

## **NBB Privacy statement for the processing of personal data related to fit and proper assessments as part of the supervision of financial institutions**

### **1 Data Protection legal framework applicable to the National Bank of Belgium**

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

### **2 The NBB as controller of processing personal data**

The NBB is the controller of the data processing operations in the context of supervision of financial institutions<sup>1</sup>.

### **3 Purposes for processing personal data by the NBB**

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

### **4 Lawfulness of the NBB's data processing operations**

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

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

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

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

### **5 Categories of personal data processed by the NBB**

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

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<sup>1</sup> Within the meaning of point (7) of Article 4 of the GDPR.

- a) Personal data provided by the appointee (in written form or during interviews) which relate to:
- personal details**, such as full name, ID/passport number, nationality;
  - contact details**, such as address, email, phone number;
  - knowledge, skills and experience**, such as information regarding practical, professional experience gained in previous occupations and theoretical experience (knowledge and skills) gained through education and training;
  - reputation**, such as criminal record;
  - conflicts of interest**, such as any close personal relationship with a member of a management body, any significant private business transactions with the supervised entity, positions of significant political influence, etc.;
  - time commitment**, such as other professional or personal commitments or circumstances (e.g. involvement in a court case);
  - collective suitability of the board**, such as the added value of a particular candidate in relation to the overall composition of the board.
- b) Personal data that has come to the knowledge of the competent authority by other means (e.g. via the media).
- c) Personal data that is not related to the appointee but to third parties.
- d) Any comments by the ECB and/or NBB staff members regarding the performance of the appointee during the fit and proper procedure (e.g. comments that reflect the opinion or the assessment of the examiner on the individual performance of the appointee, particularly in relation to their knowledge and competences in the relevant field).

## 6 Access to personal data collected and processed by the NBB

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

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

## **7 Transfers of personal data to third countries**

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

## **8 Retention period**

At present, there is no specific statutory retention period for the data (including personal data) that the NBB obtained further to the performance of prudential supervisory tasks.

For this reason, the NBB follows the provisions of the Act of 24 June 1955 on the organisation of the Belgian archives (i.e. the Archives Act), unless provided otherwise by law for specific documents or data. In accordance with the Archives Act, all documents processed by a State administration in the performance of its tasks must be kept for thirty years.

The thirty-year retention period commences from:

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

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

## **9 Your rights as a data subject**

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

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

Please note that the exercise of these rights is restricted in particular by Article 12quater of the Act of 22 February 1998 establishing the organic status of the National Bank of Belgium.

## **10 Contact information in case of queries and requests**

For all queries relating to personal data or for the exercise of your rights, please contact the NBB's Data Protection Officer at [dataprotection@nbb.be](mailto:dataprotection@nbb.be).

## **11 Addressing the Data Protection Authority**

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

## **12 Changes to this Privacy Statement**

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