

Annex Practical guide

**FSMA\_2019\_16-5 of 17/07/2019**

Questionnaire concerning the renewal of the appointment of a member of an operational body of an Institution for Occupational Retirement Provision (IORP)

Scope:

Institutions for Occupational Retirement Provision

Members of an operational body of an IORP must possess the necessary professional integrity and appropriate expertise for the exercise of their function. The FSMA is also tasked with evaluating whether these requirements are met at the time of renewal of the appointment of a member of an operational body.

For this purpose, we ask you to complete the present questionnaire for any proposal for the renewal of the appointment of a member of an operational body and to upload it in the correct section in 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 **applying for the renewal of your appointment as a member of an operational body**? If so, please fill in **section A**.

Your answers to this questionnaire are necessary for us to gauge whether you have maintained your appropriate expertise and professional integrity.

* Are you an **IORP proposing the renewal of the appointment of a member of an operational body?** If so, please fill in **section B**.

We will use your responses to this questionnaire to assess how you, as an IORP, have complied with your responsibilities as regards maintenance of the appropriate expertise and professional integrity of a member of an operational body of your institution whose appointment is proposed to be renewed.

With these questions, we would also like to verify whether the members of the operational bodies of your institution still collectively possess the requisite qualifications, knowledge and experience. To do so, we will not only take into account the tasks and responsibilities of the applicants themselves but also the tasks, responsibilities, knowledge, skills and experience of the other members of the operational body. The extent to which applicants themselves or the operational body call on advisors with the requisite expertise will also be taken into consideration in our evaluation.

It is important that you answer truthfully. You need to supply all the information you could reasonably expect would be useful to our evaluation. In addition, 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 rejection. 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.

***We respect your privacy***

**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 application
3. You have sent the FSMA all the information necessary to evaluate your expertise and professional integrity for the renewal of your appointment
4. Your signature

Section B

1. You hereby agree to provide complete and truthful answers
2. You have already sent the FSMA the information necessary to evaluate the expertise and professional integrity of the applicant for the renewal of appointment
3. Your signature

**Section A: You are applying for the renewal of your appointment as a member of an operational body**

# 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 application

## You are applying for the renewal of your appointment as a member of an operational body of...

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

## You are applying for the renewal of your appointment as...

### A natural person

Fill in this section if you are applying in your own name as a natural person for the renewal of your appointment as member of an operational body. If you are acting as a permanent representative of a legal entity applying for the renewal of its appointment as member of an operational body, 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 applicant

#### **Information pertaining to the legal entity applicant**

|  |  |
| --- | --- |
| 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 applicant**

|  |  |
| --- | --- |
| 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) |  |

## You are applying for the renewal of your appointment for...

### The function of:

|  |  |
| --- | --- |
| **The function/s you are applying to renew** *(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 another operational body[ ]  name of this operational body……........................................................ |
| **Job title** *(your function as it will appear in the organization chart)* |  |
| **Anticipated date of renewal** |  |
| **Leaving date** *(if known)* |  |
| **Anticipated date of the final decision on the renewal of the appointment of the applicant** |  |

### Has the content of the function changed?

[ ]  Yes

[ ]  No

If you have answered ‘yes’, describe, as specifically as possible, your tasks and responsibilities that have changed.

|  |
| --- |
|  |

### Will you combine the function concerned (or continue to combine it) with another function within the IORP?

[ ]  Yes

[ ]  No

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

If you are acting as a permanent representative of an applicant legal entity, state the potential combination of functions, both for the applicant legal entity and for yourself, whether you are acting as a permanent representative of a legal entity or in a personal capacity. If necessary, copy the table and indicate where applicable on each copy, the capacity in which you are filling it in.

|  |
| --- |
| [ ]  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? ……........................................................  |

# You have sent the FSMA all the information necessary to evaluate your expertise and professional integrity for the renewal of your appointment

As part of the renewal of your appointment to an identical function, you may refer to information and documents already sent to the FSMA in the past (after the entry into force of the Law of 11 January 2019). If this information or these documents no longer reflect your current situation, you must send the FSMA the updated versions.

## The information sent previously to the FSMA is still valid.

Declare below the extent to which the information sent previously to the FSMA is still valid.

|  |  |  |
| --- | --- | --- |
| **Statement** |  | **Date on which the ‘initial appointment’ questionnaire was last filled in or amended**  |
| **3.1.1.** All the information provided in section 3 ‘You have the appropriate expertise’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |
| **3.1.2.** All the information sent in section 4 ‘You have professional integrity’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |
| **3.1.3.** All the information sent in section 5, ‘You are aware of the conflicts of interest that may arise’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |
| **3.1.4.** All the information provided in section 6 ‘You are able to devote sufficient time to the function’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |

## The information previously sent to the FSMA is no longer valid.

If you have not been able to confirm that each of the statements in point 3.1 is true, you need to fill in the part/s concerned again in section A 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). If necessary, 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)).

|  |  |  |
| --- | --- | --- |
| **I will fill in** |  | **The annex/es to the ‘initial appointment’ questionnaire** |
| **3.2.1.** part 3. ‘You have the appropriate expertise’ in the ‘initial appointment’ questionnaire. | [ ]  Yes[ ]  No |  |
| **3.2.2.** part 4. ‘You have professional integrity’ in the ‘initial appointment’ questionnaire  | [ ]  Yes[ ]  No |  |
| **3.2.3.** part 5. ‘You are aware of the conflicts of interest that may arise’ in the ‘initial appointment’ questionnaire  | [ ]  Yes[ ]  No |  |
| **3.2.4.** part 6. ‘You are able to devote sufficient time to the function’ in the ‘initial appointment’ questionnaire | [ ]  Yes[ ]  No |  |

# Your signature

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

# Forgotten anything?

[ ]  **Have you provided full and accurate answers to all the questions?**

[ ]  Have you filled in and attached 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/FR/circ/2019/fsma_2019_16-1_fr.docx) if the information sent previously concerning your expertise and your professional integrity was no longer valid?

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

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

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

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

[ ]  If so, have you attached the related annexes (copy of decisions, 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. In this respect, please pay particular attention to the chapters on professional integrity, conflicts of interest and the time devoted to the function. The following document may be used for this (**[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 proposing the renewal of the appointment of a member of an operational body**

# 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 applicant’s professional integrity and appropriate expertise.

# You have sent the FSMA all the information necessary to evaluate the expertise and professional integrity of the applicant for the renewal of appointment

## The information sent previously to the FSMA by the IORP is still valid.

The IORP declares the extent to which the information sent previously to the FSMA is still valid.

|  |  |  |
| --- | --- | --- |
| **Statement** |  | **Date on which the ‘initial appointment’ questionnaire was last filled in or amended**  |
| **2.1.1.** All the information sent in section 2 ‘What expertise does the IORP expect from members of the operational body?’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |
| **2.1.2.** All the information sent in section 3 ‘According to the IORP, the applicant has the appropriate expertise’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |
| **2.1.3.** All the information sent in section 4 ‘According to the IORP, the operational body has collective expertise’ in the ‘initial appointment’ questionnaire is still valid. | [ ]  True. |  |

## The information sent previously by the IORP to the FSMA is no longer valid.

If you have not been able to confirm that each of the statements in point 2.1 is true, you need to fill in the part/s concerned again in section B 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/FR/circ/2019/fsma_2019_16-1_fr.docx).

|  |  |
| --- | --- |
| **2.2.1.** I will fill in part 2. ‘What expertise does the IORP expect from members of the operational body?’ in the ‘initial appointment’ questionnaire | [ ]  Yes[ ]  No |
| **2.2.2**. I will fill in part 3. ‘According to the IORP, the applicant has the appropriate expertise’ in the ‘initial appointment’ questionnaire | [ ]  Yes[ ]  No |
| **2.2.3.** I will fill in part 4. ‘According to the IORP, the operational body has collective expertise’ in the ‘initial appointment’ questionnaire | [ ]  Yes[ ]  No |

# Your signature

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

[ ]  you have answered the questions in section B truthfully 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 considers, based on a careful and reasonable evaluation, that the applicant continues to possess the appropriate expertise and professional integrity, taking into account the function and the extent to which the applicant or the operational body calls on advisors with the requisite expertise;

[ ]  The IORP considers, based on a careful and reasonable evaluation, that the members of the operational body still collectively possess the appropriate expertise, taking into account the extent to which advisors with the requisite expertise are called on;

***NB!***

**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 applicant or on the collective expertise of the operational body. In this respect, please pay particular attention to the chapters on professional integrity, conflicts of interest and the time devoted to the function. The following document may be used for this (**[**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 any terminations of mandates of a member of an operational body. 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)