Commission de Surveillance
du Secteur Financier

PRUDENTIAL PROCEDURE FOR THE APPOINTMENT OF MEMBERS OF THE MANAGEMENT BODY AND KEY FUNCTION HOLDERS IN INSTITUTIONS

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TABLE OF CONTENTS

A. Scope and definitions 3

B. General requirements 4

C. Applications for authorisation and notifications 5

C.1. Appointment of new members of the management body 6
C.2. Appointment of new key function holders 7
I. For large institutions 7
II. For institutions other than large institutions 7

D. Notification of departure of a member of the management body or of a key function holder 8

E. Points of contact, competent authorities and file processing 8

E.1. Appointments and departure notifications of members of the management body 8
E.2. Applications for authorisation/notifications regarding certain key function holders 9

F. Specific provisions applicable to significant CRD institutions and to significant institutions 10

G. Effect of this Procedure 10

A. Scope and definitions

1. This Procedure describes the requirements in relation to:
   a. the applications for authorisation/departure notifications of the members of the management body, i.e. the members of the management body in its management function and the members of the management body in its supervisory function in credit institutions incorporated under Luxembourg law and financial holding companies or mixed financial holding companies included in the scope of prudential consolidation;
   b. the applications for authorisation/departure notifications of the persons who effectively direct the business of the Luxembourg branches of third-country credit institutions;
   c. the applications for authorisation/departure notifications of the heads of internal control functions, namely the Chief Risk Officer ("CRO"), Chief Compliance Officer ("CCO") and Chief Internal Auditor ("CIA"), as well as the Chief Financial Officer ("CFO") in large institutions.
   d. the appointment/departure notifications of the CRO, the CCO and the CIA in institutions other than large institutions.

2. For the purposes of this Procedure, "institution" refers to a credit institution, a Luxembourg branch of a third-country credit institution, a financial holding company or a mixed financial holding company within the limits of the scope defined under point 1.

3. "Competent authority" refers to the supervisory authority determined in accordance with Part E.

4. "Departure" of a relevant person refers to the resignation, dismissal, mutually agreed termination of the employment contract or internal transfer[1].

5. "Management body", "key function holders" and "significant institution" are defined as set out in Chapter 1 of Part I of Circular CSSF 12/552 on central administration, internal governance and risk management ("Circular CSSF 12/552") and in the Law of 5 April 1993 on the financial sector, as amended ("LFS").

6. "Large institution" means the entities referred to in Article 91a(5) of Directive 2013/36/EU.

7. "Relevant person" means any person (to be) appointed to one of the functions listed under point 1 above.

8. "Significant CRD institutions" refers to the systemically important credit institutions pursuant to Article 59-3 of the LFS, and, as appropriate, to the other credit institutions determined by the competent authority based on the assessment of the institutions' size and internal organisation as well as the nature, scale and complexity of their activities and for the purposes of Article 51(4) of the LFS, the financial holding companies and mixed financial holding companies meeting one of the aforementioned conditions.

9. The significant institutions in Luxembourg for the purposes of Article 38-2(2) (limitation of mandates) and of Article 38-6(1), first subparagraph, letter (m) (remuneration) of the LFS, are determined by the CSSF based on the assessment of the institutions' size and internal organisation as well as the nature, scale and complexity of their activities. This determination is made based on the elements set out in Article 38-2(3) of the LFS.

[1] The internal transfer refers to the change of function of a relevant person within an institution.

B. General requirements

10. The requirements stated in this Procedure derive from Circular CSSF 12/552, the joint European Banking Authority and European Securities and Markets Authority guidelines on the assessment of the suitability of members of the management body and key function holders ("EBA/GL/2021/06"), Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, as amended, and the LFS, notably Articles 7, 38-2, 38-2a, 38-2b and 51(4) thereof.

11. This Procedure and Circular CSSF 12/552 to which it refers must not be considered as an exhaustive compilation of the requirements applicable to the suitability assessment of the relevant persons. Institutions must apply all of the requirements set out in EBA/GL/2021/06, considering the principle of proportionality, where applicable.

12. Institutions must apply the requirements set out in this Procedure.

13. As far as the principle of proportionality is concerned, institutions must refer to the general explanations under Part I of Circular CSSF 12/552, under Title I of the Guidelines on internal governance published by the European Banking Authority ("EBA/GL/2021/05") and EBA/GL/2021/06.

    The application of the principle of proportionality requires in any case a prior and documented analysis by the institution in order to determine whether this application is justified considering the organisation, nature, scale and complexity of the activities and risks of the institution.

    It should be noted that the principle of proportionality does not apply to professional repute of the relevant persons. Indeed, all relevant persons must demonstrate their professional repute, honesty and integrity. Independence of mind[2] of the members of the management body, to which the principle of proportionality does not apply, must be demonstrated as well.

14. Primary responsibility for the initial and ongoing suitability assessment of the relevant persons rests with the institution.

    The institution must assume this responsibility as soon as the application for authorisation has been filed and whenever material changes affecting the institution occur, including:

    (1) a change of qualifying shareholder;
    (2) when appointing new members of the management body (including subsequent material changes that affect their functions);
    (3) when re-appointing members of the management body, if the requirements of the position have changed or if the member is appointed to a different position within the management body, or
    (4) when appointing new key function holders.

    As a general rule, the institution must fulfil its obligations on an ongoing basis. The institution's ongoing monitoring of the relevant persons should trigger a formal re-assessment:

    - when doubts arise on the skills or good repute of the relevant persons;
    - as part of the review of the institution's internal governance arrangements;
    - in the event of a material impact on the reputation of the relevant persons;
    - more generally, as soon as any new facts or other circumstances that could affect the suitability of the relevant persons become known;

[2] Independence of mind is referred to in point 9.2 of EBA/GL/2021/06.

- where there are reasonable grounds to suspect that money laundering or terrorist financing has been or is being committed or attempted or there is an increased risk thereof in connection with that institution and in particular in situations where the available information suggests that the institution:
  i. has not implemented appropriate internal controls or oversight mechanisms to monitor and mitigate ML/TF risks (e.g. identified by supervisory findings from on-site inspections or off-site inspections, supervisory dialogue or in the context of sanctions);
  ii. has been found to be in breach of its AML/CFT obligations;
  iii. has materially changed its business activity or business model in a manner that suggests that its exposure to ML/TF risk has significantly increased.

15. Institutions must have guiding principles, policies and procedures governing:

    (a) the selection, assessment, re-assessment, appointment and succession of relevant persons, as well as
    (b) the diversity[3], induction[4], training, monitoring and re-appointment of the members of the management body and the re-assessment of the collective suitability of the members of the management body.

    These principles, policies and procedures must comply with EBA/GL/2021/06, Circular CSSF 12/552 and this Procedure and ensure the good repute, honesty, integrity and independence of mind of these persons, as well as their appropriate knowledge, skills, experience and availability for the functions that they must perform.

    The above-mentioned principles, policies and procedures, as well as the assessments of the relevant persons and the re-assessment of the members of the management body and the appointment decisions must be documented in writing.

C. Applications for authorisation and notifications

16. The applications for authorisation and notifications submitted to the competent authority (cf. Part E. below) must be accompanied by an exhaustive and detailed file on the relevant person, drawn up in accordance with Parts C.1, C.2, or D below, as applicable.

    Where applications and notifications are filed in the context of an authorisation file of a new institution or of a qualifying holding procedure, the elements that must be included in the files and the steps to be followed within the file may deviate from the ad hoc applications and notifications set out below.

    Any file that does not comply with the requirements set out in this Procedure will be deemed incomplete and may be rejected.

17. Any appointment of a member of the management body or of a key function holder must be preceded by the institution's assessment of the relevant person. Such assessment must comply with the requirements of EBA/GL/2021/06 and must document the conclusions of the competent body or, where relevant, of the nomination committee. The information and documents

[3] The aspects of diversity refer to the characteristics of the members of the management body, including their age, gender, geographical provenance and educational and professional background. (cf. Title V of EBA/GL/2021/06).

[4] Institutions provide for the induction of members of the management body to facilitate their clear understanding of the relevant laws, regulations and administrative provisions, the institution's structure, business model, risk profile and governance arrangements, and the role of the member(s).

requested for the first appointment of a member of the management body must include the items listed in Annex III of EBA/GL/2021/06. The assessment of the members of the management body includes, in particular, the criteria listed in Annex II of EBA/GL/2021/06.

18. Where material changes, identified during the mandate or at the re-appointment, affect the functions of a member of the management body, institutions must provide the competent authority with an amended file containing all the elements that have changed as compared to the initial file, as well as the outcome of the re-assessment performed by the institution. The material changes referred to above include, in particular, a change in the executive or non-executive nature of the mandate.

19. Institutions must inform the competent authorities, without undue delay, of any event or information of which they have become aware and which casts doubts on the suitability of a relevant person, of any identified material shortcomings concerning the management body's collective composition, as well as of any measure envisaged by the institution to remedy the situation and the timeline for their implementation.

C.1. Appointment of new members of the management body

20. When appointing members of the management body, before the position is taken up, the institution must assess their suitability, i.e. knowledge, skills, experience, good repute, honesty and integrity of the relevant persons, their availability for the contemplated function and the conflicts of interest that may affect them.

21. The institution must also consider the impact of an appointment on the collective suitability of the management body.

    While the management body in its management function should collectively have a high level of administration and managerial skills, the management body in its supervisory function should collectively have sufficient management skills to organise its tasks effectively and its supervisory functions to be able to understand and challenge the management practices applied and decisions taken by the management body in its management function.

    The institution must also re-assess whether the diversity, the collective knowledge, skills and experience within these bodies remain adequate considering the institution's business model and the nature, scale and complexity of its activities and inherent risks. This re-assessment must also be performed at the departure of members who are not immediately replaced.

    When assessing the collective adequacy of knowledge, skills and experience within the management body, institutions may refer to Annex I of EBA/GL/2021/06, considering the principle of proportionality.

Content of the authorisation files to be submitted to the competent authority

22. Following the internal assessment of a relevant person for his/her appointment within an institution, the institution concerned is required to provide the competent authority with an initial file, comprising at least the following information and documents:

    I. For significant institutions ("SIs"), or financial holding companies or mixed financial holding companies included in the scope of prudential consolidation, directly supervised by the European Central Bank ("ECB"):
        a. a "Fit & Proper" declaration for SIs, to be filled in directly in the SSM Portal and
        b. all of the annexes required as part of the declaration.

Further information as well as the access link to the SSM Portal can be found under: SSM Portal.

II. For less significant institutions ("LSIs"), or financial holding companies or mixed financial holding companies included in the scope of prudential consolidation, directly supervised by the CSSF:

a. a "Fit & Proper" declaration for LSIs, consisting of two documents: the first one to be filled in with due care and signed by the relevant person and the second one to be filled in with due care and signed by the institution (cf. last version of this document in the section dedicated to credit institutions on the CSSF website, sub-section Internal governance – CSSF), "Forms"[5], and

b. all of the annexes required in this declaration.

C.2. Appointment of new key function holders

23. When appointing key function holders, before the position is taken up, the institution must assess their suitability, i.e. knowledge, skills, experience and good repute.

24. The appointments of certain key function holders (CRO, CCO, CIA and CFO) of large institutions are subject to an authorisation by the CSSF or the ECB.

25. The appointments of certain key function holders (CRO, CCO, CIA) of institutions other than large institutions do not require an authorisation by the CSSF where they are not part of the management body in the exercise of its management function.

Content of the authorisation or notification files to be submitted to the competent authority

26. Following the internal assessment for the appointment of key function holders within a given institution, the institution concerned is required to provide the competent authority with a file comprising at least the following information and documents on the relevant persons:

I. For large institutions

a. A "Fit & Proper" declaration for SIs, to be filled in directly in the SSM Portal and

b. all of the annexes required as part of the declaration.

Further information as well as the access link to the SSM Portal can be found under: SSM Portal

Institutions that qualify as large institutions but that are LSIs must follow the procedure set out under point C.2. II below.

II. For institutions other than large institutions

a. A "Fit & Proper" declaration for key function holders, consisting of two documents: the first one to be filled in with due care and signed by the relevant person and the second one to be filled in with due care and signed by the institution (cf. last version of this document in

[5] The declaration may be amended from time to time, hence the importance of always downloading the latest version from the CSSF website.

the section dedicated to credit institutions on the CSSF website, sub-section Internal governance – CSSF), "Forms"[6], and

b. all of the annexes required in the declaration.

D. Notification of departure of a member of the management body or of a key function holder

27. In case of resignation or mutually agreed termination of the employment contract of a relevant person, the institution must notify the resignation or termination to the competent authority without undue delay. The notification must include all the reasons stated by the resigning person and, where applicable, a copy of the resignation letter or termination agreement.

28. In case of dismissal or transfer of a relevant person, the institution must immediately inform the competent authority by providing a detailed and comprehensive justification of this decision. The institution must indicate all the arguments having had an impact on this decision or having been put forward vis-à-vis the relevant person.

    The dismissal or transfer of certain key function holders requires a prior decision or written agreement by the supervisory body, which must be attached to the notification to the competent authority. At the request of the competent authority, the institution must also provide a copy of the letter of dismissal or transfer and the related reasons.

29. When notifying the departure of a relevant person, the institution must specify if and when the institution intends to replace the relevant person.

E. Points of contact, competent authorities and file processing

E.1. Appointments and departure notifications of members of the management body

30. The CSSF is the single point of contact for the introduction of all files for SIs, via the SSM Portal, and for LSIs.

    In terms of competence:

    - For already authorised LSIs, the CSSF has exclusive competence for the assessment of the files and the authorisation of the relevant persons.
    - For SIs directly supervised by the ECB, the CSSF and the ECB are jointly involved in the assessment of the files. The authorisation is granted by the ECB.
    - In the case of a new institution requesting a banking licence, the assessment of the suitability and the authorisation of the relevant persons are an integral part of the institution's authorisation file.

31. The files must include all the information and all the documents requested under C.1. or D., as applicable, and be transmitted electronically to the CSSF, except for SIs, which must submit their appointment applications exclusively via the SSM Portal (cf. point 22 for the access link).

[6] The declaration may be amended from time to time, hence the importance of always downloading the latest version from the CSSF website.

The SSM Portal must exclusively be used for new "Fit & Proper" applications regarding members of the management body of SIs, in both their executive and supervisory function (non-executive).

Applications received via postal service are not accepted.

The institution must confirm in its cover letter of the application file that the enclosed documents are true copies of the original documents.

32. The requests relating to the assessment of the members of the management body must be transmitted to the competent authority without undue delay and as soon as there is a clear intention to appoint a member of the management body, and, in any event, at the latest **30 working days** before the prospective members take up their position. The CSSF may require that the prospective member does not take up the position before the required information has been provided.

    The departure notifications must be transmitted to the CSSF without undue delay.

33. In accordance with the generally applicable deadlines for administrative decisions, authorisation decisions are communicated to the institution concerned by the competent authority within three months of receipt of an application file which the competent authority considers to be complete. Where the authorisation file is supplemented by an interview with the relevant person, the three-month period only starts at the end of this complementary step.

34. The refusal or withdrawal of a relevant person's authorisation will be communicated to the person with the relevant factual and legal elements on which the competent authority intends to base its decision. The relevant person will have the opportunity to express his/her views. A final decision will indicate the remedies, means and time limits available to the parties concerned to bring an action.

E.2. Applications for authorisation/notifications regarding certain key function holders

35. The files must include, at a minimum, all the information and all the documents requested under C.2 or D., as applicable. The files regarding certain key function holders of institutions other than large institutions must be transmitted electronically, without undue delay, to the competent authority. The institution must confirm in its cover letter that the enclosed documents are true copies of the original documents.

    In terms of competence:

    - For already authorised LSIs, the competent authority for receiving and processing the files is the CSSF.
    - For SIs directly supervised by the ECB, the competent authority is the ECB and the files must be transmitted to the Joint Supervisory Team ("JST").
    - In the case of a new institution requesting a banking licence, the files of the relevant persons are processed in the context of the institution's authorisation (provided these persons have already been designated).

36. Where the competent authority considers that the institution's internal governance or control arrangements show weaknesses, it may require the institution to promptly take appropriate remedial measures in accordance with Article 53-1 of the LFS.

37. By submitting the file of a member of the management body or of a key function holder, the institution and the relevant person accept that the information concerning this file be processed by the CSSF and the ECB in accordance with their respective procedures and the regulations in force.

F. Specific provisions applicable to significant CRD institutions and to significant institutions

38. In accordance with point 103 of EBA/GL/2021/06, the diversity policy for **significant CRD institutions** must include a quantitative target for the representation of the under-represented gender in the management body. Significant CRD institutions must quantify the targeted participation of the under-represented gender and specify an appropriate timeframe within which the target should be met and how it will be met. The target must be defined for the management body collectively, but may be broken down into the management and supervisory functions where a sufficiently large management body exists.

39. **Significant CRD institutions** must also document, as part of the annual review of the composition of the management body, their compliance with the diversity objectives and targets set. In the event that these objectives or targets have not been met, the significant CRD institutions must document the reasons why, the measures to be taken and the timeframe for measures to be taken, in order to ensure that the diversity objectives and targets will be met. These documents must be made available by the institutions at the first request of the competent authority.

40. In accordance with point 160 of EBA/GL/2021/06, **significant CRD institutions** inform the competent authorities at least annually of any re-assessments of collective suitability made.

41. With the exception of the representatives of the Luxembourg State, the members of the management body of **institutions that are significant in Luxembourg** must comply with the limitations provided for in Article 38-2(2) of the LFS as regards the number and the nature of the functions which may be held at the same time. This strict limitation of the number of functions is complementary to the general availability requirements deriving from Article 38-2(1)(b) of the LFS.

G. Effect of this Procedure

This Procedure cancels and replaces the previous version with effect as from 15 October 2026. Any authorisation files that may be pending on that date must be completed, at the request of the competent authority, in order to meet the requirements of this Procedure.