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16 June 2015

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## Report

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On the peer review of the Guidelines on the assessment of the suitability of members of the management body and key function holders (EBA/GL/2012/06)

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## Executive summary

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This peer review report gives an overview of the competent authorities' (CAs') CAs from 31<sup>1</sup> EU/EEA-EFTA countries peer-reviewed assessments regarding the EBA's peer review on the EBA Guidelines on the assessment of the suitability of members of the management body and key function holders (EBA/GL/2012/06).

Overall, the peer review results indicate that CAs 'largely' or 'fully apply' the EBA Guidelines.

Further, the EBA has identified some best practices in the CAs' supervisory practices regarding the assessment of the suitability of members of the management body and key function holders. However, numerous divergences in supervisory practice were observed, including differing interpretations of the definition of suitability; of time commitment; of criteria used to assess the candidates' suitability; of independence; and of conflict of interest.

The EBA noted that the EBA Guidelines have not led to convergent supervisory practice in many areas of the EBA Guidelines. Further, the EBA noted that Member States' (MS') transposition of CRD IV has not prevented further divergence arising from national laws.

Therefore, the EBA's view is that there is a need to foster enhanced convergence of supervisory practices in these observed areas, and as a minimum, to establish a list of minimum criteria/requirements to increase the quality and effectiveness of the general provisions set out in CRD IV and facilitate not only convergent practice but also enhanced supervisory practice.

Furthermore, the EBA has assessed which tools should be applied to address the outcomes of the discrepancies and inconsistencies identified from this peer review. With a view to establishing consistent, efficient and effective supervisory practices the EBA recommends that most of the best practices could be embedded in a revised version of these EBA Guidelines in accordance with its mandate under Article 30(3). Moreover, with a view to ensuring the further harmonisation of prudential rules and mitigating the effect of continuing divergent supervisory practice, the EBA proposes to submit an opinion to the European Commission proposing a legislative initiative on some points, in accordance with its mandate under Article 30(3a) of the EBA Regulation.

In addition it should be noted that some of the best practices identified in performing this peer review have already been introduced in the CRD IV, which became applicable from 1 January 2014, to which MS are required to transpose into their national legal framework.

Further, the EBA is developing guidelines addressed to CAs and institutions on internal governance requirements, in line with the EBA's mandates under Article 74 and Article 91(12) of the CRD, which should incorporate many of the outcomes from this peer review.

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<sup>1</sup>CAs from the 28 EU Member States plus the three EEA/EFTA countries. Given that the European Central Bank (ECB)/Single Supervisory Mechanism (SSM) assumed competence for the CRD from 4 November 2014, it did not complete the self-assessment questionnaire but did provide an overview of its practices to the Review Panel.

# 1. Background and rationale

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## 1.1 Introduction

In May 2014, the EBA Board of Supervisors (BoS) approved its Review Panel undertaking a peer review of the application of EBA Guidelines on the assessment of the suitability of members of the management body and key function holders (EBA/GL/2012/06).

This peer review evaluates what changes have been put in place in EU MS' national legislative/regulatory frameworks, as well as in supervisory practice, following the publication of the EBA Guidelines and the degree of convergence reached with regard to the adopted implementation of Union law, in particular regarding paragraphs 1, 2, 7 and 8 of Article 91 of CRD IV, including the measures taken in cases of non-compliance.

This document presents the findings of the EBA's peer review exercise on the EBA Guidelines.

It includes the factual results of the first phase of the peer review, namely the self-assessment by competent authorities (CAs) of whether they have or have not implemented the EBA Guidelines. This follows a self-assessment questionnaire containing questions concerning eight general areas issued to CAs on 9 September 2014; CAs were asked to send their completed self-assessments to the EBA by 22 October 2014.

A preliminary overview of the answers was undertaken by a workstream of the Review Panel. Thereafter the Review Panel at its meeting on 5 February 2015 performed a scrutiny of the self-assessments, and agreed to conduct eight on-site visits so as to understand in more detail some CAs' practices, with a view to assist in the identification of best practices. This report provides a final overview assessment. This exercise is being conducted in accordance with the Review Panel Methodology (EBA/BS/2012/107) approved in June 2012.

The peer review includes in its assessment how CAs effectively perform 'suitability assessment' of members of the management body and key function holders (KFH) of institutions following the implementation of the EBA Guidelines. This includes, amongst other issues, the scope of CAs' practices for assessing the 'notion of adequate collective knowledge, skills and experience', which also includes the assessment of the individual's knowledge, skills and experience and the 'notions of honesty, integrity and independence of mind'<sup>2</sup> and of their ability to commit sufficient time.

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<sup>2</sup> Article 91(12) CRDIV

Also the Review Panel has expressed an opinion on the need for further guidance, having regard to EBA's mandate for the issuing of guidelines under Article 91(12) CRD IV.

## 1.2 Mandate

In May 2014, the BoS approved the Review Panel 2014–16 work programme. This included undertaking a peer review assessment of the application of the [Guidelines on the assessment of the suitability of members of the management body and key function holders](#).

The Review Panel was mandated to peer review the following elements of the EBA Guidelines [EBA/GL/2012/06]:

- Title I – Subject matter, scope and definitions
- Title II – Requirements regarding the assessment of the suitability
  - Chapter I – Responsibilities & general assessment criteria
  - Chapter III – Assessment by supervisors
  - Chapter IV – Assessment criteria

The peer review evaluates what changes have been put in place in national legislative/regulatory frameworks, as well as in supervisory practice, following the publication of the EBA Guidelines and the degree of convergence reached with regard to the adopted implementation of Union law, in particular regarding paragraphs 1, 2, 7 and 8 of Article 91 of CRD IV, including the measures taken in cases of non-compliance.

This peer review includes in its assessment how CAs effectively perform 'suitability assessment' of members of the management body and key function holders of institutions following the implementation of the EBA Guidelines.

This includes:

- the scope of the assessment with regard to the members of the management body and key function holders; and
- the CAs' practices for assessing the 'notion of adequate collective knowledge, skills and experience', which also includes the assessment of the individual's knowledge, skills and experience and the 'notions of honesty, integrity and independence of mind' and of their ability to commit sufficient time.

Also, when assessing how CAs assess the collective fitness of the management body, the peer review took into consideration the CAs' implementation of the EBA's [Guidelines on Internal Governance \(GL44\)](#), such as Sections 12.5 and 13.

The peer review is limited to the requirements set out in the EBA Guidelines. Other topics which are not addressed in these guidelines and covered by Article 91 of CRD IV, e.g. regarding ‘the notion of diversity’, will be covered by a separate EBA workstream in compliance with the EBA’s mandate for the issuing of guidelines under Article 91(12) of CRD IV.

It is expected that at the end of the exercise, the Review Panel will be able to:

- issue a report with a description and comparison of supervisory approaches and compliance of the same with regard to the guidelines;
- identify best practices for supervisors;
- express an opinion on the adequacy of the current guidelines in place;
- express an opinion on the need for further guidance, having regard to the EBA’s mandate for the issuing of guidelines under Article 91(12) of CRD IV.

Competent Authorities from each of the 28 Member States took part in the peer review of EBA Guidelines, plus the Competent Authorities of the from the EEA-EFTA countries (IS, LI, NO). A complete list of the CAs that participated in the peer review can be found in Annex I.

### 1.3 EBA Regulation

The Review Panel conducts independent peer reviews based on self-assessments provided by CAs. Consistent with the so-called ‘comply or explain’ approach, should a CA not have implemented a given supervisory provision or practice, then it has to explain why.

Peer review exercises are conducted in accordance with the provisions of Article 30 of the EBA Regulation<sup>3</sup> and the EBA decision establishing the Review Panel. A peer review entails an assessment and comparison of the effectiveness of the supervisory activities and of the implementation of the provisions by CAs vis-à-vis those of their peers. The peer reviews shall include an assessment of:

- the adequacy of resources and governance arrangements of CAs especially regarding the application of regulatory technical standards and implementing technical standards;
- the degree of convergence reached in the application of European Community legislation and in supervisory practices;
- the best practices developed by CAs.

At the end of each peer review the EBA expects to:

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<sup>3</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L331, 15.12.2010, p. 12)



- issue a report with a description and comparison of supervisory approaches and compliance of the same with regard to the guidelines;
- identify examples of best practice for supervisors;
- express an opinion on the adequacy of the current guidelines; and
- express an opinion on the need for further guidance.

## 1.4 Methodology

The peer review followed the [EBA Review Panel methodology for the conduct of peer reviews \(EBA BoS 2012 107\)](#) approved in June 2012. In line with the methodology, each peer review has four phases:

- Phase 1 – preparatory
  - Preparation and finalisation of a self-assessment questionnaire.
- Phase 2 – self-assessment
  - CAs are asked to submit their initial self-assessments.
- Phase 3 – review by peers
  - The Review Panel considers the questions, self-assessments and benchmarks, revising them as necessary in order to promote consistency of responses across CAs.
- Phase 4 – on-site visits
  - Small teams visit a number of CAs.

For benchmarking purposes, the following grade-scales are used together with the benchmarking criteria set out specifically for each question in the self-assessment questionnaire (SAQ) that can be found in Annex VI:

- **Fully applied:** A provision is considered to be ‘fully applied’ when all assessment criteria as specified in the benchmarks are met without any significant deficiencies.
- **Largely applied:** A provision is considered to be ‘largely applied’ when some of the assessment criteria are met with some deficiencies, which do not raise any concerns about the overall effectiveness of the CA, and no material risks are left unaddressed.
- **Partially applied:** A provision is considered to be ‘partially applied’ when some of the assessment criteria are met, with deficiencies affecting the overall effectiveness of the CA, resulting in a situation where some material risks are left unaddressed.

- ***Not applied:*** A provision is considered to be ‘not applied’ when the assessment criteria are not met at all or to an important degree, resulting in a significant deficiency in the application of the provision.
- ***Not applicable:*** A provision under review is to be considered ‘not applicable’ when it does not apply given the nature of a CA’s market.
- ***Non-contributing:*** A CA shall be classified as ‘non-contributing’ if it has not provided its contribution by the prescribed deadline.

## 2. Summary of findings

CAs from 31 EU/EEA-EFTA countries<sup>4</sup> have completed their self-assessment and provided it to the Review Panel. Overall, most CAs have affirmed their application of the EBA Guidelines; only a few CAs deem any of the criteria to be only ‘partially applied’ or less. Below is a summary of all the received answers.

Annex II contains a detailed summary of all the self-assessments from the participating CAs.

Annex III contains the outcomes of the self-assessment questionnaire.

Annex IV contains a list of best practices identified

Annex V contains a final overview summary assessment of the participating CAs – after the review by peers.

Figure 1: Overall summary table by number of answers presented in the self-assessment questionnaire (Also see Annex II)

	Fully applied	Largely applied	Partially applied	Not applied	N/A	Non-contributing	Total
AT	4	4	1	0	0	0	9
BE	7	2	0	0	0	0	9
BG	9	0	0	0	0	0	9
CY	4	3	1	1	0	0	9
CZ	7	2	0	0	0	0	9
DE	9	0	0	0	0	0	9
DK	9	0	0	0	0	0	9
EE	9	0	0	0	0	0	9
EL	9	0	0	0	0	0	9
ES	9	0	0	0	0	0	9
FI	5	4	0	0	0	0	9
FR	8	1	0	0	0	0	9
HR	6	2	1	0	0	0	9
HU	3	6	0	0	0	0	9
IE	9	0	0	0	0	0	9
IS	5	1	1	2	0	0	9

<sup>4</sup> CAs from the 28 EU Member States plus the three EEA/EFTA countries. Given that the European Central Bank (ECB)/Single Supervisory Mechanism (SSM) assumed competence for the CRD from 4 November 2014, it did not complete the self-assessment questionnaire but did provide an overview of its practices to the Review Panel.

<b>IT</b>	5	3	1	0	0	0	9
<b>LI</b>	7	2	0	0	0	0	9
<b>LT</b>	9	0	0	0	0	0	9
<b>LU</b>	9	0	0	0	0	0	9
<b>LV</b>	9	0	0	0	0	0	9
<b>MT</b>	4	5	0	0	0	0	9
<b>NL</b>	9	0	0	0	0	0	9
<b>NO</b>	3	5	1	0	0	0	9
<b>PL</b>	4	3	1	1	0	0	9
<b>PT</b>	5	1	2	1	0	0	9
<b>RO</b>	8	1	0	0	0	0	9
<b>SE</b>	6	2	1	0	0	0	9
<b>SI</b>	6	3	0	0	0	0	9
<b>SK</b>	2	4	1	1	1	0	9
<b>UK</b>	9	0	0	0	0	0	9
<b>Total</b>	<b>207</b>	<b>54</b>	<b>11</b>	<b>6</b>	<b>1</b>	<b>0</b>	<b>279</b>

## 3. Review by peers: assessment of the SAQ

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### 3.1 Methodology undertaken by the Review Panel's workstream

The Review Panel conferred the task of undertaking the 'review by peers' phase of this peer review in more detail on its workstream (WS). The WS divided this work into eight clusters, having regard to CAs' responses to the SAQ and also to its follow-up questionnaire. As a result of the WS's analysis of these responses, the WS has identified some potential 'best practices'.

### 3.2 Assessment of responses to Question 1

#### 3.2.1 Overview

Question 1 of the SAQ aimed to collect information on how EBA Guidelines have been implemented into the respective national supervisory frameworks of individual EEA countries. Specifically, three main aspects of the implementation were sought:

- the way Member States transposed the guidelines into their respective legislative framework, i.e. whether the national parliament/government/ministry enacted any legislation (law, decree or any other legal act);
- whether the CAs issued any binding or non-binding instruments to implement EBA Guidelines; and
- to what extent the CAs implemented the guidelines into supervisory manuals/handbooks and/or internal measures.

Question 1 was not benchmarked. The analysis has led to the key findings below.

#### 3.2.2 Q 1 (i), (ii) and (v)

All of the respondents declared that they had implemented or partly implemented or intended to comply with the guidelines by using a legal act (law; regulation, i.e. decree, national directive, circular), and in particular that their legislation was further amended to implement CRD IV requirements). Among the respondents, some of them did not need to implement the guidelines as their national legal framework was already compliant with the guidelines. In addition to the binding instruments, most of the CAs have used soft law to inform institutions (guidelines, circulars, communications, standards, etc.). In most of the CAs, training, workshops or question and answer sessions (external and internal users) are organised and internal procedures are also used for processing 'fit and proper' applications, except by a few CAs.

### **3.2.3 Q 1 (iii) and (iv)**

These questions related to key function holders. In most of the jurisdictions, credit institutions are required to assess the suitability of key function holders. A definition and a list of key function holders are sometimes provided by the legislation or by the CA from the definition embedded in the EBA Guideline<sup>5</sup>. Sometimes the designation is left to the discretion of credit institutions, according to their own internal procedure; in some cases, pre-approval from the CA is needed (in all jurisdictions except three countries). In some jurisdictions, it is not required to assess the suitability of key function holders.

### **3.2.4 Q 1 (vi)**

With regard to the definition of suitability, in most of the jurisdictions suitability is not defined literally as such, but some criteria are used. Hence a person is required to meet some standards regarding reputation, knowledge and experience, ethics, financial soundness and bankruptcy, with certain exceptions. The terms 'fitness and probity', 'fitness and properness' or 'trustworthiness' are also used instead of 'suitability'. Some jurisdictions have used the definition of the guidelines.

### **3.2.5 Q 1 (vii)**

Regarding sanctions for credit institutions and individual members, all jurisdictions provide for at least administrative penalties and/or sanctions for credit institutions. Some of them also impose sanctions on individual members.

### **3.2.6 Q 1 (viii)**

Regarding governance framework, all the jurisdictions have either a unitary or a dual board structure (monist or dualist) or both are laid down in the legal framework. Nevertheless two of them have a three-tier governance model.

## **3.3 Assessment of responses to Question 2**

Question 2 refers to the suitability assessments carried out by the CAs. Question 2(i) deals with the timeliness of the assessment and question 2(iii) with the actual process of assessment from the point where the institution starts preparing the assessment to the point where the CA informs the institution of its assessment result with regard to the person in question. This second question also covers the criteria of the assessment as set out in Annex I of the EBA Guidelines.

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<sup>5</sup> According to the EBA Guidelines, Title I, Paragraph 2, letter d), page 11, key function holders 'are those staff members whose positions give them significant influence over the direction of the credit institution, but who are not members of the management body. Key function holders might include heads of significant business lines, EEA branches, third country subsidiaries, support and internal control functions'.

Figure 2 Summary table of peers' assessments of the CAs' SAQ responses– suitability

MS	Question 2i Assessment	Question 2iii Assessment	MS	Question 2i Assessment	Question 2iii Assessment
AT	Fully applied	Largely applied	IT	Fully applied	Largely applied
BE	Fully applied	Largely applied	LI	Fully applied	Fully applied
BG	Fully applied	Fully applied	LT	Fully applied	Fully applied
CY	Largely applied	Fully applied	LU	Fully applied	Fully applied
CZ	Largely applied	Largely applied	LV	Fully applied	Fully applied
DE	Fully applied	Fully applied	MT	Fully applied	Largely applied
DK	Fully applied	Fully applied	NL	Fully applied	Fully applied
EE	Fully applied	Not applied	NO	Largely applied	Fully applied
EL	Fully applied	Fully applied	PL	Largely applied	Fully applied
ES	Fully applied	Fully applied	PT	Fully applied	Largely applied
FI	Fully applied	Fully applied	RO	Fully applied	Fully applied
FR	Fully applied	Fully applied	SE	Fully applied	Largely applied
HR	Largely applied	Fully applied	SI	Fully applied	Largely applied
HU	Largely applied	Partially applied	SK	Fully applied	Partially applied
IE	Fully applied	Fully applied	UK	Fully applied	Fully applied
IS	Fully applied	Largely applied			

Regarding question 2(i), the cluster affirms the assessments provided by the CAs' self-assessment, except in one case that has been downgraded.

Regarding question 2(iii), several downgrades have been made compared with the CAs' self-assessment due to the absence of a maximum time period for the CA's suitability assessments and/or the lack of information that is normally required by the CAs.

Overall, most of the CAs confirm that they have set up a process for suitability assessments, although there are a few differences between the processes for board members and those for key function holders.

Cluster 2 noted that the CAs have divergent practices in assessing the suitability of the management board members. Specifically:

- The divergence in the CAs' requirements regarding credit institutions' internal policies with regard to their own suitability assessment.
- The divergence in the information the credit institutions are required to provide to the CAs.
- The fact that many CAs have not established a maximum time period for their assessment. Nevertheless, a vast majority of CAs perform the assessment in a shorter period than the 6-month period laid out in the EBA Guidelines, even though they have not set up any time period.

- The different role of the supervisor in the suitability assessment (pre-approval or not, mandatory interviews or not).

It is worth mentioning that a fair number of initiatives are under way to increase the level and intensity of activity supervisors undertake to test for 'fit and proper'.

### 3.3.1 Potential best practices observed

The following potential best practice was observed:

- requiring mandatory periodic re-assessments of suitability on an annual basis or at least on a regular basis.

## 3.4 Assessment of responses to Question 3

Question 3 deals with how the CAs assess the reputation of a member of the management body and a key function member.

Figure 3: Summary table of peers' assessment of the CAs' SAQ responses- reputation

Question 3i			
MS	Assessment	MS	Assessment
AT	Fully applied	IT	Partially applied
BE	Fully applied	LI	Largely applied
BG	Fully applied	LT	Fully applied
CY	Fully applied	LU	Fully applied
CZ	Fully applied	LV	Fully applied
DE	Fully applied	MT	Fully applied
DK	Fully applied	NL	Fully applied
EE	Fully applied	NO	Fully applied
EL	Fully applied	PL	Fully applied
ES	Fully applied	PT	Fully applied
FI	Fully applied	RO	Fully applied
FR	Fully applied	SE	Fully applied
HR	Fully applied	SI	Fully applied
HU	Fully applied	SK	Fully applied
IE	Fully applied	UK	Fully applied
IS	Fully applied		

The cluster did not change the results of the self-assessment provided by the CAs, except for one CA, which has been upgraded. The information available, according to cluster 3, highlights a certain degree of convergence. For instance, most of the CAs exclude a member of the management body from holding such a position should this member be convicted of certain financial-related criminal offences.



Analysis of CAs' practices, however, also reveals divergence.

- Different types of criteria are used to define (the lack of) good reputation. Some criteria, usually narrowly described, can automatically lead to a negative reputation decision. Other circumstances are reviewed and assessed by the CAs in the light of the situation of the candidate. In other cases, the reputation criterion is only embedded in a general provision, such as an open question in the 'fit and proper' forms, e.g. 'indicate all (other) circumstances which may cast doubt on your reputation'. Depending on the type of criteria or on the chosen combination of different types, this leads to different intensities of the screening of reputation.
- The reputation of key function holders is not assessed by a number of CAs. Some CAs have implemented such requirements but often without systematically applying them. Where they are implemented, most of the CAs use similar procedures to those used for the members of the management body.
- The manner in which pending legal proceedings against a candidate are assessed, if any such assessment is provided at all, differs greatly between CAs.

The cluster recommended that:

- CAs should pay greater attention to the reputation of the key function holders and should apply, at least, the same assessment criteria as the ones used for the members of the management body.
- CAs should use a combination of different types of reputation criteria to ensure a full and broad assessment of someone's reputation. In this regard, the EBA should also consider how supervisory discretion can be best designed to ensure more convergence in assessment intensity for similar cases.
- CAs should give due consideration to how pending legal proceedings against a person can be assessed. Possible approaches include:
  - defining criteria that are used to determine the weight that pending legal proceedings should get in the assessment of the reputation, such as the severity of the charges, the stage of the proceedings, the person's ability to exercise his/her rights of defence and the degree of transparency that the person demonstrates towards the supervisor and the management body of the institution;
  - defining circumstances under which a conviction in the first degree might be a sufficient cause for a negative assessment by the CA;
  - defining the type/nature of legal proceedings that can be taken into account such as criminal, disciplinary, civil and administrative.

### 3.5 Assessment of responses to Question 4

Question 4 assesses the experience of the members of the management body and of the key function holders. The overall results of the self-assessment revealed the following key findings: 28 countries were deemed to be fully applied, two countries largely applied and one did not give the information. Cluster 4 states that ‘fully applied’ was mostly justified, making it clear that the CAs assess the combination of theoretical and practical experience, skills and knowledge in all cases. This assessment is based upon relevant documentation. In addition, certain CAs complement the desk analysis with interviews, at least when it is deemed necessary. The decision to interview may depend on the significance of the credit institution and/or of the role to be performed, and/or it may reflect issues arising from the application which the CA wishes to probe further with the candidate. Interviews may be needed to complement and verify the information in written ‘fit and proper’ documents (questionnaire and attachments). For example, the candidate may be asked to give examples on his/her practical experience and on behaviour and roles in decision-making situations.

Figure 4: Summary table of peers’ assessment of the CAs’ SAQ responses – experience

Question 4i			
MS	Assessment	MS	Assessment
AT	Fully applied	IT	Fully applied
BE	Fully applied	LI	Fully applied
BG	Fully applied	LT	Fully applied
CY	Fully applied	LU	Fully applied
CZ	Fully applied	LV	Fully applied
DE	Fully applied	MT	Largely applied
DK	Fully applied	NL	Fully applied
EE	Fully applied	NO	Fully applied
EL	Fully applied	PL	Fully applied
ES	Fully applied	PT	Fully applied
FI	Fully applied	RO	Fully applied
FR	Fully applied	SE	Fully applied
HR	Fully applied	SI	Fully applied
HU	Largely applied	SK	Fully applied
IE	Fully applied	UK	Fully applied
IS	Fully applied		

Cluster 4 noted that CAs’ approaches to assessing experience diverged on a number of points:

- Regulations and CAs’ public guidelines – the national regulation may contain either general requirements or more specific provisions with regard to experience.

- CAs' public and/or internal assessment criteria – most of the CAs did not use detailed assessment criteria, even though some of them have defined and published requirements on experience and/or have developed internal criteria.
- CAs' internal guidelines and processes – only certain CAs use a defined and documented description of the whole assessment process.
- Collection of information – cluster 4 reveals that the relevant information on experience collected by the CAs is not always specific enough. There could be more specific self-assessment questions for the credit institution and the prospective member on theoretical and practical experience in relevant areas.
- In the vast majority of cases, the assessment is made on a case-by-case basis based entirely upon information gathered through a 'fit and proper' questionnaire. A few CAs use interviews as part of the assessment. Generally, the application is assessed against detailed criteria or only against general principles if criteria are not specified. A clear checklist or more specific competence matrix is very often used. However, the documentation of results varies between the CAs.

### **3.5.1 Potential best practices observed**

The following potential best practices were observed.

- The soundness of the 'fit and proper' assessment could be improved by defining and describing the whole process and by making it public to increase the transparency and fairness of the process; for example, to confirm that all areas and aspects of the 'fit and proper' assessment will be discussed before the final decision.
- The detail of the application and decision-making process can be described step by step, e.g. by using a flow chart and explanations (some documents are not available in English). The description of the process should cover all aspects of the 'fit and proper' assessment, not only experience. One CA answered, for example: 'The CA has published a detailed internal work process regarding the assessment of the eligibility of board members and managing director of a financial undertaking. The process includes detailed work instructions for all aspects of the process. In addition to that a procedure has been developed. The work process also includes forms on how to view the previously mentioned questionnaire as well as templates for letters to these persons.'
- The assessment framework and the criteria on theoretical and practical experience, and on skills and knowledge, could better reflect the general quality of the assessment by defining and clarifying the criteria used. The second-best scenario would be to develop some key requirements in relevant areas. These criteria contain, for example, the length of experience and the quality of theoretical and practical experience, always taking into account the specific requirements of the different positions as well.

- The collection of more detailed information on various aspects, such as education and experience, theoretical and practical experience, and training history, would bring added value. This would ensure that the assessment is based on comprehensive information, which could be collected through a comprehensive and detailed questionnaire. With sufficient information it should be possible to assess whether a candidate's education and experience are adequate for a specific position.
- The assessment of experience of a candidate is informed by an assessment of the experience of the existing members, for example by creating a 'suitability matrix' to record the collective experience of the existing management body. This should ensure that the experience of a new candidate complements the experience of the existing members and addresses any existing weaknesses.
- For certain positions (generally decided using a risk-based approach) interviews are held with the candidate by the CA as part of the assessment. This provides an opportunity to test aspects of the candidate's knowledge and skills, and to seek further information on any aspects of the candidates' suitability where the CA has questions or concerns that have not been addressed by the documentation provided.

### 3.6 Assessment of responses to Question 5

Question 5 deals with governance issues, covering the assessment performed by the CAs of collective knowledge, skills and experience of the management body (question 5(i)), of independence and ability to manage any conflict of interest within the management body (question 5(ii)), of honesty, integrity and independence of mind (question 5(iii)) and of time commitment of the members of the management body (question 5(iv)).

Cluster 5 raised some methodological issues regarding the quality and diversity of the answers provided by the CAs. Some CAs have focused their answers on the practices followed during the fit and proper assessments, whereas others have focused them only on the applicable legislation. The cluster flags strong reservations, suggesting that each CA should state which criteria, among those that have been defined in the questionnaire, it applies, whereas the qualitative assessment should be conducted by the EBA staff. The potential stigmatising effect of a situation of 'partially applied' or 'not applied' leads many CAs to overstate their assessment. Cluster 5 views this situation as having an impact on the quality of the assessment, making it difficult to understand to what extent the guidelines are actually being applied and to know the kind of difficulties that CAs face.

Figure 5: Summary table of peers' assessment of the CAs' SAQ responses– governance

	Question 5i	Question 5ii	Question 5iii	Question 5iv
MS	Assessment	Assessment	Assessment	Assessment
AT	Largely applied	Fully applied	Fully applied	Fully applied
BE	Fully applied	Fully applied	Fully applied	Fully applied
BG	Fully applied	Fully applied	Partially applied	Fully applied
CY	Partially applied	Largely applied	Largely applied	Not applied
CZ	Fully applied	Fully applied	Fully applied	Fully applied
DE	Fully applied	Fully applied	Fully applied	Fully applied
DK	Fully applied	Fully applied	Fully applied	Fully applied
EE	Fully applied	Fully applied	Fully applied	Fully applied
EL	Fully applied	Fully applied	Fully applied	Fully applied
ES	Fully applied	Fully applied	Fully applied	Fully applied
FI	Largely applied	Largely applied	Not applied	Largely applied
FR	Fully applied	Fully applied	Largely applied	Largely applied
HR	Fully applied	Largely applied	Partially applied	Fully applied
HU	Largely applied	Fully applied	Largely applied	Largely applied
IE	Fully applied	Fully applied	Fully applied	Fully applied
IS	Partially applied	Largely applied	Not applied	Not applied
IT	Fully applied	Largely applied	Fully applied	Fully applied
LI	Largely applied	Largely applied	Largely applied	Fully applied
LT	Fully applied	Fully applied	Largely applied	Fully applied
LU	Largely applied	Fully applied	Fully applied	Fully applied
LV	Fully applied	Largely applied	Largely applied	Fully applied
MT	Largely applied	Largely applied	Largely applied	Largely applied
NL	Fully applied	Fully applied	Fully applied	Fully applied
NO	Largely applied	Fully applied	Largely applied	Partially applied
PL	Partially applied	Partially applied	Largely applied	Fully applied
PT	Partially applied	Fully applied	Partially applied	Largely applied
RO	Fully applied	Fully applied	Largely applied	Fully applied
SE	Largely applied	Fully applied	Largely applied	Fully applied
SI	Largely applied	Fully applied	Largely applied	Largely applied
SK	Partially applied	Partially applied	Largely applied	Largely applied
UK	Fully applied	Fully applied	Fully applied	Fully applied

The cluster had difficulties in assessing a certain number of self-assessments provided by the CAs due to a lack of detailed information, including unclear developments as to how collective knowledge and experience are assessed, and absence of information as to the criteria used to assess independence, honesty, integrity and conflict of interest. Where these circumstances were met, the cluster has decided to maintain the score self-assessed by the CAs.

For question 5(i), one CA has been upgraded, and three CAs have been downgraded.

For question 5(ii), four CAs have been upgraded, but two others have been downgraded.

For question 5(iii), four CAs have been upgraded and five CAs have been downgraded.

For question 5(iv), five CAs have been upgraded and three CAs have been downgraded.

Cluster 5 identified several discrepancies in the assessment of the governance practices.

- With regard to the collective aspect of 'fit and proper', divergent practices amongst CAs are observed. The cluster notes that collective 'fit and proper' is quite new on the governance radar of CAs and probably experience must still be gained in this field. Thus, many CAs still need to develop their experience/practice in this regard. The collective aspect of fit and proper is subject to different interpretations, depending on how the CAs define the scope of their own responsibility in relation to that of the credit institution(s).
- Concerning the question on independence/conflicts of interest of the supervisory function, the main differences arise from different types of implementation of the underlying principles such as conflict of interest. Some CAs consider it a general principle, whereas in other countries the principle has been elaborated into more detailed rules or specific questions that a candidate needs to fill in through the 'fit and proper' forms. Further, some of these principles have been translated into hard law, while in some countries they remain soft law; this affects the result of the implementation.
- Regarding time commitment, many CAs have considered that the provisions of CRD IV were the sole benchmark, considering therefore that its delayed implementation was a reason for a lower score. However, the benchmark for this peer review was not CRD IV, so delayed implementation was not considered as a negative factor. Actual time commitment needs still further testing beyond these CRD IV maxima, especially because the maxima do not take into account all the functions a director may perform.

### 3.6.1 Potential best practices observed

The following potential best practices/suggestions were observed.

- Some CAs frequently intervene on (collective) 'fit and proper' matters in an informal way, carrying out their intervention with a concern not to disrupt the activities undertaken by the credit institutions.
- 'Fit and proper' forms which the candidates need to complete could (a) be standardised (for example, more detailed questions on conflict of interest) and (b) include a specific form to facilitate the CAs' assessment of the collective aspect of the management body by the use of a competency matrix, where appropriate.
- 'Cooling-off' provisions can mitigate possible conflict of interest; for example, former member of the management board can become chair of the supervisory board only after 2 years, or the chairs of the remuneration committee, of the risk committee and of the nomination committee must not have held positions on the management board for 3 years. These elements should be part of a global policy to address the conflicts of interest.

- Regarding the collective aspect of fit and proper, the following suggestions are made.
  - Institutions could have an ‘internal governance memorandum’ that would include specifications with regard to the governance arrangements of the institution and information on how tasks within the management body are divided. This memorandum would be provided to the CA and would allow it to better understand what kind of mix of knowledge and experience is needed in the management body. Any important shift in the division of tasks should be reported to the respective CA and be taken into account for fit and proper assessments.
  - More innovative practices could be developed so as to trigger self-assessments (i.e. cross-checking of the individual fit and proper profile against the other profiles in the management body to arrive at an assessment of the collective suitability) pro-actively. For example, one CA has designed a ‘suitability matrix’ to provide insight into the level of knowledge, skills and professional conduct of the individual members of the collegial group and the candidate. This forces the credit institution(s) to make a self-assessment of the collective aspect, asking the credit institution to give substantive reasoning on why the candidate fits within the group of directors.
  - Another group of practices should be further considered, focusing on face-to-face interaction between the CAs and the members of the management body (such as holding ‘fit and proper’ interviews with candidates, participation of the CA in meetings of the management body to assess style and culture of management, feedback meetings with the institution’s representatives on findings and deficiencies revealed following the supervisory inspections).
  - A collective assessment could be undertaken each time a candidate is set to be appointed as a member of the management body and the collective assessment could be included in the annual supervisory review and evaluation process (SREP) with specific scores for the collective aspect.
- Regarding independence, the candidate could be obliged to fill in a questionnaire with specific and detailed questions on different aspects of independence and the establishment of rules, spelt out in soft or hard law criteria that must be fulfilled for one to be qualified as independent.
- Regarding time commitment, the cluster sees room for improvement in challenging the time commitment limitations enforced in CRD IV in order to avoid the maxima becoming the *de facto* norm. Improvements could be achieved by developing qualitative limitations on combining different functions and requiring the members of the management body not to hold any other ‘main occupation’ outside the financial sector, or imposing more time commitment for certain risky positions.

### 3.7 Assessment of responses to Question 6

Question 6 refers to the application of the proportionality principle regarding experience and governance criteria, as the reputation criteria cannot be subject to the application of the proportionality principle. This question was not benchmarked. All the CAs have answered that they assess the suitability requirements in a proportionate way, except one CA, whose response did not specify if the assessment of suitability was applied in relation to the nature, scale and complexity of the credit institution.

Proportionality is taken into account when assessing experience, except in the case of one CA, and when assessing governance requirements, with the exception of four CAs.

In order to assess suitability, the CAs take into account the nature, scale and complexity of the business of the credit institution as well as the responsibilities of the position concerned. Among these factors, the size of the credit institution and the relevance of the position are the most common ones. However, as per the wording of the EBA Guidelines, some CAs have answered that members of the management body and key function holders have to be, in any event, of good repute, regardless of the nature, scale and complexity of the credit institution.

### 3.8 Assessment of response to Question 7

Question 7 refers to supervisory processes to cover the assessment of suitability of members of the management body and key function holders and actions, including sanctions.

The cluster has mainly kept unchanged the primary self-assessment, but two CAs have been downgraded and one has been upgraded.

Figure 6: Summary table of peers' assessment of the CAs' SAQ responses – supervisory action including sanctioning

Question 7ii			
MS	Assessment	MS	Assessment
AT	Largely applied	IT	Largely applied
BE	Fully applied	LI	Fully applied
BG	Fully applied	LT	Fully applied
CY	Fully applied	LU	Fully applied
CZ	Fully applied	LV	Fully applied
DE	Fully applied	MT	Not applied
DK	Fully applied	NL	Fully applied
EE	Fully applied	NO	Fully applied
EL	Fully applied	PL	Largely applied
ES	Fully applied	PT	Fully applied
FI	Fully applied	RO	Fully applied
FR	Fully applied	SE	Fully applied



HR	Fully applied	SI	Fully applied
HU	Partially applied	SK	Fully applied
IE	Fully applied	UK	Fully applied
IS	Fully applied		

### 3.8.1 Potential best practices observed

The following potential best practices/suggestions were observed:

- actions, such as in the form of training, are required to be sure that the management body's members are sufficiently trained and have the appropriate qualification(s);
- additional measures should be added to the national legislative framework to grant the CAs the power to approve the appointment of certain persons for a shorter period of time than requested when necessary.

## 3.9 Assessment of responses to Question 8

Question 8 deals with supervisory resources spent on suitability assessments. It is worth noting that this question was not benchmarked. Given this, the ratings of the CAs have not been affected by the responses received on this question.

Overall, cluster 8 notes that the issuance of the EBA Guidelines on suitability has led to an intensification of the suitability assessments of board members of credit institutions, whilst there is room for improvement in areas such as key function holders' assessments and/or processes leading up to CAs' decisions. It is also noted that various Member States have taken initiatives to give a greater role to CAs in suitability testing.

Nevertheless, a number of discrepancies in practices are still assessed: i) in terms of harmonisation of suitability approaches, the cluster concludes that many variations are seen in terms of resources spent by supervisors on suitability assessments, in terms of organisation of the process and in terms of intensity of assessments; ii) the definition of key function holders seem to differ by jurisdiction; iii) the process of assessing the appropriateness of the sanctions is difficult due to the nature of the CAs' responses.

### 3.9.1 Potential best practices observed

The following potential best practices/suggestions were observed.

- Integral approach to governance, including suitability. Most of the CAs consider suitability an important element of good governance. Within its on-site inspections, one CA assesses the corporate governance framework and the internal control system. Should the CA find weaknesses, it can request that the credit institution change the composition of the credit institution's board, for example, which suggests that 'fitness and properness' is also looked at in the context of day-to-day supervision.

- Cooperation with centralised unit and line supervisors (various countries): one interesting model utilised specialist expertise, i.e. a central unit specialised in suitability matters in a broad sense combined with a line supervisor who has detailed knowledge of the institution.
- Insight in numbers of suitability assessments (various countries): it is noticed that there is only a limited number of CAs that have readily available data related to suitability testing. In the interest of comparability and to look at the effectiveness of such testing, increased collection and analysis of data could be explored further.

### 3.10 Input provided by the ECB/SSM regarding its contribution to the fit and proper assessment

The Single Supervisory Mechanism (SSM) comprises the European Central Bank (ECB) and the national CAs of the 19 participating Member States (MS) in the euro area. Since 4 November 2014, the SSM is responsible for the prudential supervision of all credit institutions in the participating Member States. It ensures that the European Union's policy on the prudential supervision of credit institutions is implemented in a coherent and effective manner and that credit institutions under its remit are subject to supervision of the highest quality. The SSM Regulation<sup>6</sup> and the SSM Framework Regulation<sup>7</sup> provide the legal basis for the operational arrangements related to the prudential tasks of the SSM. The ECB directly supervises all institutions that are classified as significant, around 120 groups representing approximately 1 200 supervised entities, with the assistance of the CAs from the participating MS. The day-to-day supervision is conducted by joint supervisory teams (JSTs), which comprise staff from both CAs and the ECB. The CAs continue to conduct the direct supervision of less significant institutions, around 3 500 entities, subject to the oversight of the ECB. The ECB can also take on the direct supervision of less significant institutions in the participating MS, if this is necessary to ensure the consistent application of high supervisory standards.

From 4 November 2014 the ECB is competent to carry out the assessment of the suitability ('fit and proper') of members of management bodies of significant credit institutions, in the participating MS, having regard to Articles 4(1)(e), 6(4) and 33(2) of the SSM Regulation. The 'fit and proper' assessment of the members of the management body of significant and less significant institutions is a key part of the SSM's supervisory activities. The members need to be of sufficiently good repute and to possess sufficient knowledge, skills and experience to perform their duties. In the case of an initial authorisation (licensing) of a credit institution, the 'fit and proper' assessment is performed as part of the authorisation procedure. A significant supervised

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<sup>6</sup> 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.

<sup>7</sup> Regulation 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 (SSM Framework Regulation).

entity shall notify the relevant CA of any change to the members of its management bodies in their managerial and supervisory functions, including the renewal of the managers' term of office. The relevant CA informs the relevant JST and the ECB's Authorisation Division, without undue delay, informing it of the time limit within which a decision has to be taken and notified in accordance with the relevant national law. With the assistance of the CA, the JST and the Authorisation Division jointly carry out the assessment. If the assessment is positive, the JST and the Authorisation Division submit the proposal to the Supervisory Board and the Governing Council, even if no formal decision is required under national law. A formal decision in any case shall provide for legal certainty, as many significant institutions provide services in many participating MS with different national requirements. If the assessment is negative, the JST and the Authorisation Division conduct the hearing on the basis of the joint intended proposal for a complete draft decision. On the basis of the hearing, both the Authorisation Division and the JST review the joint proposal for a complete draft decision and submit it to the Supervisory Board and the Governing Council. This decision follows the non-objection procedure set out in Article 26 of the SSM Regulation. Once the decision has been taken by the Governing Council, the Secretariat of the Supervisory Board notifies the supervised entity and informs the involved functions (JST, CA and Authorisation Division). The implementation of the decision of the Governing Council is regulated by national law.

In carrying out this task, as defined in the SSM Regulation, the ECB applies all relevant EU laws and, where applicable, the national legislation transposing them into MS law. Where the relevant law grants options for MS, the ECB also applies the national legislation exercising those options. The ECB is subject to technical standards developed by the EBA and adopted by the European Commission, and also to the EBA's guidelines, recommendations and [Single] Supervisory Handbook. Moreover, in areas not covered by these frameworks, or if a need for further harmonisation emerges in the conduct of the day-to-day supervision, the ECB will issue its own standards and methodologies, while considering Member States' national options and discretions under EU legislation.

## 4. Outcomes of the on-site visits

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The Review Panel on-site visit teams visited eight CAs in Phase 4 of the peer review<sup>8</sup>, so as to understand in more detail some CAs' practices, with a view to assisting in the identification of potential 'best practices' observed through the SAQ. The selection of the hosting CAs was based upon the results of the 'review by peers' phase (Phase 3).

The on-site visits were carried out in an open way, which proved beneficial to the respective visiting teams. Prior to each on-site visit, a list of questions was provided to the hosting CA so that it could arrange the assistance of the appropriate staff, and provide greater clarification to details already provided by the CA in its response to the SAQ and/or illustrate further potential good practices identified by the Review Panel, and in particular its workstream.

During the visits, senior staff, with assigned responsibilities for 'fit and proper' and/or involved in performing 'fit and proper' assessments, from the hosting CAs explained to the visiting teams their internal organisation with respect to the 'fit and proper' process, and their main tasks and duties, as well as valuable information on how the suitability assessments were performed within their jurisdiction.

The visiting teams were in general made up of two persons from other CAs and one member of the EBA staff.

The best practices that visiting teams have observed are mostly focused on the CAs processes, including i) the use of interviews conducted to assess the candidates, ii) the practice of exit interviews on a voluntary basis and iii) the meetings that certain CAs convene with the management body to gain insight into the functioning of the management and a greater understanding of the strategy. Also, the on-site visits have proved the benefits of a clear definition of key function holder. Defining some clear criteria to assess the suitability of the candidates is also perceived as a best practice carried out by several CAs, focusing on specific criteria such as suitability, reputation or collective assessment.

For a thorough analysis of the best practices, a complete list has been included in Annex IV.

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<sup>8</sup> According to the [EBA Review Panel methodology for the conduct of peer reviews](#), approved in June 2012, each peer review has four phases: Phase 1 (preparatory), Phase 2 (self-assessment), Phase 3 (review by peers) and Phase 4 (on-site visits).

## 5. Areas for further harmonisation of supervisory practice

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The work of the Review Panel workstream, the results of the on-site visits and the discussions conducted during the Review Panel meetings have revealed that the EBA Guidelines have not led sufficiently to strengthened consistency in supervisory practice. Equally, the transposition of CRD IV in the MS has not prevented further divergences within the national laws.

Accordingly the Review Panel has identified some areas for improvement, in particular regarding supervisory processes on suitability (transparency of the process, use of supervisory tools to assess the suitability, timeline for conducting the assessment). In addition, diverging supervisory practices are observed regarding the criteria used to assess suitability of the applicants to join the management body, and key function holders, when the latter is assessed.

The Review Panel has also the task of proposing some specific actions to promote more clarity and convergence in the supervisory practices and to further strengthen consistency in supervisory outcomes<sup>9</sup>.

The Review Panel proposed to the EBA this Review Report, which reflects both the best practices identified and some proposals for further harmonisation. In line with Article 30(3) and 30(3a) of the EBA Regulation, the EBA may issue guidelines and recommendations with a view to establishing consistent, efficient and effective supervisory practices. In addition, the EBA shall submit an opinion to the European Commission where the peer review shows that a legislative initiative is necessary to ensure the further harmonisation of prudential rules<sup>10</sup>.

Accordingly the EBA recommends the following proposals, together with their respective priorities, to foster more convergence and harmonisation in supervisory practice within the Single Market. These proposals are based on the results of the peer review provided above, including the experience of the on-site visit teams. Many of these proposals the EBA should incorporate in its work currently under way on internal governance, such as in its update of the guidelines on the assessment of the suitability of members of the management body and key function holders, in accordance with the EBA's mandate under Article 91(12) of the CRD IV.

**Level 1 priority** [*aspects which the EBA should incorporate within its revision of the existing EBA Guidelines or consider issuing in the form of an EBA Opinion seeking a legislative initiative to ensure the further harmonisation of prudential rules*]

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<sup>9</sup> Article 30 of the EBA Regulation: 'The Authority shall periodically organise and conduct peer review of some or all of the activities of competent authorities, to further strengthen consistency in supervisory outcomes'.

<sup>10</sup> Article 30(3a) of the EBA Regulation: 'The Authority shall submit an opinion to the European Commission where the peer review shows that a legislative initiative is necessary to ensure the further harmonisation of prudential rules'.

### ***Having a common definition of suitability and common set of criteria to conduct the assessment for CAs and institutions***

According to the definition of suitability embedded in section 2 of the EBA Guidelines, suitability means the degree to which the members of the management body of the credit institution have good reputation and sufficient experience to fulfil their duties. Some CAs use the basic definition provided by the EBA Guidelines to assess the suitability of the members of the management body, whilst other CAs have adopted a broader definition whose scope covers not only reputation and experience, skills and knowledge but also probity, integrity, honesty and professional conduct. With a view to harmonising the supervisors' interpretation of the notion of suitability and to enhance consistency of supervisory practices within the EU, a more precise definition of suitability is recommended. The existing definition should be extended to include sufficient knowledge, skills, integrity, independence of mind and honesty, and also taking into account the requirement for the management body to possess adequate collective knowledge. In this regard, the EBA has a clear mandate embedded in Article 91(12b/12c) of CRD IV to issue guidelines on i) the notion of honesty, integrity and independence of mind of a member of the management body and ii) the notion of adequate collective knowledge, skills and experience of the management body.

Whilst Chapter IV of the EBA Guidelines, 'Assessment criteria', provides a thorough set of criteria on reputation and experience (respectively paragraphs 13 and 14), the governance criteria embedded in paragraph 15 should be further elaborated to facilitate an enhanced convergence of practices. Potential conflict of interest, the ability to commit sufficient time, collective knowledge and expertise, and members' ability to perform their duties independently without undue influence from other persons should be specified. In this regard, the EBA has a clear mandate embedded in Article 91(12a/12b/12c) of CRD IV to develop guidelines on i) the notion of sufficient time commitment of a member of the management body, ii) the notion of adequate collective knowledge, skills and experience of the management body and iii) the notions of honesty, integrity and independence of mind of a member of the management body.

Therefore, the EBA recommends it revise the EBA Guidelines such that they:

- broaden the definition of suitability taking into account the mandates under Article 91 (12) CRD IV;
- provide the CAs and the credit institutions with a list of common indicators to define independence and ensure that some of the members of the management body in the supervisory function are independent and able to achieve their tasks in line with CRD IV and therefore avoid conflicts of interest;
- provide minimum criteria to allow institutions and CAs to assess collective knowledge of the members of the management body and provide a template that may be used in this respect; and
- provide clear and precise common criteria regarding the assessment of suitability by a credit institution and CA, in particular regarding the responsibility for the assessment, the

initial and ongoing assessment, the assessment of credit institutions regarding individual members of the management body and the assessment of the management body collectively.

***Having a common and consistent approach regarding the suitability of the key function holders***

It is important to clarify the notion and the scope of KFH. KFHs are defined in the EBA guidelines as *'those staff members whose positions give them significant influence over the direction of the credit institution, but who are not members of the management body. Key function holders might include heads of significant business lines, EEA branches, third country subsidiaries, support and internal control functions'*. The review of national practices has revealed deep divergences regarding the implementation of the notion and the scope of KFH, in particular in the identification of KFH.

The EBA recommends that it incorporate this dimension in its work on the revision of the EBA Guidelines currently under development.

In addition, the EBA shall consider whether to submit an opinion to the European Commission for a legislative initiative to propose a clarification on the fit and proper requirements for KFH.

***Promoting the practice of interviews for certain categories of applicants***

Regarding the supervisory assessment described in Chapter III of the EBA Guidelines, significant divergences have been identified amongst CAs regarding the use of supervisory tools to assess the suitability of the candidate, in case of doubts about the application and the candidates' suitability or inconsistent information identified during the assessment by CA. In this regard, the use of interviews has been identified by the EBA as a best practice to assess the candidates' suitability for the desired position and to better inform the CA in its consideration of the candidate's competence and skills for the role sought.

Some CAs do not perform any interviews of applicants, whereas other CAs require an interview for all candidates applying for a management body position or a post as key function holder. The EBA suggests providing guidelines on performing an interview. The guidelines should provide criteria for conducting interviews on a risk-based approach. These guidelines may also cover the structure of interviews and procedures for preparing interviews, including tailoring questions for the interviewee to the individual circumstances of the candidate, taking into account the institution's activities, business, risk profile and strategy.

***Developing a common set of criteria for the application of the proportionality principle***

A set of minimum criteria for the application of the proportionality principle to be used in a consistent way across MS is regarded as beneficial and should take into account individual circumstances and the nature, scale and complexity of institutions' activities. Those criteria

should also take into consideration developments in other EBA regulatory products, in particular the Guidelines for common procedures and methodologies for the SREP<sup>11</sup>.

The EBA recommends it provide guidelines on a common set of criteria for the application of the proportionality principle.

### ***Promoting cooperation between the CAs regarding the suitability assessment***

Candidates may have previously worked in another country (EEA/third country). In this regard, the issue of cooperation for the suitability assessment, including for passporting activities, and the timely exchange of information between CAs is important. With a view to facilitating the assessment of the suitability of those candidates who have worked in another country, the Review Panel recommends enhanced cooperation between CAs during the assessment (e.g. exchange of information, including assessments' outcomes and discussion within the supervisory cross-border colleges), taking into account the constraints linked to data protection laws.

The EBA recommends that it provide enhanced guidelines in this area. Further, the EBA recommends that it consider whether to submit an Opinion to the European Commission for a legislative initiative to further harmonise enhanced cooperation between CAs in the EU in this regard.

### ***Establishing a shorter maximum time period for the CAs' assessment***

Article 11(4) of the EBA Guidelines stipulates that the time period for a CA's assessment should not exceed 6 months. The Review Panel notes that most CAs do their assessment in less than 6 months but some CAs have not implemented this maximum time period.

The EBA recommends it change the EBA Guidelines such that they require CAs to complete their assessment in a period shorter than 6 months.

**Level 2 priority** [*aspects which the EBA may wish to consider, such as in the form of EBA Guidelines*]

### ***Enhanced consistency in the use of supervisory tools***

With a view to enhancing harmonisation and promoting further consistency between supervisors, the Review Panel suggests:

- developing a fit and proper template which CAs may use to provide to credit institutions with a set of criteria on the assessment of suitability that they can submit to the CAs;

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<http://www.eba.europa.eu/documents/10180/935249/EBA-GL-2014-13+%28Guidelines+on+SREP+methodologies+and+processes%29.pdf/4b842c7e-3294-4947-94cd-ad7f94405d66>



- establishing internal procedures to ensure consistency for the assessment process, for example to keep track of negative/positive suitability assessments so as to collect and keep the rationale and the circumstances of the assessment which has led to a negative/positive response, with a view to comparing the situation and ensuring a level playing field for all the candidates in the long run.

The EBA may develop guidelines in this area.

### **Level 3 priority** [*aspects which CAs may wish to consider in their respective supervisory practices*]

The Review Panel notes that there are no specific requirements contained in either CRD IV or in the EBA Guidelines regarding the following topics, and suggests that the EBA set out a list of these good practices for the benefit of the CAs.

#### ***Pre-approval***

Certain CAs require approval as a precondition to be appointed as member of a management body. This approach has been identified as best practice and promotes clarity, legal certainty and transparency.

#### ***Exit interviews***

Certain CAs carry out exit interviews on a case-by-case basis. This best practice allows the CAs' staff to discuss matters of supervisory interest and to be informed of potential concerns raised by the individuals about the supervised entity and/or other members of staff in the supervised entity, including members of the management board/KFH.

#### ***Management board meetings***

A few CAs have the power to sit in on meetings with the management body in order to collect evidence as to how the management body functions. Likewise, some of the CAs have meetings with different members of the management body to seek their views on how the management body performs its tasks. Also some CAs require detailed minutes of management board meetings. These are also regarded as best practice insofar as they may provide the CA's staff with a different perspective.

The EBA recommends that CAs consider the merits of embedding these approaches within their own supervisory practices, if not yet done.

## Annex I – Participating Competent Authorities

Figure 7: Table of country codes and names of competent authorities (including national central banks with supervisory function)

Country code	Member State	Competent authority
AT	Austria	Finanzmarktaufsicht (Financial Market Authority)/Oesterreichische Nationalbank (National Central Bank)
BE	Belgium	National Bank of Belgium
BG	Bulgaria	Българска народна банка (Bulgarian National Bank)
CY	Cyprus	Κεντρική Τράπεζα της Κύπρου (Central Bank of Cyprus)
CZ	Czech Republic	Ceska Narodni Banka (Czech National Bank)
DE	Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority)
DK	Denmark	Finanstilsynet (Danish Financial Supervisory Authority)
EE	Estonia	Finantsinspektsioon (Financial Supervision Authority)
EL	Greece	Τράπεζα της Ελλάδος (Bank of Greece)
ES	Spain	Banco de España (Bank of Spain)
FI	Finland	Finanssivalvonta (Finnish Financial Supervisory Authority)
FR	France	Autorité de Contrôle Prudentiel et de Résolution (Prudential Control Authority)
HR	Croatia	Hrvatska Narodna Banka (Croatian National Bank)
HU	Hungary	Magyar Nemzeti Bank (National Bank of Hungary)
IE	Ireland	Central Bank of Ireland
IT	Italy	Banca d'Italia (Bank of Italy)
IS	Iceland	Fjármálaeftirlitið (Icelandic Financial Supervisory Authority – FME)
LI	Liechtenstein	Finanzmarktaufsicht – FMA (Financial Market Authority)
LT	Lithuania	Lietuvos Bankas (Bank of Lithuania)
LU	Luxembourg	Commission de Surveillance du Secteur Financier (Commission for the Supervision of Financial Sector)
LV	Latvia	Finansu un Kapitāla Tirgus Komisija (Financial and Capital Market Commission)
MT	Malta	Malta Financial Services Authority
NL	Netherlands	De Nederlandsche Bank (Dutch Central Bank)
NO	Norway	Finanstilsynet (Norwegian Financial Supervisory Authority)
PL	Poland	Komisja Nadzoru Finansowego (Polish Financial Supervision Authority)
PT	Portugal	Banco de Portugal (Bank of Portugal)
RO	Romania	Banca Națională a României (National Bank of Romania)
SE	Sweden	Finansinspektionen (Swedish Financial Supervisory Authority)
SI	Slovenia	Banka Slovenije (Bank of Slovenia)
SK	Slovakia	Narodna Banka Slovenska (National Bank of Slovakia)
UK	United Kingdom	Prudential Regulation Authority

## Annex II – Summary Responses from the Self-Assessment Questionnaire

Figure 8: Complete summary table from the SAQ

MS	Question								
	2i	2iii	3i	4i	5i	5ii	5iii	5iv	7ii
AT	Fully applied	Largely applied	Fully applied	Largely applied	Largely applied	Fully applied	Fully applied	Partially applied	Largely applied
BE	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Fully applied	Fully applied
BG	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
CY	Largely applied	Fully applied	Fully applied	Fully applied	Partially applied	Largely applied	Largely applied	Not applied	Fully applied
CZ	Largely applied	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
DE	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
DK	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
EE	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
EL	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
ES	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
FI	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Largely applied	Largely applied	Fully applied
FR	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied
HR	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Partially applied	Fully applied	Fully applied
HU	Fully applied	Largely applied	Fully applied	Largely applied	Largely applied	Fully applied	Largely applied	Largely applied	Largely applied
IE	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
IS	Fully applied	Fully applied	Fully applied	Fully applied	Partially applied	Largely applied	Not applied	Not applied	Fully applied
IT	Fully applied	Largely applied	Partially applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied	Largely applied
LI	Fully applied	Fully applied	Largely applied	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied
LT	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied

	applied	applied	applied	applied	applied	applied	applied	applied	applied
<b>LU</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
<b>LV</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
<b>MT</b>	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Largely applied	Largely applied	Largely applied
<b>NL</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
<b>NO</b>	Largely applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Largely applied	Partially applied	Largely applied
<b>PL</b>	Largely applied	Fully applied	Fully applied	Fully applied	Not applied	Partially applied	Largely applied	Fully applied	Largely applied
<b>PT</b>	Fully applied	Fully applied	Fully applied	Fully applied	Partially applied	Largely applied	Not applied	Partially applied	Fully applied
<b>RO</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied
<b>SE</b>	Fully applied	Largely applied	Fully applied	Fully applied	Largely applied	Fully applied	Partially applied	Fully applied	Fully applied
<b>SI</b>	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Fully applied
<b>SK</b>	Fully applied	Partially applied	Largely applied	Largely applied	Largely applied	Not applied	Largely applied	Not applicable	Fully applied
<b>UK</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied

## Annex III – Outcomes of Self-Assessment

### 1) Legal framework

The requirements set out in Title I and Title III, Paragraph 16, of the EBA Guidelines (assessed through question 1 of the self-assessment questionnaire) have not been benchmarked but may be used in order to identify good or best practices of CAs.

### 2) Suitability

The requirements set out in Title I, Paragraph 2 and Paragraph 3.4, and Title II, Chapter III, Paragraph 11.2 and 11.3, of the EBA Guidelines (assessed through question 2(i) of the self-assessment questionnaire) have been deemed to be ‘fully applied’ by 26 CAs, and ‘largely applied’ by 5 CAs. The requirements set out in Title II, Chapter III, Paragraphs 9, 10 and 11, of the EBA Guidelines (assessed through question 2(iii) of the self-assessment questionnaire) have been deemed to be ‘fully applied’ by 24 CAs, ‘largely applied’ by 6 CAs and ‘partially applied’ by 1 CA.

Figure 9: Summary table of competent authorities’ benchmarked responses – suitability

MS	Question 2i Assessment	Question 2iii Assessment	MS	Question 2i Assessment	Question 2iii Assessment
AT	Fully applied	Largely applied	IT	Fully applied	Largely applied
BE	Fully applied	Fully applied	LI	Fully applied	Fully applied
BG	Fully applied	Fully applied	LT	Fully applied	Fully applied
CY	Largely applied	Fully applied	LU	Fully applied	Fully applied
CZ	Largely applied	Largely applied	LV	Fully applied	Fully applied
DE	Fully applied	Fully applied	MT	Fully applied	Fully applied
DK	Fully applied	Fully applied	NL	Fully applied	Fully applied
EE	Fully applied	Fully applied	NO	Largely applied	Fully applied
EL	Fully applied	Fully applied	PL	Largely applied	Fully applied
ES	Fully applied	Fully applied	PT	Fully applied	Fully applied
FI	Fully applied	Fully applied	RO	Fully applied	Fully applied
FR	Fully applied	Fully applied	SE	Fully applied	Largely applied
HR	Largely applied	Fully applied	SI	Fully applied	Largely applied
HU	Fully applied	Largely applied	SK	Fully applied	Partially applied
IE	Fully applied	Fully applied	UK	Fully applied	Fully applied
IS	Fully applied	Fully applied			

### 3) Reputation

The requirements set out in Title II, Chapter IV, Paragraph 13 of the EBA Guidelines (assessed through question 3(i) of the self-assessment questionnaire) have been deemed to be ‘fully applied’ by 28 CAs, ‘largely applied’ by 2 CAs and ‘partially applied’ by 1 CA.

Figure 10: Summary table of competent authorities’ benchmarked responses – reputation

Question 3i			
MS	Assessment	MS	Assessment
AT	Fully applied	IT	Partially applied
BE	Fully applied	LI	Largely applied
BG	Fully applied	LT	Fully applied
CY	Fully applied	LU	Fully applied
CZ	Fully applied	LV	Fully applied
DE	Fully applied	MT	Fully applied
DK	Fully applied	NL	Fully applied
EE	Fully applied	NO	Fully applied
EL	Fully applied	PL	Fully applied
ES	Fully applied	PT	Fully applied
FI	Fully applied	RO	Fully applied
FR	Fully applied	SE	Fully applied
HR	Fully applied	SI	Fully applied
HU	Fully applied	SK	Largely applied
IE	Fully applied	UK	Fully applied
IS	Fully applied		

### 4) Experience

The requirements set out in Title I, Paragraph 3.4, and Title II, Chapter IV, Paragraph 14, of the EBA Guidelines, as well as GL 44, Paragraph 13, have been deemed to be ‘fully applied’ by 28 CAs and ‘largely applied’ by 3 CAs.

Figure 11: Summary table of competent authorities' benchmarked responses – experience

	Question 4i		
MS	Assessment	MS	Assessment
AT	Largely applied	IT	Fully applied
BE	Fully applied	LI	Fully applied
BG	Fully applied	LT	Fully applied
CY	Fully applied	LU	Fully applied
CZ	Fully applied	LV	Fully applied
DE	Fully applied	MT	Fully applied
DK	Fully applied	NL	Fully applied
EE	Fully applied	NO	Fully applied
EL	Fully applied	PL	Fully applied
ES	Fully applied	PT	Fully applied
FI	Fully applied	RO	Fully applied
FR	Fully applied	SE	Fully applied
HR	Fully applied	SI	Fully applied
HU	Largely applied	SK	Largely applied
IE	Fully applied	UK	Fully applied
IS	Fully applied		

## 5) Governance

The requirements set out in GL 44, Paragraphs 11.2, 11.3 and 13 (assessed through question 5(i) of the self-assessment questionnaire) have been deemed to be 'fully applied' by 19 CAs, 'largely applied' by 8 CAs, 'partially applied' by 3 CAs and 'not applied' by 1 CA.

The requirements set out in Title II, Chapter IV, Paragraph 15, of the EBA Guidelines and the EBA Guidelines 44, Paragraph 5.6 and Paragraph 12 (assessed through question 5(ii) of the self-assessment questionnaire) have been deemed to be 'fully applied' by 21 CAs, 'largely applied' by 8 CAs, 'partially applied' by 1 CA and 'not applied' by 1 CA.

The requirements set out in GL 44, Paragraph 12, and Article 91(8) of CRD IV (assessed through question 5(iii) of the self-assessment questionnaire) have been deemed to be 'fully applied' by 16 CAs, 'largely applied' by 11 CAs, 'partially applied' by 2 CAs and 'not applied' by 2 CAs.

The requirements set out in GL 44, Paragraph 12 (assessed through question 5(iv) of the self-assessment questionnaire) have been deemed to be 'fully applied' by 21 CAs, 'largely applied' by 4 CAs, 'partially applied' by 3 CAs and 'not applied' by 1 CA. One CA noted that this requirement would not be applicable to it.

Figure 12: Summary table of competent authorities' benchmarked responses – governance

	Question 5i	Question 5ii	Question 5iii	Question 5iv
MS	Assessment	Assessment	Assessment	Assessment
AT	Largely applied	Fully applied	Fully applied	Partially applied
BE	Fully applied	Largely applied	Largely applied	Fully applied
BG	Fully applied	Fully applied	Fully applied	Fully applied
CY	Partially applied	Largely applied	Largely applied	Not applied
CZ	Fully applied	Fully applied	Fully applied	Fully applied
DE	Fully applied	Fully applied	Fully applied	Fully applied
DK	Fully applied	Fully applied	Fully applied	Fully applied
EE	Fully applied	Fully applied	Fully applied	Fully applied
EL	Fully applied	Fully applied	Fully applied	Fully applied
ES	Fully applied	Fully applied	Fully applied	Fully applied
FI	Largely applied	Largely applied	Largely applied	Largely applied
FR	Fully applied	Fully applied	Largely applied	Fully applied
HR	Fully applied	Largely applied	Partially applied	Fully applied
HU	Largely applied	Fully applied	Largely applied	Largely applied
IE	Fully applied	Fully applied	Fully applied	Fully applied
IS	Partially applied	Largely applied	Not applied	Not applied
IT	Fully applied	Largely applied	Fully applied	Fully applied
LI	Largely applied	Fully applied	Fully applied	Fully applied
LT	Fully applied	Fully applied	Fully applied	Fully applied
LU	Fully applied	Fully applied	Fully applied	Fully applied
LV	Fully applied	Fully applied	Fully applied	Fully applied
MT	Largely applied	Largely applied	Largely applied	Largely applied
NL	Fully applied	Fully applied	Fully applied	Fully applied
NO	Largely applied	Fully applied	Largely applied	Partially applied
PL	Not applied	Partially applied	Largely applied	Fully applied
PT	Partially applied	Largely applied	Not applied	Partially applied
RO	Fully applied	Fully applied	Largely applied	Fully applied
SE	Largely applied	Fully applied	Partially applied	Fully applied
SI	Fully applied	Fully applied	Largely applied	Largely applied
SK	Largely applied	Not applied	Largely applied	Not applicable
UK	Fully applied	Fully applied	Fully applied	Fully applied

## 6) Proportionality

The requirements set out in Title I, Paragraph 3.1 of EBA Guidelines (assessed through question 6 of the self-assessment questionnaire) have not been benchmarked but may be used in order to identify good or best practices of CAs.



## 7) Supervisory action including sanctioning

The requirements set out in Title II, Chapter III, Paragraph 12 of EBA Guidelines (assessed through question 7(ii) of the self-assessment questionnaire) have been deemed to be 'fully applied' by 25 CAs and 'largely applied' by 6 CAs.

Figure 13: Summary table of competent authorities' benchmarked responses – supervisory action including sanctioning

	Question 7ii		
MS	Assessment	MS	Assessment
AT	Largely applied	IT	Largely applied
BE	Fully applied	LI	Fully applied
BG	Fully applied	LT	Fully applied
CY	Fully applied	LU	Fully applied
CZ	Fully applied	LV	Fully applied
DE	Fully applied	MT	Largely applied
DK	Fully applied	NL	Fully applied
EE	Fully applied	NO	Largely applied
EL	Fully applied	PL	Largely applied
ES	Fully applied	PT	Fully applied
FI	Fully applied	RO	Fully applied
FR	Fully applied	SE	Fully applied
HR	Fully applied	SI	Fully applied
HU	Largely applied	SK	Fully applied
IE	Fully applied	UK	Fully applied
IS	Fully applied		

## 8) Supervisory resources

In line with Article 30(2) of the EBA Regulation, the EBA assesses *'the adequacy of resources and governance arrangements'* of CAs. This is assessed through question 8 of the self-assessment questionnaire and has not been benchmarked but may be used in order to identify good or best practices of CAs.

# Annex IV – List of Best Practices identified

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This section provides an overview of all the best practices observed, including as a result of the responses to the self-assessment questionnaire, the review performed by the clusters and also the practices noted as part of the on-site visit.

## 1) The use of interviews to assess candidates

### (i) When to interview

Visiting teams have observed that the practice of interviewing candidates (for potential members of the management body and according to a risk-based approach) is a good practice and an effective tool to contribute to the assessment of suitability. Further interviews of candidates should also be triggered when CAs have identified discrepancies between the information contained in the candidate's application form and the CA's assessment. Interviews assist in assessing the experience, knowledge and skills of the candidate. Interviews can also facilitate assessing reputation (integrity).

### (ii) Interview methodologies

Some CAs have developed internal methodologies (e.g. lists of possible questions to assess certain aspects) to prepare interviews, with minimum criteria to follow and to ensure consistency between the interviews, although they are streamlined and tailored to the relevant institution/business model/function, or role applied for by candidate.

Many CAs also train their staff on interviewing technique.

Conducting targeted interviews enable the interview panel to probe the candidate's application and assess their relevant skills and expertise for the applied position. The use of interviews allows the CA's staff to better assess the applicant and understand their competences, skills (including soft skills that are difficult to assess on paper) and experience. Interviews also allow the CA's staff to benchmark the applicants' skills and competences against their peers.

### (iii) Interview panels

The composition of the interview panel plays an important role in the CA's ability to assess the applicant. Observed good practice was that the interview panel is composed of two or three persons (fit and proper experts and the relevant supervisor). If the vacancy is for the CEO/chairperson of the management board of a significant credit institution, senior management of the CA sit on the interview panel.

#### **(iv) Decision on the suitability assessment by a CA**

The results of the interview may be provided swiftly to the respective credit institution and/or directly to the applicant. Accordingly, the interviews may usually lead to (i) a positive decision on the candidate's suitability or (ii) a negative decision. However, in certain CAs, two additional options are possible: (i) a conditional approval, i.e. subject to the applicant completing specific training, and (ii) the possibility of conducting a second interview.

#### **(v) The conduct of exit interviews**

Certain CAs perform exit interviews on a voluntary basis, which can at times provide useful information on the internal governance of the relevant credit institution and on its business/risk profile.

Another CA carries out exit interviews especially for those individuals who resign from a function that had been previously approved. In the same way as mentioned above, the CA notes that such exit interviews provide an opportunity for the departing credit institution staff to inform the CA of developments at the supervised entity.

## **2) Definition of Key Function Holder (KFH)**

Only some CAs assess the suitability of key function holder (KFH). Of those who assess KFH, some have defined a list of certain KFH who should be subject to a fit and proper assessment by the credit institutions, for example by using the criteria for material risk takers contained in the regulatory technical standards on identified staff<sup>12</sup>. One CA requires pre-approval for all control functions. Although the other functions mentioned in the regulatory technical standards do not need pre-approval, credit institutions should be able to justify the assessment upon request by the CA. Another CA uses a list of 'controlled functions' as KFH. Among these CA practices, some require pre-approval and others not. In a similar manner, another CA has established a prescribed list of functions as KFH, including persons who manage internal audit, compliance, risk management, treasury, credit, legal department and any other activities that can expose the credit institution to significant risks (e.g. loan restructuring, workout).

Another CA uses also a comprehensive and up-to-date single document describing the credit institution's management and governance arrangements and the persons in charge of the lines of responsibility. Such an approach could be used to harmonise the definition of KFH and different positions within the management body. This list might be a useful and effective tool for assessing the fit and proper aspects and to better identify the profile of a key position/function.

Another CA has recently implemented a new regime and defined the KFH as individuals working under the responsibility of a bank having its registered office in its country, working in a management position directly below the level of policymakers and responsible for natural

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<sup>12</sup>Commission delegated regulation (EU) No 604/2014 of 4 March 2014.

persons whose activities have a material impact on the institution's risk profile. As a minimum this category includes heads of the compliance, risk management and internal audit functions.

### 3) Criteria to assess suitability (experience, skills, knowledge)

#### (i) Suitability

One CA has broadened the definition of suitability to cover not only experience, skills and knowledge but also professional conduct; it assesses i) management, organisation and communication, ii) products, services and markets in which the undertaking is active, iii) control and integrity of operations and iv) balanced and consistent decision making. In addition, very detailed criteria on theoretical and practical experience, on skills and on knowledge have been developed and provided to credit institutions (via national regulation).

#### (ii) Reputation

With respect to applying the 'innocent until proven guilty' principle, one CA has established an Experts Committee, composed of members with previous reputable legal experience careers, to provide advice on criminal or integrity antecedents. The members of this committee are independent from the staff assessing the individuals. It has proven to be an effective measure in filtering out the relevant aspects of the applications of individuals with these antecedents. The use of this committee is viewed as very supportive in motivating a negative decision for an assessment and in fostering a legally compliant culture within the sector.

#### (iii) Assessment of collective knowledge

With a view to enhancing the effectiveness of its assessment practices, in particular regarding collective knowledge of members of the management body, one CA requires credit institutions to use a 'Competency Matrix'. The matrix gives a score for a set of criteria for every single member within the management body. The credit institution also has to provide an explanation of the rationale for the scoring of the collective assessment. If a member of the management body has a low score on one or more points in the matrix, the credit institution has to explain how it could mitigate this within the collective management body. This tool allows the CA to assess various criteria related to the individual applicant within the overall management body (for example communication skills and independence, amongst others). When a new member of the management body retires or switches position, this triggers an assessment. Examining the role of the individual and the motivation given for the prospective appointment within the context of the overall composition of the member of the management body is viewed as an effective and comprehensive tool also because it obliges institutions to be more detailed in their own assessment. Further, it provides a qualitative and quantitative approach to the collective knowledge of a management body.

Another CA sits sometimes in meetings of the management body, especially for larger credit institutions, in order to gather evidence on how the management body functions (but the CA neither takes part in the discussions nor seeks to influence the management body's discussions).

This involves observing management body meetings and having separate meetings with different members of the management body to understand how they think the body is functioning.

Another CA requires a credit institution to self-assess that the management body has the collective necessary skills and knowledge on an ongoing basis and at least once a year. The details of the self-assessment need to be part of the minutes of the board meeting where the self-assessment was discussed. The CA assesses the credit institution's self-assessment as part of its on-site supervisory visits. The CA has issued guidelines which, inter alia, provide a list of examples of envisaged skills and knowledge, depending on the complexity, size and business model of the credit institution. If the credit institution identifies missing skills and/or knowledge, it needs to have a plan for how to address the shortfall, e.g. recruit new members and/or supplement training.

#### 4) Application of the proportionality principle

Although not assessed explicitly, some good practices were observed in this respect. Certain CAs have categorised the credit institutions under their supervision, taking into account their type, size, complexity and risk profile and also taking into account individuals' positions. Based on such categorisation, the CA applies differing levels of intensity in its supervisory approach/assessment. For example, the CA can apply a tailored requirement on the applicant and increase or reduce the intensity of the assessment of experience and knowledge before an individual takes office. Also such categorisations are used by CAs to determine the resources they apply to the suitability assessment and also enable greater consistency of the assessment for credit institutions within the same category.

#### 5) Meetings with the management body

The CAs conduct meetings with the management bodies of the supervised entities to gain insight into the functioning of the management, to gain a greater understanding of the strategy and to assess the main challenges and risks the institution faces, and how significant decisions are taken and challenged among members. Hence, several CAs convoke dedicated meetings between CA staff and the management body of a supervised entity. For example, one CA conducts board effectiveness reviews of some of its larger supervised banks, which involves observing board meetings and having separate meetings with different board members to understand how they think the board is functioning.

## Annex V – Final overview summary assessment after the review by peers

Figure 14: Final overview summary table after the review by peers

MS	Question								
	2i	2iii	3i	4i	5i	5ii	5iii	5iv	7ii
AT	Fully applied	Largely applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied	Largely applied
BE	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
BG	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Partially applied	Fully applied	Fully applied
CY	Largely applied	Fully applied	Fully applied	Fully applied	Partially applied	Largely applied	Largely applied	Not applied	Fully applied
CZ	Largely applied	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
DE	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
DK	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
EE	Fully applied	Not applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
EL	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
ES	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
FI	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Not applied	Largely applied	Fully applied
FR	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Fully applied
HR	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Partially applied	Fully applied	Fully applied
HU	Largely applied	Partially applied	Fully applied	Largely applied	Largely applied	Fully applied	Largely applied	Largely applied	Partially applied
IE	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
IS	Fully applied	Largely applied	Fully applied	Fully applied	Partially applied	Largely applied	Not applied	Not applied	Fully applied
IT	Fully applied	Largely applied	Partially applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied	Largely applied
LI	Fully applied	Fully applied	Largely applied	Fully applied	Largely applied	Largely applied	Largely applied	Fully applied	Fully applied

<b>LT</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied
<b>LU</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied
<b>LV</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Largely applied	Fully applied	Fully applied
<b>MT</b>	Fully applied	Largely applied	Fully applied	Largely applied	Largely applied	Largely applied	Largely applied	Largely applied	Largely applied	Not applied
<b>NL</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied
<b>NO</b>	Largely applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Fully applied	Largely applied	Partially applied	Fully applied
<b>PL</b>	Largely applied	Fully applied	Fully applied	Fully applied	Partially applied	Partially applied	Largely applied	Fully applied	Fully applied	Largely applied
<b>PT</b>	Fully applied	Largely applied	Fully applied	Fully applied	Partially applied	Fully applied	Partially applied	Largely applied	Largely applied	Fully applied
<b>RO</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied
<b>SE</b>	Fully applied	Largely applied	Fully applied	Fully applied	Largely applied	Fully applied	Largely applied	Fully applied	Fully applied	Fully applied
<b>SI</b>	Fully applied	Largely applied	Fully applied	Fully applied	Largely applied	Fully applied	Largely applied	Largely applied	Largely applied	Fully applied
<b>SK</b>	Fully applied	Partially applied	Fully applied	Fully applied	Partially applied	Partially applied	Largely applied	Largely applied	Largely applied	Fully applied
<b>UK</b>	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied	Fully applied



# Annex VI – Self-Assessment Questionnaire

Figure 15: Self-assessment questionnaire

	<b>Legal framework</b>	
<b>1 i</b>	Please describe any specific national parliament/government/ministry legislative measures (law, amendment to a former law, decree or any other legal act) that were enacted or in place to enact the specific aspects of the [EBA/GL/2012/06]. <i>Please provide a link and short description to the specific framework [and the date of its associated implementation/enactment], specifying to which paragraph of the GL 06 that legislative measure refers.</i>	NOT BENCHMARKED  <i>Background information:</i>  The Guidelines [EBA/GL/2012/06] were issued pursuant to Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority).
<b>1 ii</b>	Has your NCA issued any [other] instruments/measures (e.g. soft law, codes etc.) to implement [EBA/GL/2012/06]? <i>If yes, please provide a link to this as well as a short description, including whether this instrument/measure is legally binding.</i>	Scope of the SAQ: Credit institutions as defined in Article 4(1) of Directive 2006/48/EC, to financial holding companies as defined in Article 4(19) of Directive 2006/48/EC, and to mixed financial holding companies as defined in Article 2(15) of Directive 2002/87/EC in case of a financial conglomerate whose most important sector is banking as defined in Article 3(2) of Directive 2002/87/EC, all referred to here as 'credit institutions'.
<b>1 iii</b>	Are credit institutions required to assess the suitability of its key function holders in your jurisdiction? <i>If yes, please provide a link to the specific regulatory framework, a short description, list of the functions concerned and the date of implementation.</i>	According to [EBA/GL/2012/06] para 16, NCAs and credit institutions were expected to comply by 22 May 2013, meaning that by this date the Guidelines should be implemented in supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes).
<b>1 iv</b>	Please describe what functions your NCA considers as key function holders, having regard to those staff members whose positions give them significant influence over the direction of the credit institution, but who are not members of the management body.	Also, when assessing how NCAs assess the collective fitness of the management body, the peer review may have regard to the NCA's implementation of EBA's Guidelines on Internal Governance (GL44), such as Sections 12.5 and 13.
<b>1 v</b>	Has your NCA implemented the [EBA/GL/2012/06] in supervisory manuals/handbooks and/or internal measures (e.g. supervisory practices, specialist resource, workshops or training)? <i>If yes, please provide a link to the specific regulation (if applicable) as well as a short description of the supervisory manual(s)/handbook(s)/internal measures.</i>	
<b>1 vi</b>	Is the concept of suitability defined in your legal framework, and if so, please describe?	
<b>1 vii</b>	If applicable, does your national legal framework provide sanctions for credit institutions and/or individual members of the management body and/or key function holders that do not comply with NCA decisions regarding suitability? <i>If so, what is the nature of the sanctions (criminal, administrative or disciplinary)? In case of financial penalties, what is the range of amount?</i>	
<b>1 viii</b>	Please describe briefly the governance framework in your jurisdiction with regards to management and supervisory function of the management body.	

	<b>Suitability</b>	
<b>2 i</b>	Please describe <b>when</b> your NCA ensures that the <b>suitability</b> of the <b>members of the management body</b> of a credit institution is assessed or re-assessed.	For an assessment of <b>Fully applied</b> , all of the following criteria must be satisfied:  - NCA should assess the suitability: (i) when an application to authorise a credit institution is received; (ii) when a notification or application regarding the appointment of a new member of the management body is received; and (iii) <u>whenever appropriate</u> , i.e. facts or circumstances raise doubts about the suitability, that prompted the re-assessment, in relation to appointed members of the management body; and  (iv) when individual's role/function within the management body changes.
		For an assessment of <b>Largely applied</b> , all of the following criteria must be satisfied: - NCA should assess the suitability:  (i) when an application to authorise a credit institution is received; (ii) when a notification or application regarding the appointment of a new member of the management body is received; and (iii) <u>in most of the cases but not always</u> , where facts or circumstances raise doubts about the suitability, that prompted the re-assessment, in relation to appointed members of the management body.
		For an assessment of <b>Partially applied</b> , all of the following criteria must be satisfied:  - NCA should assess the suitability: (i) when an application to authorise a credit institution is received; (ii) when a notification or application regarding the appointment of a new member of the management body is received.
		For an assessment of <b>Not applied</b> : - Any of the criteria for partially applied is not met.
<b>2 ii</b>	Please describe how your NCA assesses the credit institution's processes, with respect to the assessment of the <b>suitability of the management body</b> .	NOT BENCHMARKED
<b>2 iii</b>	Please describe your NCA's process and procedure, including relevant steps and timelines, starting from receipt by the NCA of a credit institution's notification/application to the final assessment, for the suitability for <b>members of the management body</b> .	For an assessment of <b>Fully applied</b> , all of the following criteria must be satisfied:  (i) NCA should establish an application or notification procedure applicable to appointments of a member of the management body;  (ii) NCA should impose rules as to when such applications or notifications need to be made, and the period for its assessment; (iii) NCA should establish a notification or application procedure regarding re-appointment (may be limited to relevant changes and additional information); (iv) NCA should request the information mentioned in ANNEX I of the GL;  (v) NCA should exchange information and take into account suitability assessment from other competent authorities; (vi) NCA should inform the credit institutions of the results of the assessment.
		For an assessment of <b>Largely applied</b> , all of the following criteria must be satisfied:  (i) NCA should establish an application or notification procedure applicable to appointments of a member of the management body; (ii) NCA should impose rules as to when such applications or notifications need to be made, and the period for its assessment; (iii) NCA should establish a notification or application

		<p>procedure regarding re-appointment (may be limited to relevant changes and additional information);</p> <p>(iv) NCA should request most of the information mentioned in ANNEX I of the GL;</p> <p>(v) NCA should exchange information and take into account suitability assessments from other competent authorities;</p> <p>(vi) NCA should inform the credit institutions of the results of the assessment.</p>
		<p>For an assessment of <b>Partially applied</b>, all of the following criteria must be satisfied:</p> <p>(i) NCA should establish an application or notification procedure applicable to appointments of a member of the management body;</p> <p>(ii) NCA should impose rules as to when such applications or notifications need to be made, and the period for assessment;</p> <p>(iii) NCA should establish a notification or application procedure regarding re-appointment (may be limited to relevant changes and additional information);</p> <p>(iv) NCA should request only the information mentioned in ANNEX I Points 1 to 5 of the GL;</p> <p>(vi) NCA should inform the credit institutions of the results of the assessment.</p>
		<p>For an assessment of <b>Not applied</b>:</p> <p>- Any of the criteria for partially applied is not met.</p>
<b>2 iv</b>	Does your NCA require that an individual cannot take up the position on a <b>management body</b> until it has satisfactorily assessed the application/nomination? Yes/No	NOT BENCHMARKED
<b>2 v</b>	Please describe the NCA's process and procedure, including relevant steps and timelines, starting from receipt by the NCA of a credit institution's notification/application to the final assessment, for the <b>suitability of key function holders</b> .	NOT BENCHMARKED
<b>2 vi</b>	Please describe when and how your NCA ensures that the suitability of the key function holders of a credit institution is assessed or re-assessed.	NOT BENCHMARKED
<b>2 vii</b>	Please describe how the NCA assesses the credit institution's processes, with respect to the assessment of <b>key function holders</b> .	NOT BENCHMARKED
<b>2 viii</b>	Does your NCA require that an individual cannot take up the position of a <b>key function holder</b> , until it has satisfactorily assessed the application/nomination?	NOT BENCHMARKED
<b>2 ix</b>	Please describe whether the NCA uses <b>interviews</b> to assess the suitability of members of the management body and/or key function holders and any differentiation between different categories of these persons.	NOT BENCHMARKED

<b>Reputation</b>	
<b>3</b> <b>i</b>	<p>Please describe how your NCA assesses the <b>reputation of a member of the management body</b> (e.g. what information/criteria are required/used by your NCA etc.).</p>
	<p>For an assessment of <b>Fully applied</b>, all of the following criteria must be satisfied in <b>ALL</b> cases:</p> <ul style="list-style-type: none"> <li>(i) NCA should take into account conviction or prosecution of a criminal offence;</li> <li>(ii) NCA should take into account relevant current or past investigations and/or enforcement actions relating to the member, or the imposition of administrative sanctions for non-compliance with provisions governing banking, financial, securities, or insurance activities or those concerning securities markets, securities or payment instruments, or any financial services legislation;</li> <li>(iii) NCA should take into account relevant current or past investigations and/or enforcement actions by any other regulatory or professional bodies for non-compliance with any relevant provisions;</li> <li>(iv) NCA should take into account factors regarding the propriety of the member in past business dealings;</li> <li>(v) NCA should take into account past and present business performance and financial soundness of a member with regard to their potential impact on the member's reputation, including financial and business performance of the entities owned or directed by the member or in which the member had or has significant share and personal bankruptcy.</li> </ul> <p>For an assessment of <b>Largely applied</b>, the following criterion must be satisfied in ALL cases:</p> <ul style="list-style-type: none"> <li>(i) NCA should take into account conviction or prosecution of a criminal offence;</li> </ul> <p>and <b>ALSO</b> all of the following criteria must be satisfied in <b>MOST</b> cases:</p> <ul style="list-style-type: none"> <li>(ii) NCA should take into account relevant current or past investigations and/or enforcement actions relating to the member, or the imposition of administrative sanctions for non-compliance with provisions governing banking, financial, securities, or insurance activities or those concerning securities markets, securities or payment instruments, or any financial services legislation;</li> <li>(iii) NCA should take into account relevant current or past investigations and/or enforcement actions by any other regulatory or professional bodies for non-compliance with any relevant provisions;</li> <li>(iv) NCA should take into account factors regarding the propriety of the member in past business dealings;</li> <li>(v) NCA should take into account past and present business performance and financial soundness of a member with regard to their potential impact on the member's reputation, including financial and business performance of the entities owned or directed by the member or in which the member had or has significant share and personal bankruptcy.</li> </ul> <p>For an assessment of <b>Partially applied</b>, the following criterion must be satisfied in ALL cases:</p> <ul style="list-style-type: none"> <li>(i) NCA should take into account conviction or prosecution of a criminal offence;</li> </ul> <p>and <b>ALSO</b> all of the following criteria must be satisfied in <b>SOME</b> cases:</p> <ul style="list-style-type: none"> <li>(ii) NCA should take into account relevant current or past investigations and/or enforcement actions relating to the member, or the imposition of administrative sanctions for non-compliance with provisions governing banking, financial, securities, or insurance activities or those concerning securities markets, securities or payment instruments, or any financial services legislation;</li> <li>(iii) NCA should take into account relevant current or past investigations and/or enforcement actions by any other regulatory or professional bodies for non-compliance with any relevant provisions;</li> <li>(iv) NCA may take into account factors regarding the propriety</li> </ul>

		<p>of the member in past business dealings;  (v) NCA may take into account past and present business performance and financial soundness of a member with regard to their potential impact on the member's reputation, including financial and business performance of the entities owned or directed by the member or in which the member had or has significant share and personal bankruptcy.</p> <p>For an assessment of <b>Not applied</b>:  - Any of the criteria for partially applied is not met.</p>
3 ii	Please describe what sources are used by your NCA in order to perform your assessment; and how you use this information (e.g. national credit databases; sanction lists, FIU databases/networks, shared supervisory databases etc.)?	NOT BENCHMARKED
3 iii	Please describe what other sources, including other competent authorities, apart from those provided above, are used by your NCA in order to perform your assessment when the individual's country of origin is not your Member State.	NOT BENCHMARKED
3 iv	Please describe if there are any specific eligibility reputation conditions for the members of the management body e.g. set out by the legal framework?	<p>NOT BENCHMARKED</p> <p><i>Background information:</i></p> <p>E.g. whether a person could not be appointed as member of the management body:</p> <ul style="list-style-type: none"> <li>- in the past five years, the competent authority withdrew his/her authorisation to perform the administration and/or management duties relative to a credit institution, a financial institution or an insurance/reinsurance undertaking or another financial institution or he/she was replaced from the position held in such entities due to reasons attributable to him/her;</li> <li>- he/she is forbidden by a court order or a decision made by another authority, to perform the administration and/or management duties relative to one of the entities or carry out business in one of the field specific to the abovementioned entities, etc.</li> </ul>
3 v	Does your NCA assess the reputation of the key function holders? <i>If yes, please describe how your NCA performs this assessment (e.g. what information/criteria are required/used by your NCA etc.) and what sources are used in this respect.</i>	NOT BENCHMARKED

	<b>Experience</b>	
<b>4</b> <b>i</b>	Please describe how your NCA assesses the <b>experience</b> of a <b>member of the management body</b> , including a list of what evidence/documentation is used (e.g. documentation sought of professional qualifications; differentiation between some members of the management body etc.).	For an assessment of <b>Fully applied</b> , the NCA should take into consideration ALL of the following in every case: (i) theoretical experience attained through education and training; (ii) practical experience gained in previous occupations; (iii) skills and knowledge acquired and demonstrated by the professional conduct of the member.  <i>The evidence gathered may be from the credit institution, the proposed member or other sources.</i>
		For an assessment of <b>Largely applied</b> , the NCA should gather evidence on, and take into consideration MOST of the following in every assessment made: (i) theoretical experience attained through education and training; (ii) practical experience gained in previous occupations; (iii) skills and knowledge acquired and demonstrated by the professional conduct of the member.
		For an assessment of <b>Partially applied</b> , the NCA should gather evidence on, and take into consideration SOME of the following in every assessment made:  (i) theoretical experience attained through education and training; (ii) practical experience gained in previous occupations; (iii) skills and knowledge acquired and demonstrated by the professional conduct of the member.
		For an assessment of <b>Not applied</b> : - Any of the criteria for partially applied is not met.
<b>4</b> <b>ii</b>	Does your NCA seek a professional qualification(s), training, skills, knowledge or a minimum period of relevant experience, depending on the mandate of the individual members of the <b>management body and/or key function holders</b> ? <i>If so, please describe.</i>	NOT BENCHMARKED
<b>4</b> <b>iii</b>	How are the <b>skills</b> of the members of the management body assessed?	NOT BENCHMARKED

<b>Governance</b>	
<p><b>5</b> <b>i</b></p>	<p>Please describe how your NCA <b>assesses</b> that members of the <b>management body</b> of the credit institutions have <b>'adequate collective knowledge, skills and experience'</b>?</p>
<p>For an assessment of <b>Fully applied</b>, all of the following criteria must be satisfied, the NCA should ensure that:</p> <ul style="list-style-type: none"> <li>(i) the management body has policies for selection, monitoring and planning the succession of its members;</li> <li>(ii) all members, together and collectively, have the adequate education, expertise, experience, competencies, understanding and personal qualities, including professionalism and personal integrity, to properly carry out their duties, considering the specific domains for which they will be responsible;</li> <li>(iii) the single members of the management body have appropriate understanding of those areas for which they are not directly responsible but are collectively accountable;</li> <li>(iv) if collectively, the management body has a full understanding of the nature of the business and its associated risks and have adequate expertise and experience relevant to each of the material activities the institution intends to pursue in order to enable effective governance and oversight;</li> <li>(v) if the credit institution has a sound process in place to ensure that the management body members, individually and collectively, have sufficient qualifications.</li> </ul> <p>For an assessment of <b>Largely applied</b>, all of the following criteria must be satisfied by the NCA:</p> <ul style="list-style-type: none"> <li>(i) the management body has policies for selection, monitoring and planning the succession of its members;</li> <li>(ii) all members, together and collectively, have the adequate education, expertise, experience, competencies, understanding and personal qualities, including professionalism and personal integrity, to properly carry out their duties, considering the specific domains for which they will be responsible;</li> <li>(iii) the single members of the management body have appropriate understanding of those areas for which they are not directly responsible but are collectively accountable.</li> </ul> <p>For an assessment of <b>Partially applied</b>, all of the following criteria must be satisfied:</p> <ul style="list-style-type: none"> <li>(i) the management body has policies for selection, monitoring and planning the succession of its members;</li> <li>(ii) all members, together and collectively, have the adequate education, expertise, experience, competencies, understanding and personal qualities, including professionalism and personal integrity, to properly carry out their duties, considering the specific domains for which they will be responsible.</li> </ul> <p>For an assessment of <b>Not applied</b>: - Any of the criteria for partially applied is not met.</p>	
<p><b>5</b> <b>ii</b></p>	<p>Please describe how your NCA ensures that <b>members of the management body in the supervisory function</b> of the credit institutions <b>'perform their duties independently without undue influence from other persons'</b> and are <b>able to manage any conflict of interest</b>?</p>
<p>For an assessment of <b>Fully applied</b>, all of the following criteria must be satisfied for <b>ALL of the members</b> of the management body in the supervisory function of the <i>parent undertaking, where applicable</i>:</p> <ul style="list-style-type: none"> <li>(i) NCA should take into account past and present positions held in the credit institution or other firms;</li> <li>(ii) NCA should take into account personal, professional or other economic relationships with the members of the management body in their management function, in the same credit institution, in its parent undertaking or subsidiaries;</li> <li>(iii) NCA should take into account personal, professional or other economic relationships with the controlling shareholders of the same credit institutions, with its parent undertaking or subsidiaries.</li> </ul> <p>For members of the management body in the supervisory function of subsidiaries the above criteria (to their full extent) should be considered for a sufficient number of members of the management body.</p> <p>For an assessment of <b>Largely applied</b>, all of the following criteria must be satisfied, for <b>MOST of the members</b> of the</p>	



		<p>management body in the supervisory function of the <i>parent undertaking, where applicable</i>:</p> <p>(i) NCA should take into account past and present positions held in the credit institution or other firms;</p> <p>(ii) NCA should take into account personal, professional or other economic relationships with the members of the management body in their management function, in the same credit institution, in its parent undertaking or subsidiaries;</p> <p>(iii) NCA should take into account personal, professional or other economic relationships with the controlling shareholders of the same credit institutions, with its parent undertaking or subsidiaries.</p> <p>For members of the management body in the supervisory function of subsidiaries the above criteria (to their full extent) should be considered for a sufficient number of members of the management body.</p> <p>For an assessment of <b>Partially applied</b>, all of the following criteria must be satisfied, for <b>SOME of the members</b> of the management body in the supervisory function of the <i>parent undertaking</i>:</p> <p>(ii) NCA should take into account personal, professional or other economic relationships with the members of the management body in their management function, in the same credit institution, in its parent undertaking or subsidiaries;</p> <p>(iii) NCA should take into account personal, professional or other economic relationships with the controlling shareholders of the same credit institutions, with its parent undertaking or subsidiaries.</p> <p>For members of the management body in the supervisory function of subsidiaries the above criteria (to their full extent) should be considered for a sufficient number of members of the management body.</p> <p>For an assessment of <b>Not applied</b>:</p> <p>- Any of the criteria for partially applied is not met.</p>
<p><b>5 iii</b></p>	<p>Please describe how your NCA <b>assesses</b> that <b>members of the management body</b> of the credit institutions 'act with <b>honesty, integrity and independence of mind</b>'?</p>	<p>For an assessment of <b>Fully applied</b>, all of the following criteria must be satisfied:</p> <p>(i) the NCA should take into consideration if the members of the management body were recruited from a sufficiently broad population of candidates;</p> <p>(ii) the NCA should take into consideration if there is a sufficient number of non-executive members;</p> <p>(iii) NCA should take into consideration if the credit institution verified/knew other activities that the member of the management body would proceed during the term;</p> <p>(iv) the NCA should take into consideration if the institution has a written policy on managing conflicts of interests for its members.</p> <p>For an assessment of <b>Largely applied</b>, all of the following criteria must be satisfied:</p> <p>(ii) NCA should take into consideration if there is a sufficient number of non-executive members;</p> <p>(iii) NCA should take into consideration if the credit institution verified/knew other activities that the member of the management body would proceed during the term;</p> <p>(iv) NCA should take into consideration if the institution has a written policy on managing conflicts of interests for its members.</p> <p>For an assessment of <b>Partially applied</b>, all of the following criteria must be satisfied:</p> <p>(ii) NCA should take into consideration if there is a sufficient number of non-executive members.</p> <p>For an assessment of <b>Not applied</b>:</p> <p>- Any of the criteria for partially applied is not met.</p>
<p><b>5 iv</b></p>	<p>Please describe how your NCA <b>assesses</b> that <b>members of the management body</b> of the credit institutions '<b>commit sufficient time</b>'?</p>	<p>For an assessment of <b>Fully applied</b>, all of the following criteria must be satisfied:</p> <p>(i) NCA should ensure that members of the management body should only have a limited number of mandates or other professional high time consuming activities;</p>



	<p>(ii) NCA should ensure that the credit institutions have internal policies indicating a minimum expected time commitment for all members of the management body.</p> <p>For an assessment of <b>Largely applied</b>, all of the following criteria must be satisfied for certain members of the management body, and in MOST of the cases for other members of the management body:                  (i) NCA should ensure that members of the management body should only have a limited number of mandates or other professional high time consuming activities;                  (ii) NCA should ensure that the credit institutions have internal policies indicating a minimum expected time commitment for all members of the management body.</p> <p>For an assessment of <b>Partially applied</b>, all of the following criteria must be satisfied for SOME members of the management body:                  (i) NCA should ensure that members of the management body should only have a limited number of mandates or other professional high time consuming activities;                  (ii) NCA should ensure that the credit institutions have internal policies indicating a minimum expected time commitment for all members of the management body.</p> <p>For an assessment of <b>Not applied</b>:                  - Any of the criteria for partially applied is not met.                  - No supervisory measures of the NCA exist.</p>
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	<b>Proportionality</b>	
6	Please describe as to what extent your NCA takes into account <b>proportionality</b> (i.e. the nature, scale and complexity of the business of the credit institution as well as the responsibilities of the position concerned) regarding experience and governance criteria. <i>Please provide example(s).</i>	NOT BENCHMARKED
	<b>Supervisory action, including sanctioning</b>	
7 i	Please describe as to what extent does your NCA's supervisory processes cover the assessment of suitability of members of the management body and key function holders? Please explain how, including providing information on: - the frequency of your NCA's assessment (to the extent not covered above); - whether your assessment is made as part of your (a) off-site work; (b) on-site inspections or (c) both; - if your NCA's supervisory review includes the assessment of how a credit institution takes corrective measures regarding suitability within the institution's governance and risk management frameworks; - Other (e.g. use of external parties in the supervisory review; requirements regarding professional training when a member of the management body takes up his/her position), and if so, please explain.	NOT BENCHMARKED
7 ii	Is your NCA empowered to adopt corrective measures in cases where a credit institution's measures taken according paragraph 8 are inadequate? Provide a list of the various measures used to intervene in cases when the suitability assessment is not met.	<p>For an assessment of <b>Fully applied</b>, all of the following criteria must be satisfied:</p> <p>(i) The NCA should object to or not approve the appointment of a member of the management body when a member or credit institution fails to provide sufficient information regarding the suitability of this member to your NCA;  (ii) The NCA should require the credit institution either to not appoint the member of the management body or if the member is already appointed to take appropriate measures to replace him or her (in case where the person is already appointed);  (iii) The NCA adopt appropriate corrective measures in <b>ALL</b> cases where a credit institution's measures taken are inadequate and to this end conduct the necessary investigations including to request all relevant documentation from the credit institution.</p> <p>For an assessment of <b>Largely applied</b>, all of the following criteria must be satisfied:</p> <p>(i) The NCA should object to or not approve the appointment of a member of the management body when a member or credit institution fails to provide sufficient information regarding the suitability of this member to your NCA;  (ii) The NCA should require either to not appoint the person or to take appropriate measures to replace him;  (iii) The NCA may adopt appropriate corrective measures in <b>MOST</b> cases where credit institution's measures are inadequate.</p> <p>For an assessment of <b>Partially applied</b>, the following criterion must be satisfied:</p> <p>(ii) The NCA should require either to not appoint the person or to take appropriate measures to replace him.</p> <p>For an assessment of <b>Not applied</b>:  - Any of the criteria for partially applied is not met.</p>
7 iii	Please describe the administrative and disciplinary powers that your NCA can exercise in case of non-compliance.	NOT BENCHMARKED

	<b><i>Supervisory resources</i></b>	
<b>8 i</b>	Please provide a description of <b>resources</b> and time devoted in your NCA to assess the suitability of members of the management board (executive and non-executive) and other key function holders'	NOT BENCHMARKED
<b>8 ii</b>	How many staff (FTEs) are responsible for the assessment of the suitability of members of the management body and key function holders?	NOT BENCHMARKED
<b>8 iii</b>	Please provide the total number of applications regarding the assessment of the suitability of the members of the management body received in 2013.	NOT BENCHMARKED
<b>8 iv</b>	Please provide the total number of applications regarding the assessment of the suitability of key function holders received in 2013.	NOT BENCHMARKED
<b>8 v</b>	How many of these applications regarding the assessment of the suitability of the members of the management body or key function holders received in 2013 were withdrawn before any corrective measures were taken?	NOT BENCHMARKED
<b>8 vi</b>	Please provide the number of corrective measures that your NCA has taken during 2013 regarding the suitability of the members of the management body or key function holders, including where your NCA has not approved an individual. <i>Please illustrate such measures taken.</i>	NOT BENCHMARKED
<b>8 vii</b>	Please provide the number of sanctions that your NCA has imposed during 2013 regarding the suitability of the members of the management body or key function holders. <i>Please illustrate such sanctions taken.</i>	NOT BENCHMARKED