task of preparing the report preceding the firm's establishment (see point 3 "Phase two" below) may be entrusted to an accredited auditor other than the one referred to in the previous point, specify this person.

2.3.6.13. Specific measures for providing investment services

Pursuant to Article 510 in conjunction with Article 41 of the Law, every stockbroking firm should set out appropriate policy lines and procedures to ensure compliance with the legal requirements on investment services and activities by the company, its directors, senior managers, employees, tied agents and representatives.

It should set out appropriate rules for direct and indirect personal transactions in financial instruments that are executed by the persons referred to in the previous paragraph.

Pursuant to Article 510 in conjunction with Article 42 of the Law, every stockbroking firm should take the appropriate organisational and administrative measures to prevent conflicts of interest relating to investment services and activities between the company, its directors, senior managers, employees and representatives, or an affiliated company, on the one hand, and its

customers, on the other, or between its customers themselves, that could be prejudicial to the interests of the latter.

Every stockbroking firm should take appropriate measures to ensure the continuity of its investment services and activities (Article 502 in conjunction with Article 21, § 1, 9° of the Law).

Where a stockbroking firm outsources operational tasks to third parties that are of critical importance for a continuous and satisfactory provision of investment services and activities to customers, it should take suitable measures to mitigate any associated operational risk (Article 530 in conjunction with Article 66 of the Law).

This outsourcing may not be detrimental to the appropriate nature of the company's internal control procedures or to the ability of the supervisory authority to establish whether the company complies with its legal and regulatory obligations.

All stockbroking firms should keep records of all the investment services and activities they carry out in order to allow the supervisory authority to establish whether the company complies with the provisions of the Law.

2.3.6.14. Complaint handling

In accordance with Article 16 of the Regulation of 5 June 2007, stockbroking firms should organise a complaint service ensuring reasonable and fast handling of complaints from non-professional customers.

Q53. Describe how the stockbroking firm will comply with this obligation. This description may consist of a reference to the manual of procedures that should be added as an annex to the authorisation dossier.

2.3.7. Specific organisation per activity

Q54. For each investment or ancillary service for which an authorisation is requested, provide a description of the specific organisational and control measures.

These specific measures may relate to the following aspects:

- § *the IT environment;*
- § *the accounting;*
- § *continuity;*
- § *the outsourcing policy;*
- § *internal control, risk management, the compliance function and the internal audit;*
- § *the use of intermediaries in banking and investment services;*
- § *the organisation of front, middle and back offices;*
- § *segregation of customers' funds and securities;*
- § *relationships with financial institutions;*
- § *relationships with customers, including contractual relationships;*
- § *the prevention and management of conflicts of interest in all their dimensions;*
- § *the pricing policy;*
- § *reporting to the NBB;*
- § *...*

These descriptions may consist of references to the manual of procedures and/or the code of ethics that should be added as an annex to the authorisation dossier.

Q55. For each investment or ancillary service for which an authorisation is requested, provide a description of the procedures as well as a model of the different types of (draft) agreements to be concluded with customers or, where applicable, with third parties (custodians, etc.) (this information should be provided here even if it is also requested below).

For certain services, this description should more particularly provide an answer to the specific questions formulated below.

When preparing the (draft) agreements, the company should consider that, pursuant to the Royal Decree of 25 May 1999, on the one hand, and to Article 22, § 2 of the Protocol concluded between the Deposit and Financial Instrument Protection Fund and the companies concerned, on the other, stockbroking firms are required to inform their customers in writing of the amount covered by the investor protection scheme managed by the Protection Fund. It is advisable to incorporate this communication in the agreements concluded with customers.

2.3.7.1 Investment services⁷

2.3.7.1.1. Reception and transmission of orders

Q56. Describe how the reception and transmission of orders is organised.

Provide the following information (where applicable depending on the service actually provided):

- § *the selection of the entities involved in executing and following up the orders (intermediaries, counterparties, custodians):*
 - *the selection criteria and rules;*
 - *as the case may be, the names of the entities selected or approached, stating whether those entities are linked to the firm;*
 - *the agreements or draft agreements between the firm and those third-party entity/entities;*
- § *the order circuit, presented in the form of a diagram with notes;*
- § *the procedure for registering orders after their execution, detailing on which supports they will be registered (order books, etc.);*
- § *the planned procedures regarding the follow-up of leverage positions on the markets and, more generally, of the portfolios, in respect of risk limitation and of the regulatory, contractual and other requirements.*

2.3.7.1.2. Execution of orders on behalf of customers

Q57. Describe how the activities relating to the execution of orders on behalf of customers will be carried out.

In particular, provide the following information:

- § *the procedure for executing orders, which should, in particular, regulate:*

⁷ For the specific requirements relating to rules of conduct in providing investment and ancillary services, see section 2.4.

- how the company will be able to demonstrate in detail the origin, transmission and execution of orders (rules for maintaining a record of the history of the orders, a record of their transmission to the custodian, etc.);
- the allocation procedure for grouped orders (distribution rules for partial execution, etc.);
- how orders are settled (description of the transaction settlement procedure in accordance with the “delivery versus payment” principle).

§ the description of the securities accounting system.

It should also be demonstrated that the firm's accounting organisation enables it to register the obligations resulting from the execution of the orders appropriately.

2.3.7.1.3. Dealing on own account in financial instruments

Q58. Describe the specific organisation for dealing on own account. In particular, specify:

1. *the nature and characteristics of the financial instruments and products involved in the own account transactions (money market instruments, currency, financial futures and options, swaps, interest rate instruments or securities);*
2. *the type of activity: proprietary trading, market making, customer facilitation, matched principal brokering, sales, treasury, ALM, etc.;*
3. *the markets on which the company will be operating and the investment strategies (short-term, long-term, arbitrage, etc.);*
4. *the model agreements to be used, depending on the type of trade in financial instruments and legal risk coverage (use of master agreements for OTCs, etc.);*
5. *the organisation of the dealing room (front office, middle office): access to the room, Chinese walls, software types, information flows, registration and acceptance of orders, monitoring of risks (cf. point 2.3.6.9. regarding risk management);*
6. *the rules of conduct that traders will be subject to and the procedures regarding the specific code of conduct for the dealing room, as well as the policy for using brokers;*
7. *where applicable, the power of the head of the dealing room to conclude transactions him/herself, and the rules he/she should comply with in this context;*
8. *the powers of the member of management responsible for the room and the powers of the dealers;*
9. *the policy that will be adopted to follow up positions and limits, and – as the case may be – to permit overruns (procedures, persons responsible, reporting);*
10. *the method for calculating the specific own funds requirements for the own-account activity;*
11. *the procedure for complying with the EMIR (European Market Infrastructure Regulation No 648/2012 of 4 July 2012) provisions where applicable;*
12. *the procedure for starting up new activities;*
13. *the member of management responsible for implementing the policy regarding market activities and for the supervision of the division concerned. Describe the organisation of the supervision by management (reporting to management, reporting frequency, etc.) and indicate what financial data should be provided by any subsidiaries and/or branches carrying out such activities, and with what frequency.*

2.3.7.1.4. Asset management

Q59. Describe the specific organisation of asset management, including:

§ *the tool used for asset management and the checks integrated therein;*

- § *the markets on which the company will be operating (securities markets, money markets, bond markets, futures markets, etc.);*
- § *the characteristics of the financial instruments to be employed (large national, European or international capitalisations, undertakings for collective investment, trackers, futures, options, financial futures and instruments incorporating financial futures, etc.);*
- § *the decision-making process and rules governing investment decisions, more particularly:*
 - *where investment committees exist: the list of participants, types of decisions, periodicity, rules for monitoring the correct implementation of their decisions;*
 - *the sources of information;*
- § *the features of the management to be employed, for instance:*
 - *the rules for determining strategic and tactical allocation within the portfolios managed;*
 - *the strategies developed for the use of financial futures;*
 - *the rules governing the choice of investments (e.g. choice of securities, selection of UCIs, etc.);*
 - *the measurement of the performance of portfolios managed;*
 - *the human and technical resources to be employed (especially the firm's capacity for fundamental research or credit analyses);*
- § *the manner of determining the time for receiving, transmitting and executing an order.*

2.3.7.1.5. Investment advice

Q60. Describe the organisation regarding investment advice, referring – as the case may be – to the answers provided in point 2.3.7.1.4. on asset management.

2.3.7.1.6. Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis

Q61. Describe the general policy for participation in underwriting and placing transactions and indicate the economic sector used as target group as well as, if already known, the identity of the main issuers for which the company will be involved in the placing.

2.3.7.1.7. Placing of financial instruments without a firm commitment basis

Q62. Describe the specific organisation for this activity.

If the firm also provides investment advice and/or asset management, describe how it will manage the conflicts of interest arising from this combination of activities.

2.3.7.1.8. Operation of multilateral trading facilities

Q63. Describe the specific organisation for this activity.

2.3.7.1.9 Operation of organised trading facilities

Q64. Describe the specific organisation for this activity.

2.3.7.2 Ancillary services

2.3.7.2.1. Safekeeping and administration of financial instruments

Q65. If the firm offers the service of safekeeping and administration of financial instruments, describe the organisation established specifically for this purpose and provide a detailed description of:

- § the selection policy for custodians;
- § the policy for separating proprietary positions from the positions of customers in respect of custody;
- § the amount of insurance cover for loss or theft of the values held;
- § the insurance cover, if any, for loss or theft of securities.

Q66. Where applicable, specify the custodians with which the firm would prefer to cooperate.

2.3.7.2.2. Granting credits or loans to an investor to enable him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction

Q67. Describe the specific organisation for this activity, paying particular attention to the management of the associated conflicts of interest.

2.3.7.2.3. Advice to companies on capital structure, industrial strategy and related matters, as well as advice and services relating to mergers and the purchase of companies

Q68. Describe the specific organisation for this activity.

2.3.7.2.4. Currency exchange services where these are connected to the provision of investment services

Q69. Describe the specific organisation for this activity.

2.3.7.2.5. Investment research and financial analysis or other forms of general recommendations relating to transactions in financial instruments

Q70. Describe the specific organisation for this activity, paying particular attention to the management of the associated conflicts of interest.

2.3.7.2.6. Services related to the underwriting of financial instruments

Q71. Describe the specific organisation for this activity.

2.3.7.2.7. Above-mentioned investment services and activities as well as ancillary services related to the underlying value of the derivatives as referred to in Article 2, paragraph 1, 1°, e), f), g) and j) of the Law of 2 August 2002 where these are connected to the provision of investment or ancillary services

Q72. Describe the specific organisation for this activity.

2.3.7.3. Other activities requiring the NBB's authorisation pursuant to Article 532 of the Law

Q73. Describe the organisation set up specifically for any other activity the stockbroking firm intends to develop.

If the stockbroking firm intends to provide services relating to class 23 or class 21 products, clarify the content of this project and the measures and procedures to be introduced to ensure that this activity is organised appropriately. Circular D4/EB/2002/1 of 17 April 2002 details the important aspects and criteria on the basis of which the NBB will verify compliance with the requirement to set up an appropriate organisation for this purpose, as referred to in Article 502 in conjunction with Article 21 of the Law.

2.3.7.4. Relationships with various institutions (organised markets, payment systems)

Q74. Where applicable, specify which regulated markets, other markets, multilateral trading facilities (MTFs) or organised trading facilities (OTFs) established in Belgium or abroad the stockbroking firm plans to become a member of, and in what capacity. In particular, indicate whether the company intends to become a member of options and futures exchanges. If so, state the name of the markets or trading facilities concerned and specify in what capacity the stockbroking firm will operate thereon.

Indicate as well whether the stockbroking firm intends to become a member of SWIFT or to make use of any other cross-border payment system (stating, as the case may be, the name of that system).

2.3.8. Other controls

2.3.8.1. Relationship with the regulated parent company (if applicable)

Q75. For each activity the stockbroking firm intends to carry out, indicate the frequency with which it will report to its parent company and, in each case, state what type of report will be submitted (descriptive report, figures, etc.).

2.3.8.2. Information in case of consolidation

Q76. Where, pursuant to Articles 573 et seq. of the Law, the stockbroking firm must be consolidated by the parent company or another firm of the group, describe the organisation and the internal control procedures of the consolidated entity.

2.3.8.3. Controls by the internal auditors of the group

Q77. Specify whether the stockbroking firm will be the subject of regular on-site inspections carried out by the inspection or audit service(s) of other companies belonging to the group.

If so, state how often such controls will be conducted and briefly specify their scope (for example, compliance with the laws and regulations of the country where the shareholder concerned is established, compliance with the internal procedures adopted by the shareholder concerned, reporting to this shareholder, etc.).

Also indicate whether the inspection or audit reports prepared following those controls will be submitted to the stockbroking firm's management and its accredited auditor.

2.3.8.4. Controls by the external auditors of the group

Q78. Specify whether the stockbroking firm will be the subject of regular on-site inspections carried out by external auditors of other companies belonging to the group. If so, state their names and the planned frequency of these controls and indicate what the subject and the purpose of those controls will be.

Also indicate whether the reports prepared by those auditors will be submitted to the stockbroking firm's management and/or its accredited auditor.

2.4. Rules of conduct

2.4.1. General

As stated before, authorisation as a stockbroking firm is granted by the NBB on the basis of an opinion provided by the FSMA in accordance with the rules and conditions laid down in Articles 492 to 496 of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms and in Article 6, § 5 of the Law of 25 October 2016 on access to the activity of investment services and on the supervision of portfolio management and investment advice companies.

When providing investment services, investment activities and ancillary services as referred to in Article 2 of the Law of 25 October 2016, stockbroking firms should comply with the rules of conduct.

The basic rule for compliance with the rules of conduct is as follows: *When offering or providing financial products or services, regulated companies should act loyally, fairly and professionally, in accordance with their customers' best interests.*

To assist stockbroking firms in implementing and applying this rule correctly, the FSMA has integrated the concrete rules of conduct implementing this basic rule in its work programmes, which it has made available on its website. These documents contain a useful indication of the FSMA's expectations regarding the authorisation requested and the expected content of the documents to be submitted (see 2.4.3.2.).⁸

2.4.2. Duty of care model

An authorisation application for the investment services "reception and transmission of orders", "execution of orders", "investment advice" and "asset management" presupposes the presence of a duty of care model. The stockbroking firm should provide a detailed description of its duty of care model, explaining all relevant steps with regard to providing the investment service requested to the customer. The nature of the investment services provided determines the extent of the duty of care required from the company, pursuant to the rules of conduct.

The appropriateness test (= knowledge and experience test) is necessary when receiving and transmitting orders and/or executing orders in complex financial instruments or in non-complex financial instruments on the stockbroking firm's initiative.

The suitability test is necessary when providing investment advice and asset management.

⁸ See: <https://www.fsma.be/en/conduct-business-rules-mifid>.

A model in which the stockbroking firm only receives and transmits and/or executes orders in non-complex financial instruments for which no initiative has been taken by the company itself, does not require any testing (“execution only”).

2.4.3. Policy and procedures

2.4.3.1. General guidelines

The (applicant) stockbroking firm should consider the following organisational guidelines for all aspects that are relevant to compliance with the rules of conduct:

- establishing a policy and relevant procedures (see 2.4.3.2.) in which the company’s management describes its vision, approach and concrete implementation as exhaustively as possible; the different policies and procedures should form a coherent whole and contain the necessary controls;
- preparing work instructions to ensure that every employee knows what to do;
- arranging the monitoring of the policy, procedures and work instructions by either the compliance function or the risk management function;
- annually assessing the policy, procedures, work instructions and the monitoring thereof on the basis of the reports of the three independent control functions.

The stockbroking firm’s statutory governing body should ensure that the firm’s employees, after authorisation has been granted:

- act honestly, fairly and professionally, in accordance with their customers’ best interests;
- ensure that information provided to customers is accurate, clear and not misleading, and that advertising is recognisable as such;
- correctly classify their customers as non-professional customer, professional customer or eligible counterparty;
- provide customers beforehand with the obligatory minimum information on a durable medium;
- comply with the policy and procedures on conflicts of interest;
- comply with the policy and procedures on personal transactions of relevant persons, including on market abuse;
- comply with the policy and procedures on inducements;
- comply with the policy and procedures for handling complaints from non-professional customers;
- create customer dossiers and preserve their content during the business relationship.

Depending on the investment services and ancillary services the stockbroking firm intends to provide and on the duty of care model it intends to adopt, its statutory governing body should also ensure that its employees comply with the policy and procedures relating to:

- the appropriateness test;
- the suitability test;
- the processing of orders from customers;
- the optimal execution of orders from customers;

- the content of the asset management agreement;
- the reporting to customers.

2.4.3.2. Documents to be submitted in the context of the authorisation application

The documents to be submitted for each authorisation requested for the aforementioned investment services and ancillary services (see 2.4.1.) are listed below.

Applicant stockbroking firms should always provide the following documents when submitting a first application for the status of stockbroking firm:

- the policy and procedures on customer categorisation;
- the policy and procedures (including controls) on data retention;
- the policy and procedures on the content of the customer dossier;
- the policy and procedures on conflicts of interest;
- the policy and procedures (including controls) on the personal transactions of relevant persons, including on market abuse;
- the policy and procedures on inducements;
- the policy and procedures (including controls) on handling complaints from non-professional customers.

Existing stockbroking firms requesting an extension of authorisations already obtained by them are not required to submit the documents above. However, they should comply with the aforementioned guidelines at all times and ensure that any documents are submitted on time and updated regularly, in accordance with the relevant communications of the FSMA on its website in the context of the rules of conduct.⁹

The following documents should be submitted for each investment service:

1. Investment service "Receipt and transmission of orders"
 - a detailed description of the distribution model to be used in the context of the authorisation requested (online (website, app, etc.), over the phone, through an office network (offices employing salaried staff, independent agencies, broker, etc.));
 - the policy and procedures on appropriateness testing and/or order execution only services, including the warnings to be provided to the customer;
 - the method used for collecting the customer information needed for the appropriateness test (knowledge and experience), e.g. a questionnaire (where applicable);
 - the policy and procedures for determining the complexity of financial instruments;
 - the list of the types of financial instruments used when providing investment services (including mention of the use of own financial instruments ("in-house products"));
 - the policy and procedures for processing orders from customers (e.g. the order allocation policy);

⁹ See: <https://www.fsma.be/en/conduct-business-rules-mifid>

- the policy and procedures on the optimal execution of orders from customers (“best selection”);
- the policy and procedures for reporting to customers;
 - preparing order statements (including minimum content);
 - preparing quarterly customer asset statements;
- the policy and procedures for selecting custodians of customer assets with which the company will cooperate where applicable;
- the list of custodians of customer assets with which the company will cooperate where applicable;
- the policy and procedures for selecting order execution firms with which the company will cooperate;
- the list of order execution firms with which the company will cooperate;
- a schematic overview of the order flow mentioning the resources used (software, communication channels, etc.), of the components of the own organisation and of the external parties involved;
- the policy and procedures for approving new products and services (“product approval process”).

2. Investment service “execution of orders”

- a detailed description of the distribution model to be used in the context of the authorisation requested (online (website, app, etc.), over the phone, through an office network (offices employing salaried staff, independent agencies, etc.));
- the policy and procedures on appropriateness testing and/or order execution only services, including the warnings to be provided to the customer;
- the method used for collecting the customer information needed for the appropriateness test (knowledge and experience), e.g. a questionnaire (where applicable);
- the policy and procedures for determining the complexity of financial instruments;
- the list of the types of financial instruments used when providing investment services (including mention of the use of own financial instruments (“in-house products”));
- the policy and procedures for processing orders from customers (e.g. the order allocation policy);
- the policy and procedures for the optimal execution of customer orders (“best execution”);
- the policy and procedures for reporting to customers;
 - preparing order statements (including minimum content);
 - preparing quarterly customer asset statements;
- the policy and procedures for selecting custodians of customer assets with which the company will cooperate where applicable;
- the list of custodians of customer assets with which the company will cooperate where applicable;
- a schematic overview of the order flow mentioning the resources used (software, communication channels, etc.), of the components of the own organisation and of the external parties involved;

- the policy and procedures for approving new products and services (“product approval process”).

3. Investment service “investment advice”

- a detailed description of the distribution model to be used in the context of the authorisation requested (online (website, app, etc.), over the phone, through an office network (offices employing salaried staff, independent agencies, broker, etc.));
- the policy and procedures on the suitability test, which inter alia should include or mention the following elements (including the related information to the customer):
 - whether or not independent investment advice is provided;
 - § where applicable, an explanation of how inducements are received and passed on to the customer;
 - § where applicable, an explanation of the investment research received and the funding of this research;
 - whether or not a periodic assessment of suitability is provided (including the model agreement);
- the method used for collecting the customer information needed for the suitability test (knowledge and experience, financial situation and investment objectives), e.g. a questionnaire;
- the list of the types of financial instruments used when providing investment advice (including mention of the use of own financial instruments (“in-house products”));
- the policy and procedures for reporting to customers;
 - the suitability report;
 - where applicable, the periodic report on the periodic assessment of suitability;
 - a quarterly customer asset statement;
- a schematic overview of the order flow mentioning the resources used (software, communication channels, etc.), of the components of the own organisation and of the external parties involved;
- the policy and procedures for approving new products and services (“product approval process”).

4. Investment service “asset management”

- a detailed description of the distribution model to be used in the context of the authorisation requested (online (website, app, etc.), over the phone, through an office network (offices employing salaried staff, independent agencies, etc.));
- the asset management agreement and any additional terms and conditions;
- the policy and procedures on the suitability test, which inter alia should include or mention the following elements (including the related information to the customer):
 - where applicable, an explanation of how inducements are received and passed on to the customer;
 - where applicable, an explanation of the investment research received and the funding of this research;
- the method used for collecting the customer information needed for the suitability test (knowledge and experience, financial situation and investment objectives), e.g. a questionnaire;

- the list of the types of financial instruments used when providing asset management (including mention of the use of own financial instruments ("in-house products"));
- the policy and procedures for reporting to customers as well as relevant examples of such reportings;
- the policy and procedures for selecting custodians of customer assets with which the company will cooperate where applicable;
- the list of custodians of customer assets with which the company will cooperate where applicable;
- the policy and procedures for selecting order execution firms with which the company will cooperate;
- the list of order execution firms with which the company will cooperate;
- a schematic overview of the order flow mentioning the resources used (software, communication channels, etc.), of the components of the own organisation and of the external parties involved;
- the policy and procedures for approving new products and services ("product approval process").

5. Ancillary service "investment research"

- the policy and procedures for investment research and for preparing investment recommendations specifying at least the following elements:
 - a description of the methodology and of the organisational measures for preparing investment research, emphasising compliance with the rules on conflicts of interest and the necessary separation of functions or Chinese walls (see 2.3.7.2.5.);
 - the appointment of persons considered to be "financial analysts";
 - the appointment of persons that could be considered "producers of recommendations"¹⁰;
 - the distinction to be made between investment research, investment recommendations and investment advice, emphasising the measures that will be taken to prevent investment research or investment recommendations from being considered investment advice by customers;
 - the indication of the parties to which the investment research and/or investment recommendations will be provided (for internal use only, to customers or to third parties (e.g. asset managers)) and the way in which inducement rules will be taken into account in this context, in accordance with the inducement policy;
- an example of an analysis report and of an investment recommendation.

2.5 Financial aspects

2.5.1. General

¹⁰ See Delegated Regulation 2016/958 of 9 March 2016.

Answer the questions in this point for all services for which an authorisation is requested.

Q79. For each type of activity, specify the type of customer to be targeted by the company (non-professional customers, professional customers, undertakings for collective investment, etc.) and state the percentage share of each customer type in the overall turnover.

Q80. For each type of activity, specify on what basis the company will determine the fee it will charge to its customers. If the company has already established rates, include them as an annex to the authorisation application.

Q81. If, as part of its activities, the company expects to receive, either directly or indirectly, rebates or other benefits of any nature from third parties, specify for which activities the firm expects this, which policy it will adopt in this context and what information it will provide to its customers.

Q82. On the basis of the current projections for the company's first year of operation, indicate how many customers, considered in isolation, will represent a specific share of the turnover.

Customer's share in the turnover	Number of customers
0-5 %	
5-25 %	
25 % or more	

Q83. In the table below, check the different services (investment services ranging from A to H) which the company will provide for the financial instruments mentioned.

In the column "Total %", specify the importance of the different instruments in the company's programme of operations during the first year.

A = Receipt and transmission of orders (only when the company is not responsible for the execution)

B = Execution of orders on behalf of customers

C = Dealing on own account in financial instruments

D = Asset management

E = Investment advice

F = Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis

G = Placing of financial instruments without a firm commitment basis

H = Operation of multilateral trading facilities or organised trading facilities

	A	B	C	D	E	F	G	H	Total %
Shares in companies and other securities equivalent to shares as well as depositary receipts for shares									
Bonds or other forms of securitised debt									
Any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement									
Money market instruments									
Units in undertakings for collective investment, trackers									
Options, futures, swaps, forward rate agreements and other derivative contracts									
Derivative instruments for the transfer of credit risk									
Financial contracts for differences									
Class 23 products									
Class 21 products									
Other instruments (specify which)									
									100 %

Q84. If an authorisation is also requested for the investment service of reception and transmission of orders, specify the number of contracts the company expects to conclude and the total amount of assets for which the company expects to place orders during the first three financial years, distinguishing between non-professional and professional customers.

YEAR	NON-PROFESSIONAL CUSTOMERS		PROFESSIONAL CUSTOMERS	
	CONTRACTS	AMOUNT	CONTRACTS	AMOUNT
1		, - EUR		, - EUR
2		, - EUR		, - EUR
3		, - EUR		, - EUR

Q85. If an authorisation is also requested for the investment service of asset management, specify the number of contracts the company expects to conclude and the total amount of assets the company expects to have under discretionary management at the end of the first three financial years, distinguishing between non-professional and professional customers.

YEAR	NON-PROFESSIONAL CUSTOMERS		PROFESSIONAL CUSTOMERS	
	CONTRACTS	AMOUNT	CONTRACTS	AMOUNT
1		, - EUR		, - EUR
2		, - EUR		, - EUR
3		, - EUR		, - EUR

Q86. If an authorisation is also requested for providing investment advice, specify the number of contracts the company expects to conclude and the total amount of assets for which the company expects to place orders during the first three financial years, distinguishing between non-professional and professional customers.

YEAR	NON-PROFESSIONAL CUSTOMERS		PROFESSIONAL CUSTOMERS	
	CONTRACTS	AMOUNT	CONTRACTS	AMOUNT
1		, - EUR		, - EUR
2		, - EUR		, - EUR
3		, - EUR		, - EUR

Q87. If the company, during the first year after being granted its authorisation, intends to establish a subsidiary (S) or a branch (B) abroad or to provide investment services abroad under the freedom to provide services (F) without being established there, provide a projection of the volume of these activities in relation to the total turnover of the company (or of the group in case of a subsidiary) at the end of the first financial year following the start of the activities abroad.

Country	S (*)	B (*)	F (*)	Start date	% of turnover	Investment services provided

* Indicate with a a

For any other planned activities, provide a projection for the next three financial years.

2.5.2. Financial aspects of stockbroking firms

2.5.2.1. Annual accounts

Q88. For an existing firm, the annual accounts of the last five financial years and (where applicable) the report of the auditor should be included as an annex to the authorisation dossier. If the most recent annual accounts are over three months old, an accounting statement less than three months old should be drawn up, including a detailed statement of the firm's assets and liabilities, its results for the current financial year and its off-balance sheet rights and commitments (see the annex to the annual accounts).

For a firm yet to be established, clarify the scheduled closing date of the financial year.

2.5.2.2. Financial plan

Q89. As an annex to the authorisation dossier, provide a financial plan (including at least a projected balance sheet and income statement established on the basis of the template for periodic reporting by stockbroking firms on their financial position¹¹) for the first three financial years following the authorisation.

When preparing the financial plan, at least two hypotheses should be taken into account: a baseline and a worst-case scenario.

Include the parameters used for preparing the financial plan as well as any other useful information for analysing these parameters.

2.5.2.3. Own funds requirements

Each stockbroking firm must have a policy for own funds and liquidity requirements that is appropriate to its activities. To that end, an appropriate and forward-looking policy should be established for the management of the company's own funds requirements and liquidity, which identifies and determines the company's current and future requirements. In particular, a stockbroking firm should have sufficient own funds at all times to meet the following own funds requirements simultaneously:

¹¹ The financial plan template for stockbroking firms is included as annex 7 to this memorandum.

- In accordance with Article 519 of the Law, a stockbroking firm's own funds may not fall below the amount of its minimum initial capital.
- In accordance with Articles 92, 95, 96 and 97 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, a stockbroking firm should have sufficient own funds at all times to meet the risk requirements.
- In accordance with Article 38 of the NBB Regulation of 4 March 2014, a stockbroking firm should at all times have own funds meeting the overall gearing ratio, calculated on the basis of the borrowed funds, using the following scale:
 - first bracket : less than 24,789,352 EUR, 6 %
 - second bracket : > 24,789,352 EUR < 123,946,762 EUR, 4 %
 - third bracket : > 123,946,762 EUR < 247,893,525 EUR, 3 %
 - fourth bracket : > 247,893,525 EUR < 1,239,467,624 EUR, 2.5 %
 - fifth bracket : more than 1,239,467,624 EUR, 2 %

Q90. Demonstrate, on the basis of the financial plan, that the own funds will be sufficient at all times, during the three financial years in question, to meet the aforementioned own funds requirements simultaneously.

Q91. Clarify how the firm expects the own funds requirements to evolve during the first five years. Include the parameters used for this purpose and any other useful information for analysing these parameters.

Q92. Specify the policy the firm will pursue during the first five years regarding own funds, and the level of own funds it expects to achieve at the close of the fifth financial year. Include the parameters used for this purpose and any other useful information for analysing these parameters.

If the firm moreover intends to hold positions in financial instruments in the context of managing its own funds, specify how these own funds will be invested.

2.5.2.4. Segregation

Q93. Specify the policy the firm will pursue regarding funds belonging to customers, the entity/entities where these funds will be deposited and the measures it will take to protect the rights of its customers. Indicate how the firm will be able to distinguish the assets and securities held on behalf of a customer, at all times, without delay and in an accurate manner, from the assets and securities held on behalf of other customers and from those belonging to the firm.

These descriptions may consist of references to the manual of procedures that should be added as an annex to the authorisation dossier.

2.5.2.5. Reporting

Applicants will have to comply with the financial reporting requirements applicable to stockbroking firms, which in particular provide for the quarterly submission of:

a) At the European level:

- Articles 99, 101, 394, 415 and 430 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit

institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR Regulation);

- Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council, which implements the aforementioned provisions; this Regulation was amended repeatedly and concerns the following reportings (same as for credit institutions, apart from liquidity): own funds and own funds requirements (COREP sensu stricto -- Annexes I and II), financial information (FINREP according to IFRS or GAAP - Annexes III to V - only for listed stockbroking firms), losses stemming from lending collateralised by immovable property (Annexes VI and VIII), large exposures and concentration risk (Annexes VIII and IX), leverage ratio (Annexes X and XI) and asset encumbrance (Annexes XVI and XVII).

b) At the national level:

- Article 556 in conjunction with Article 106, § 2 of the Law
- Circular NBB_2014_14 of 18 November 2014 on the overall gearing ratio
- Circular NBB_2012_01 of 3 April 2012 on the periodic statements of stockbroking firms
- Circular PPB-2007-14-CPB-CPA to credit institutions and stockbroking firms (tables 03.70 'Financial instrument balance sheet' and 20.11 'Segregation of client funds').

Q94. Demonstrate that the firm has an appropriate organisation and the necessary technical and human resources to meet the financial reporting requirements applicable.

Q95. Demonstrate that the firm has appropriate procedures and processes guaranteeing the quality of the financial reporting.

These descriptions may consist of references to the manual of procedures that should be added as an annex to the authorisation dossier.

2.6. Statement by the person responsible for the authorisation application

The following statement should be included at the end of the authorisation dossier and signed by the person responsible for the authorisation application.

"I, the undersigned, (name and first name(s) of the person responsible for the authorisation application) hereby confirm the accuracy of the information provided in this authorisation dossier and its annexes. I am aware that communicating inaccurate information to the National Bank of Belgium could have a negative impact on its evaluation of this authorisation application or, thereafter, on its evaluation of the qualities required of me for the exercise of a function as director or senior manager of a regulated company, should such a function be entrusted or offered to me."

3. Phase two

Phase two is primarily intended to give concrete substance to the project specified in phase one. This is where the project as a whole is to be implemented. However, the formal authorisation will only be granted if the firm is operational.

Subject to specific cases, the following steps should be taken in particular during phase two:

- § providing the NBB with a certified true copy of the stockbroking firm's Instrument of Incorporation and Articles of Association, if it had not yet been established;
- § providing the NBB with extracts from the instrument appointing the directors and senior managers;
- § providing the NBB with the drafts of the internal standing rules of the board of directors, of the management committee, of the specialised committees set up within the board of directors and of the specialised committees set up under the authority of the management committee (as the case may be);
- § providing the NBB with a list of all authorised signatures of the firm;
- § notifying the Deposit and Financial Instrument Protection Fund that an authorisation application has been submitted to the NBB. Accession to the Protection Fund is only possible after the authorisation has been granted. Keep the NBB informed of these contacts and provide it with proof of accession in due time;
- § notifying the NBB of the company number and, as the case may be, of the Bank Identifier Code (BIC) of the stockbroking firm governed by Belgian law¹²;
- § providing the NBB with a statement of account indicating the deposit of capital;
- § establishing the company's registered office;
- § establishing its administrative office(s) if different from the registered office;
- § appointing the directors and senior managers;
- § fitting out the buildings;
- § setting up the infrastructure, including IT and telecommunication;
- § in respect of stockbroking firms desiring to be affiliated to the Belgian Bankers' and Stockbroking Firms' Association, keeping the NBB informed of the progress of any contacts with that Association regarding the affiliation of the credit institution and its potential accession to sectoral conventions.

Subsequently, a report preceding the company's establishment should be prepared by the auditor appointed for that purpose. This report should contain an analysis of whether the conditions necessary for the authorisation have been met and whether the organisation matches its description in the authorisation dossier submitted to the NBB during phase one. It is on the grounds of this report, in which the auditor establishes that all conditions have been met, that the NBB will grant the authorisation (the cost of preparing the report is to be borne by the firm, shareholders or partners). Additionally, the NBB's services may make an on-site visit to verify that the organisation matches its description in the authorisation dossier.

4. After authorisation

¹² The BIC must be requested from SWIFT: SOCIETY FOR WORLDWIDE INTERBANK FINANCIAL TELECOMMUNICATIONS S.C., Bank Support Division, BIC Administration, Adèlelaan 1, B 1310 TERHULPEN.

In order to complete the authorisation procedure and its establishment, the stockbroking firm has to deal with certain matters that could not be dealt with before the authorisation was obtained, including:

- § providing the NBB with the documents evidencing the stockbroking firm's accession to a collective investor protection scheme, in accordance with Article 512 of the Law;
- § as the case may be, notifying the NBB of the date on which the stockbroking firm became affiliated to the Belgian Bankers' and Stockbroking Firms' Association and of any accession to the various sectoral conventions.

The stockbroking firm is likewise requested to notify the NBB in writing of any change in its authorisation dossier (more particularly the legal form, the capital structure and the shareholder structure, as well as any significant change to its organisation).

Once the stockbroking firm has obtained the authorisation, it is subject to a number of disclosure and reporting obligations. Those obligations apply on a going concern basis.

5. Non-exhaustive list of annexes

Annex 1	Information on the person responsible for the authorisation application and on the contact person
Annex 2	Information on the firm
Annex 3	Information on the services for which an authorisation is requested
Annex 4	The forms to be completed by all significant shareholders or partners are available on the NBB's website: https://www.nbb.be/en/articles/communication-nbb201722-communication-candidate-shareholders-and-assigning-shareholders
Annex 5	Information on each person that is part of the investment firm's group
Annex 6	The forms to be completed by all persons applying for a position as a director, senior manager and person responsible for the independent control functions are available on the NBB's website: https://www.nbb.be/en/articles/circular-nbb201825-suitability-directors-members-management-committee-responsible-persons
Annex 7	Financial plan template for stockbroking firms
Other annexes	Manual of procedures, governance memorandum, ...