

PRIVACY STATEMENT

FIT AND PROPER PROCEDURE

PURPOSE AND LEGAL BASIS FOR THE PROCESSING OF PERSONAL DATA IN THE CONTEXT OF THE FIT AND PROPER PROCEDURE

The safety and soundness of a credit institution depend on the availability of appropriate internal organisation structures and corporate governance arrangements. Council Regulation (EU) No 1024/2013 of 15 October 2013 (**SSM Regulation**)¹ confers specific tasks on the European Central Bank (**ECB**) concerning policies relating to the prudential supervision of credit institutions on the basis of Article 127(6) of the Treaty on the Functioning of the European Union (**TFEU**).

For prudential supervisory purposes, the ECB is entrusted with the tasks in relation to credit institutions established in the participating Member States referred to in Article 4, within the framework of Article 6, of the SSM Regulation.

According to Article 4(1)(e) of the SSM Regulation, the ECB is to ensure compliance with the acts of the relevant Union law which impose requirements on credit institutions to have in place robust governance arrangements, including the **fit and proper requirements for the persons responsible for the management of credit institutions**. For the purpose of carrying out its tasks, pursuant to Article 16(2)(m) of the SSM Regulation, the ECB has also the supervisory power to remove at any time members from the management body of credit institutions who do not fulfil the requirements set out in the acts of the relevant Union law. Article 91(1) of **CRD IV**² sets that members of the management body shall at all times be of sufficiently good repute and possess sufficient knowledge, skills and experience to perform their duties. Within the procedures for the supervision of significant supervised entities, Articles 93 and 94 of the **SSM Framework Regulation**³ lay down the rules on the assessment by the ECB regarding the compliance with the fit and proper requirements for persons responsible for managing credit institutions. In order to ensure that fit and proper requirements are met at all times, according to Article 94(2) of the SSM Framework Regulation the ECB may initiate a new assessment based on new facts if the ECB becomes aware of any new facts that may have an impact on the initial assessment of the concerned member of the management body.

DISCLOSURE OF PERSONAL DATA

All the required personal data is necessary to carry out the fit and proper assessment of members of management bodies' of existing significant supervised entities. If not provided,

¹ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, OJ L 175, 14.6.2014.

² Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013.

³ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities, OJ L 141, 14.5.2014.

the ECB may not assess whether the concerned managers comply with the fit and proper requirements, in order to ensure that credit institutions have in place robust governance arrangements. Therefore, it shall reject the appointment or request the dismissal of the concerned managers on that basis.

RECIPIENTS OR CATEGORIES OF RECIPIENTS OF THE PERSONAL DATA

In the fit and proper procedure the personal data may be disclosed, on a need-to-know basis, to the NCAs' staff, the Joint Supervisory Teams' staff (ECB Directorate General – Micro-Prudential Supervision I or II), ECB Directorate General – Micro-Prudential Supervision IV staff (Authorisation Division), the Secretariat of the Supervisory Board and the members of the Supervisory Board and of the Governing Council of the ECB.

APPLICABLE RETENTION PERIOD

The ECB is to store personal data regarding fit and proper applications/notifications for a period of fifteen years; from the date of application or notification if withdrawn before a formal decision is reached; from the date of a negative decision or from the date the data subjects cease to be members of the management bodies of the supervised entity in the case of a positive ECB decision. In case of re-assessment based on new facts, the ECB is to store personal data for fifteen years from the date of the ECB decision. In case of initiated administrative or judicial proceedings, the retention period shall be extended and end one year after these proceedings are sanctioned by a decision having acquired the authority of a final decision.

APPLICABLE DATA PROTECTION FRAMEWORK AND DATA CONTROLLER

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁴ is applicable to the processing of personal data by the ECB. For the purposes of Regulation (EC) No 45/2001, the ECB shall be the Data Controller.

DATA SUBJECT RIGHTS

The data subjects of the processing of personal data by the ECB for the mentioned prudential supervisory purpose have access rights to and the right to rectify the data concerning him or herself according to Article 9 of the ECB Decision of 17 April 2007 adopting implementing rules concerning data protection at the ECB (ECB/2007/1)⁵.

POINT OF CONTACT?

In case of queries or complaints regarding this processing operation, you can contact the Data Controller at Authorisation@ecb.europa.eu, and/or the National Competent Authority at fma@fma.gv.at.

⁴ OJ L 8, 12.1.2001.

⁵ OJ L116, 4.5.2007.

Equally, you also have the right to have recourse at any time to the European Data Protection Supervisor. The data subjects also have the right to recourse at any time to the European Data Protection Supervisor: <https://secure.edps.europa.eu/EDPSWEB/edps/lang/en/EDPS>.