



FSMA_2017_10-2 of 28/06/2017

Fit and proper questionnaire for the renewal of an appointment

Scope

Portfolio management and investment advice companies;
Management companies of undertakings for collective investment;
Management companies of alternative investment funds;
Certain branches of the above-mentioned companies;
Independent financial planners (natural and legal persons);
Bureaux de change (natural and legal persons);
Public investment firms;
Alternative finance platforms;
Regulated real estate investment companies.

The Belgian supervisory laws that apply to the aforementioned institutions¹ provide that the members of the statutory governing body, the persons responsible for the company's day-to-day management, and key independent function holders with the said companies, as applicable, must at all times have the requisite fitness and propriety to perform their functions. In order to allow the FSMA to assess whether that is the case, these persons are required to complete this questionnaire when they are being considered for renewal of position identical to one they already hold within one of the aforementioned institutions.

¹ Law of 25 October 2016 on access to the activity of investment service provider and on the legal status and supervision of portfolio management and investment advice companies (Articles 12, 13, 23, 35, 47 and 84).
Law of 3 August 2012 on undertakings for collective investment meeting the conditions of Directive 2009/65/EC and on undertakings for investment in receivables (Articles 39, 199, 211 and 227).
Law of 19 April 2014 on alternative investment funds and their managers (Articles 5, 102, 206, 317, 324, 334 and 335).
Law of 25 April 2014 on the legal status and supervision of independent financial planners and on the provision of financial planning advice by regulated firms, and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and on financial services (Articles 12, 17 and 34).
Law of 12 May 2014 on regulated real estate investment companies (Article 14).
Royal Decree of 27 December 1994 on bureaux de change and currency trading (Article 4).
Law of 18 December 2016 regulating the recognition and delineation of crowdfunding and containing various provisions on finance (Articles 10, 15 and 30).

Moreover, the members of the statutory governing body must possess adequate collective knowledge, skills and experience to be able to understand the institution's activities, including the main risks to which it is exposed. To allow the FSMA to assess whether that is the case, the institutions must complete a questionnaire for each new initial appointment or reappointment to the same position within the statutory governing body, as well as in the event of a material change in the distribution of tasks among the members of the statutory governing body and the persons responsible for the day-to-day management.

Personal data submitted via this questionnaire and its attachments will be handled by the Financial Services and Markets Authority (FSMA), located at 12-14 rue du Congrès/Congresstraat, 1000 Brussels, in accordance with the Law of 8 December 1992 on the protection of privacy in relation to the processing of personal data.

The FSMA will process these data with a view to verifying compliance with:

- the Law of 25 October 2016 on access to the activity of investment services and on the legal status and supervision of portfolio management and investment advice companies;
- the Law of 3 August 2012 on undertakings for collective investment meeting the conditions of Directive 2009/65/EC and on undertakings for investment in receivables;
- the Law of 19 April 2014 on alternative investment funds and their managers;
- the Law of 25 April 2014 on the legal status and supervision of independent financial planners and on the provision of financial planning advice by regulated firms, and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and on financial services;
- the Law of 12 May 2014 on regulated real estate investment companies;
- the Royal Decree of 27 December 1994 on bureaux de change and currency trading.
- the Law of 18 December 2016 regulating the recognition and delineation of crowdfunding and containing various provisions on finance.

It may also process the data in relation to other legal supervisory mandates defined in Article 45 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services.

Some data will be included in the public register maintained by the FSMA and made available on its website.

The processed data may be passed on to third parties under the conditions set out in Articles 74 and 75 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services.

Pursuant to Articles 10 and 12 of the aforementioned law of 8 December 1992 and the provisions of the Royal Decree of 29 April 2009 implementing Article 3, § 5, 3°, of the Law of 8 December 1992 as regards the FSMA, you have the right, under certain conditions, to access and rectify your personal data.

PLEASE COMPLETE THIS QUESTIONNAIRE ELECTRONICALLY

- I undertake to provide complete and accurate information. I realize that failure to provide the relevant information, or its falsification, may have a negative impact on the FSMA's decision as to my fitness and propriety.

1. Identification of the institution(s)

Name of the institution

Company number

2. Identity of the declarant

Family name

Given name(s)

National registry number²

Sex

Domicile

Place of residence (if different from domicile)

Telephone/mobile phone number (professional)

Email address (professional)

² For persons who do not have a Belgian national registry number: please provide the date and place of birth.

3. Information about the position

3.1 Please state below the position for which your appointment is being renewed. Please check all boxes which apply.

Position of director:

- Executive director
- Non-executive director
 - Independent director as defined in Article 526ter of the Companies Code³
 - Independent director as defined in Article 24 of Commission Delegated Regulation (EU) No 2016/438 (UCITS V)
 - In another capacity (please specify⁴):
- Chairperson of the statutory governing body

Committee membership:

- Member of the management committee
- Chairperson of the management committee
- Chairperson of the audit committee
- Chairperson of the remuneration committee
- Chairperson of the nomination committee
- Chairperson of another committee (please specify):

Key independent functions:

- Head of the compliance function
- Head of the internal audit function
- Head of the risk management function

³ It should be remembered that it is up to the institution to check that all legal criteria stipulated in Article 526ter of the Companies Code are met.

⁴ For applications to public investment companies: please specify if the candidate represents an entity to which tasks have been delegated.

Other functions:

- Senior manager (person performing key functions)⁵
- Senior manager of a branch
- Independent financial planner (natural person)
- Employee authorized to represent the independent financial planner when providing financial planning consultations
- Bureau de change (natural person)

3.2 Please provide the official title of the position within the institution:

3.3 Renewal date of the appointment

3.4 Planned end date for the position

3.5 If this questionnaire applies to reappointment to positions held within several entities, please specify the start and end dates for each of them.

⁵ This refers to a person at a level immediately below the management committee, where such a committee exists, and who in this capacity has direct and decisive influence on the management of all or part of the institution's activities. Where no management committee exists, this refers to persons who participate in the institution's management at the highest level (Article 1, paragraph 1, 7° of the [FSMA] Regulation of 9 July 2002 on the exercise of external functions by managers of regulated companies. It also refers to a senior manager of a public investment company who is not a member of the company's board.

A. Declaration by the candidate

- I hereby declare that the information provided to the FSMA at the time of my initial appointment remains unchanged and that there are no facts or elements that require a change to the information provided, in particular as regards the following points:
- 4. Assessment by supervisory authorities of the financial sector
 - 5. Information about the position
 - 7. Information about the candidate's professional integrity
 - 8. Conflicts of interest.
 - 9. Time devoted to the position
- I inform the FSMA that the information in the points indicated below has changed and I attach herewith a copy of the Fit and proper questionnaire for an initial appointment in which that information has been updated.⁶
- 4. Assessment by supervisory authorities of the financial sector
 - 5. Information about the position
 - 7. Information about the candidate's professional integrity
 - 8. Conflicts of interest
 - 9. Time devoted to the position

"I, the undersigned, (family name and first name), hereby confirm that I have answered the above questions accurately and in good faith.

I undertake to notify the institution concerned and the FSMA immediately of any fact or element that may require a change in the information provided at the time of my nomination and that may have an impact on the fitness and propriety necessary for holding the position concerned.

I declare that I will personally carry out the duties associated with the position. "

Date, name and signature of the candidate

⁶ For each of the topics in question, you must either declare that the information reported in the past has remained unchanged, or submit an update via a completed questionnaire. You do not need to complete the entire questionnaire again: it is sufficient to complete points 2 and 3 and those for which information has changed.

B. Declaration by the institution

I, the undersigned,

- confirm that the information provided in this questionnaire is accurate and complete to the best of my knowledge;
- confirm that the institution will immediately notify the FSMA if there is a material change in the information provided;
- confirm that the institution has sought all the information necessary to assess the fitness and propriety of the candidate and that it has duly taken into consideration that information with a view to assessing his or her fitness and propriety;
- confirm that the description of the position for which a positive assessment is requested corresponds exactly to the aspects of the institution's activity for which the candidate will be responsible;
- confirm that the institution considers, based on a diligent and reasonable enquiry and in the light of fit-and-proper criteria as defined in the relevant Belgian supervisory laws, that the candidate has the necessary professional integrity and expertise to hold the position as described in this questionnaire;
- confirm that the institution has informed the candidate of the regulatory responsibilities associated with the position in accordance with the description in this questionnaire;
- confirm that the institution has a prevention policy and a policy for managing any conflicts of interest that might arise in respect of the candidate;
- confirm that I am authorized to make this notification/application, to provide the declarations made by the institution and to sign this questionnaire on the latter's behalf.

Name of the institution:

Name:

Title:

Signature: