

Annex Practical guide

**FSMA\_2019\_16-7 of 17/07/2019**

Notification of changes concerning the expertise or professional integrity of a member of an operational body or a key function holder of an Institution for Occupational Retirement Provision (IORP)

Scope:

Institutions for Occupational Retirement Provision

Members of an operational body and key function holders of an IORP must possess the necessary professional integrity and appropriate expertise for the exercise of their function.

The FSMA expects both the IORP and the designated persons to immediately communicate to the FSMA any fact or aspect that implies a change to the information provided—especially during the appointment—that could have a significant influence on the necessary professional integrity and the appropriate expertise for the exercise of the function concerned.

For this purpose, we ask you to communicate these changes by filling in the present questionnaire and uploading it in the correct section of the eCorporate application. We ask you these questions pursuant to Article 77 of the Law of 27 October 2006 on the supervision of institutions for occupational retirement provision (‘LIRP’).

This questionnaire has two sections, both of which need to be filled in.

* Are you a ***member of an operational body or a key function holder?*** If so, please fill in **section A**.
* Are you the **IORP**? If so, please fill in **section B**.

It is important that you answer truthfully. You need to supply all the information you could reasonably expect would be useful to our evaluation. We will take into account any special circumstances as well as any explanations you have given.

Therefore, disclosing certain information does not necessarily lead to a reassessment of the expertise or professional integrity of the person concerned. We will take into account any mitigating circumstances, the extent to which you are accountable for the facts, the measures taken to resolve problems, how long ago the facts took place etc.

If you are unsure as to whether certain information may or may not be pertinent, it is best to mention it in any case, and explain why you think this information is not—or is no longer—pertinent. We may also invite you for an interview.

***The FSMA makes sure your data is protected.***

**Processing of personal data**

The personal data provided using the present questionnaire and its annexes will be handled by the FSMA in the way described in our [Privacy Policy](https://www.fsma.be/en/faq/fsma-privacy-policy).

The FSMA collects data as part of its enforcement of the requirements for professional integrity and appropriate expertise as provided for by Article 77 of the LIORP. We may also use the data communicated as part of the present application when evaluating future applications for the same function or for functions to which similar requirements of professional integrity and appropriate expertise apply, and for the purposes of our permanent supervision of compliance with the requirements for mandates already exercised in companies subject to the FSMA’s supervision.

In accordance with Article 75, § 3 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, the FSMA may also use the data collected for other purposes if the processing of this data is required in order to perform the other public-interest tasks we have been conferred by Article 45, § 1 of the said Law or any other provision under national or European law.

In accordance with the General Data Protection Regulation (Regulation (EU) 2016/679, ‘GDPR’), the persons concerned have a series of rights relating to their personal data. Some of these rights are subject to special conditions or exceptions. For more information on these rights and on the way in which they may be exercised, please refer to the FSMA’s [Privacy Policy](https://www.fsma.be/en/faq/fsma-privacy-policy).

**Structure**

Section A

1. You hereby agree to provide complete and truthful answers
2. Your function
3. Changes to your expertise or professional integrity
4. Your signature

Section B

1. You hereby agree to provide complete and truthful answers
2. Changes to the expertise or professional integrity of the person in the function
3. Evaluation of the IORP concerning the new aspects relating to the expertise or professional integrity of the person in the function
4. Your signature

**Section A: You are a member of an operational body or a key function holder of an IORP**

# You hereby agree to provide complete and truthful answers

[ ]  I hereby agree to provide complete and truthful answers. I am aware that withholding or falsifying any relevant information may have a negative impact on the FSMA’s evaluation of my professional integrity and appropriate expertise.

# Your function

* 1. You are a member of an operational body or a key function holder at....

|  |  |
| --- | --- |
| **Name of the IORP** |  |
| **FSMA identification code** |  |
| **Company number of the IORP** |  |

* 1. You exercise your function....

### As a natural person

Fill in this section if you are a member of an operational body or a key function holder in your own name as a natural person. If you are acting as a permanent representative of a legal entity, please fill in parts 2.2.2.1 and 2.2.2.2

|  |  |
| --- | --- |
| Surname |  |
| First name(s) |  |
| National ID number[[1]](#footnote-1) |  |
| Gender |  |
| Nationality |  |
| Domicile |  |
| Place of residence (if different from domicile) |  |
| Telephone/mobile phone number (professional) |  |
| E-mail address (professional) |  |

### As a permanent representative of a legal entity

#### Information pertaining to the legal entity designated for the function

|  |  |
| --- | --- |
| Company name |  |
| Legal form |  |
| Nationality |  |
| Company number[[2]](#footnote-2) |  |
| Address of registered office  |  |
| Address of administrative headquarters (if different from registered office) |  |
| E-mail address  |  |

#### Information pertaining to the permanent representative of the legal entity

|  |  |
| --- | --- |
| Surname |  |
| First name(s) |  |
| National ID number[[3]](#footnote-3) |  |
| Gender |  |
| Nationality |  |
| Domicile |  |
| Place of residence (if different from domicile) |  |
| Telephone/mobile phone number (professional) |  |
| E-mail address (professional) |  |

* 1. You have the function of....

### Which function?

|  |  |
| --- | --- |
| **Your function** *(if applicable, you may tick several functions)* | * *Member of the Board of Directors*

[ ]  Executive director[ ]  Non-executive director[ ]  Independent director (non-executive)[ ]  Director representing one or more sponsoring undertaking/s[ ]  Director representing the members or pensioners[ ]  Chair of the Board of Directors* *Member of another operational body*

[ ]  Member of the Management Committee[ ]  Member of the body tasked with day-to-day management[ ]  Member of the Administrative Committee [ ]  Member of the Investment Committee[ ]  Member of the Risk-Management Committee[ ]  Member of the Audit Committee[ ]  Member of the Remuneration Committee[ ]  Member of an operational body other than those already mentioned [ ]  name of this operational body ……........................................................[ ]  Chair of an operational body [ ]  name of this operational body……........................................................ |
|  | * *Key function*

[ ]  Internal audit [ ]  Risk management [ ]  Actuary[ ]  Compliance function |
| **Job title** *(your function as it will appear in the organization chart)* |  |

### Are there changes relating to a combination of functions?

[ ]  Yes

[ ]  No

If you have answered ‘yes’, please state below what function(s) you combine with your function *(if applicable, you may tick more than one function)*.

|  |
| --- |
| [ ]  Member of the Board of Directors[ ]  Member of another operational body[ ]  name of this operational body:……........................................................ [ ]  Member of a committee of the IORP that is not an operational body[ ]  name of this committee……........................................................ [ ]  Key function holder[ ]  which key function?……........................................................  |

In such a case, you must send the FSMA all information and documents relating to the new function that you are to combine with your current function. Use the following forms for this purpose:

* [*questionnaire concerning the initial appointment of a member of an operational body of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-1_en.docx);
* [*questionnaire concerning the initial appointment of a key function holder of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-2_en.docx)

# New aspects relating to your expertise or professional integrity

You must communicate all facts and aspects:

* that have occurred since your appointment or the renewal thereof, and
* that could have a significant influence on your professional integrity and/or your expertise.

To do so, please complete the part/s concerned of section A of the relevant questionnaire for the initial appointment:

* [*questionnaire concerning the initial appointment of a member of an operational body of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-1_en.docx);
* [*questionnaire concerning the initial appointment of a key function holder of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-2_en.docx)

Do not forget, if necessary, to also fill in the explanatory document on ‘professional integrity’ ([link](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-3_en.docx)) and/or the explanatory document on ‘conflicts of interest’ ([link](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-4_en.docx)) and to include the required annexes.

Indicate in the table below in what part of the ‘initial appointment’ questionnaire the information has changed.

|  |  |  |
| --- | --- | --- |
|  |  | **Date on which the ‘initial appointment’ questionnaire was last filled in or amended**  |
| 3.1. the information in part 3. ‘You have the appropriate expertise’ in the ‘initial appointment’ questionnaire has changed. | [ ]  Yes[ ]  No |  |
| 3.2. the information in part 4. ‘You have professional integrity’ of the ‘initial appointment’ questionnaire has changed. | [ ]  Yes[ ]  No |  |
| 3.3. the information in part 5. ‘You are aware of the conflicts of interest that may arise’ in the ‘initial appointment’ questionnaire has changed | [ ]  Yes[ ]  No |  |
| 3.4. the information in part 6. ‘You are able to devote sufficient time to the function’ in the ‘initial appointment’ questionnaire has changed | [ ]  Yes[ ]  No |  |

Fill in each part of the ‘initial appointment’ questionnaire in which the content has changed and attach it to this notification.

# Your signature

|  |  |
| --- | --- |
| **Date** |  |
| **Surname** |  |
| **Signature** |  |

# Forgotten anything?

[ ]  **Have you provided full and accurate answers to all the questions in the section of the present questionnaire?**

[ ]  Have you filled in the pertinent sections of the [*questionnaire concerning the initial appointment of a member of an operational body of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-1_en.docx) or of the [*questionnaire concerning the initial appointment of a key function holder of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-2_en.docx) if changes have occurred in the information relating to your expertise and your professional integrity previously communicated to the FSMA?

[ ]  If so, have you attached the related annexes (copy of judgments, criminal record etc.)?

[ ]  Have you completed and attached an **explanatory document** concerning all the statements concerning your **professional integrity** which are not, or not entirely, true?

[ ]  If so, have you attached the related annexes (copy of judgments etc.)?

[ ]  Have you completed and attached an **explanatory document** concerning all the statements concerning **conflicts of interest** which are not, or not entirely, true?

[ ]  If so, have you attached the related annexes (copy of judgments, criminal record etc.)?

**Number of annexes:**…………………………………………………………………………………............

***NB!***

**You must immediately and of your own accord inform the IORP and the FSMA if the answers you have given here are no longer valid. This obligation applies in particular if the information that has changed could have a significant impact on the appropriate expertise and professional integrity required from you. You can do so using the same questionnaire (**[link](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-7_en.docx)**).**

**Section B: You are the IORP**

# You hereby agree to provide complete and truthful answers

☐ I hereby agree to provide complete and truthful answers. I am aware that withholding or falsifying any relevant information may have a negative impact on the FSMA’s evaluation of the professional integrity and appropriate expertise of the person in the function.

# Changes to the expertise or professional integrity of the person in the function

You must communicate all facts or aspects:

* that have occurred since the appointment of the person concerned or the renewal thereof, and
* that could have a significant influence on his/her/its professional integrity and/or his/her/its expertise.

To do so, please complete the part/s concerned of section B of the relevant questionnaire for the initial appointment:

* [*questionnaire concerning the initial appointment of a member of an operational body of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-1_en.docx);
* [*questionnaire concerning the initial appointment of a key function holder of an Institution for Occupational Retirement Provision (IORP)*](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-2_en.docx)

## The changes concern a member of an operational body

Indicate in the table below in what part of section B of the ‘initial appointment’ questionnaire the information has changed.

|  |  |
| --- | --- |
| 2.1.1. the information in part 2. ‘What expertise does the IORP expect from members of the operational body?’ in the ‘initial appointment’ questionnaire has changed | [ ]  Yes[ ]  No |
| 2.1.2. the information in part 3. ‘According to the IORP, the applicant has the appropriate expertise’ in the ‘initial appointment’ questionnaire has changed | [ ]  Yes[ ]  No |
| 2.1.3. the information in part 4. ‘According to the IORP, the operational body has collective expertise’ in the ‘initial appointment’ questionnaire has changed | [ ]  Yes[ ]  No |

Fill in each part of Section B of the ‘initial appointment’ questionnaire in which the content has changed and attach it to this notification.

**2.2. The changes concern a key function**

|  |  |
| --- | --- |
| The information in part 2. ‘Have you evaluated the management of the key function’? of the ‘initial appointment’ questionnaire has changed. | [ ]  Yes[ ]  No |

If you have answered ‘yes’, fill in part 2 of Section B of the ‘initial appointment’ questionnaire and attach it to this notification.

# Evaluation of the IORP concerning new aspects relating to the expertise or professional integrity of the person in the function

What conclusion does the IORP draw from the changes to the information previously provided to the FSMA concerning the expertise and professional integrity of the person concerned?

## Based on a careful and reasonable evaluation, the IORP considers that the person concerned continues to have the appropriate expertise and professional integrity.

[ ]  Yes

[ ]  No

## If not, the IORP plans to take the following measures

Add lines if necessary.

|  |  |
| --- | --- |
| **Type of measures** | **Procedure and timescales** |
|  |  |

# Your signature

***You confirm to the FSMA that***

[ ]  you have answered the questions in section B of the present questionnaire accurately and completely;

[ ]  The IORP has, with due diligence, verified that the responses provided in section A of the present questionnaire were accurate and complete;

**The IORP must immediately and of its own accord inform the FSMA if the answers given in the present questionnaire are no longer valid. This obligation applies in particular if the change to the information provided could have a significant impact on the appropriate expertise and professional integrity of the person in the function or on the collective expertise of the operational body. You can do so using the same questionnaire (**[**link**](https://www.fsma.be/sites/default/files/public/content/EN/circ/2019/fsma_2019_16-7_en.docx)**).**

**The IORP must not forget to immediately inform the FSMA of the termination of the mandate of a member of an operational body or of a key function holder. The following document may be used for this (in** [**French**](https://www.fsma.be/sites/default/files/public/content/FR/circ/2019/fsma_2019_16-8_fr.docx) **or** [**Dutch**](https://www.fsma.be/sites/default/files/public/content/NL/circ/2019/fsma_2019_16-8_nl.docx)**).**

|  |  |
| --- | --- |
| **Date** |  |
| **Surname** |  |
| **Role** |  |
| **Signature** |  |

1. **If you do not have a Belgian national ID number, you must state your date and place of birth.** [↑](#footnote-ref-1)
2. **Foreign legal entities must provide an equivalent national company number.** [↑](#footnote-ref-2)
3. **If you do not have a Belgian national ID number, you must state your date and place of birth.** [↑](#footnote-ref-3)