



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Template for comments

ECB Guide to fit and proper assessments and fit and proper Questionnaire

Institution/Company

Fédération Bancaire Française (FBF)

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General comments



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

We understand that the objective of this new version of Guide is to "explain in greater detail the policy stances, supervisory practices and processes applied by the ECB when assessing the suitability of members of the management bodies ..." (page 4).

However, the level of details in which the guide enters, and the very numerous references to a "case-by-case" analysis make us fear (i) losing visibility on the decisions that will be taken by the authority and (ii) a cumbersome procedure, which is in some respects closed to a judicial procedure.

With respect the large number of new requirements, both in terms of substance and in terms of evidence (documentation/traceability), we would like a sufficiently long period to comply with it (at least, two years from the availability of the translation of the guide to national language).

Approach more focused than in the past on each member of the management body, in his individual capacity, where, under French law, the collegial nature of the organ prevails.

We are aware of the growing importance of the subjects "climate" and "diversity": the ECB Guide seems to us to go in the direction of the recent evolutions on these subjects.

The ECB approach is now more focused than in the past on each director, on an individual basis, whereas, French law relies on the collegial nature of the primary body.

It seems important to us that ECB ensures that its new prescriptions always remain compatible with national laws (in particular French Law).

It is also preminent that ECB pays strict attention to certain prescriptions to ensure that they all have a level 1 legal basis.

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Template for comments

ECB Guide to fit and proper assessments

Please enter all your feedback in this list.

When entering feedback, please make sure that:

- each comment deals with a single issue only;
- you indicate the relevant chapter/subsection/paragraph/page, where appropriate;
- you indicate under "Type of comment" whether your comment is a proposed amendment, clarification or deletion.

Deadline: Midnight of 2 August 2021

ID	Chapter	Section	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	1. Scope of the ECB's fit and proper assessments			5	Amendment	<p>We note the introduction of the assessment of key function holders and managers of significant institution's branches with the precision that the assessment criteria depend on national law and that the guide can be used to interpret the criteria applicable under relevant national provisions.</p> <p>We hope this is not a first step to further requirements on these topics considering constraints it might imply for national laws.</p> <p>We also wonder what the legal grounds of these new requirements are. We also believe that the statement of the ECB: "the guidance provided below can also be used to interpret the criteria applicable according to the relevant national provisions" should be deleted or amended.</p> <p>Criteria applicable according to the relevant national law should be interpreted in line with the national laws, while the ECB supervisory practices should be aligned.</p>	<p>These additional requirements would generate organisational impacts and workload for both institutions and regulators. This might be disproportionate as regards the risk effectively incurred, knowing notably that these persons are generally not sole or final decisions-makers and that final responsibility is born by CEOs. ECB and NCAs have to comply with national law. National law, if necessary, has to be amended following the transposition of the EU Directives, but not in view of the supervisory practices</p>		Don't publish
2	3.1 Experience	3.1.1 Practical experience and theoretical knowledge	1	8	Amendment	<p>First § : the reference to the responsibility of an individual member is a concern as this could suggest that we are in the field of civil liability, and not in the field of the fit and proper assessment.</p>	<p>Alternative proposal : "<i>Members of the management body as a whole must have up-to-date and sufficient knowledge, skills and experience to fulfil their functions.</i>"</p>		Publish

3	3.1 Experience	3.1.3.1 Theoretical knowledge		10	Amendment	<p>"All members of the management body must possess basic theoretical banking knowledge relating to the matters listed below. This knowledge is presumed if the member has practical banking experience".</p> <p>We would welcome that a member of a board, e.g. of a local branch or of a regional bank, with no previous position in a bank or executive mandate in a bank, could be considered as having practical banking experience, in case the management body as a whole has strong enough knowledge of such matters. We believe that having young people, women and people with different backgrounds in boards is essential.</p>	<p>Alternative proposal : "<i>All members of the management body must possess basic theoretical banking knowledge relating to the matters listed below. This knowledge is presumed if the member has practical banking experience. This knowledge is not necessary, as far as a member is concerned, if the management body as a whole has strong enough knowledge of such matters.</i>"</p>		Publish
4	3.1 Experience	3.1.3.2 Practical experience		11	Amendment	<p>Amendment to propose : "Members of the management body must possess basic theoretical knowledge related to matters listed below. However, different experiences may complete the collective experience of the management body. This knowledge is presumed if the member has practical banking experience or experiences that may complete the collective experience of the management body. This knowledge is not necessary, as far as a member is concerned, if the management body as a whole has strong enough knowledge of such matters."</p>	<p>Facilitating selection and promotion of right profiles and ensuring rotation and diversity in the Board. Allowing more margin of manoeuvre.</p>		Publish
5	3.2 Reputation		last paragraph of p13	13	Amendment	<p>Despite the reservation related to the presumption of innocence, the fact that the ECB intends to assess the materiality of circumstances of certain proceedings or investigations does not seem as legitimate whereas the conclusions relating these proceedings would have not been yet issued by the legitimate instances in charge of them.</p>	<p>ECB should respect the legitimacy of final decisions by dedicated authorities. It should not give any judgment on investigations that are not under its prerogatives and that are still under study.</p>		Don't publish
4	3.2 Reputation		last paragraph p14	14	Amendment	<p>last sub-paragraph of § 3.2 The fact that the ECB intends to conduct its own assessment on breaches of ML/TF offences does not appear as legitimate.</p>	<p>ECB should respect the legitimacy of final decisions made by entitled authorities or jurisdictions. ECB should not issue any opinion on its own on these topics. Otherwise, it would not respect the principle of innocence as such enshrined in the European Convention of Human Rights (i.e. Article 6 right to fair trial).</p>		Don't publish

5	3.2 Reputation	3.2.1 Information		14	Amendment	In France, the criminal records have not been systematically required by now. They are only required for officers who have not been living in France for more than 3 years. Indeed, ACPR (the French supervisor) has direct access to this information for people living on the French territory. Will this be really systematically requested in the future while this will create unnecessary additional administrative workload? Could the previous system be maintained?	As ACPR has normally direct access to criminal reports information (and even to more information than that included in the standard criminal records), asking banks for systematically collecting these records would incur an unnecessary workload.		Don't publish
6	3.2 Reputation	3.2.1 Information		14	Amendment	The self-declaration of the appointee requested when required according to the national legal framework, should be directly included in the FAP questionnaire or in the appointee's declaration. Indeed, this should not have to be established in an additional document. Providing such an additional document would create supplementary workload and complexity	Simplifying the FAP and designation process		Don't publish
7	3.2 Reputation	3.2.1 Information		14	Amendment	The territorial scope as well as the temporal scope of the information to provide related to the reputation of the appointees should be clarified	The current guide (dated of 2018) includes an obligation to communicate "any understanding of and/or insight into his or her conduct gained by the appointee over time". The draft Guide goes beyond and requires much more details (page 16). As we need to focus on relevant elements, we suggest to maintain the current requirements.		Publish
8	3.2 Reputation	3.2.2 Assessment approach		20	Deletion	Considering personal Involvement in case of doubt on the reputation, notably in case of non-personal or corporate proceedings should not be introduced in the guide. In France, the individual responsibility of the members of the Board does not exist as the management body is a collective body with collective responsibility. Responsibility cannot be individualised. The only situation where individual responsibilities could be identified would be in case of criminal prosecution.	The assessment of individual involvement or responsibility with regard to non personal or corporate proceedings would be unlawfull under French law at least .		Don't publish

9	3.2 Reputation	3.2.2 Assessment approach	5	19 et 20	Clarification	"Other relevant facts for the assessment of the appointee's good repute » : regarding (a), we suggest to require a significant default (not a minor one).Moreover, points (b), (c) and (f) seem very broad and subjective and, consequently, difficult to appreciate and to understand in practice.	Banks should be free to specify these requirements in an internal document, such as a code of conduct or a charter of members of the management body.		Publish
10	3.3 Conflicts of interest and independence of mind	3.3.1 Information		23	Amendment	The presentation of the potential material conflicts of interests in the current ECB Guide (dated of 2018) is more understandable and operational. This new presentation is less practicable .	The current presentation within a table of potential material conflicts of interest is more understandable		Don't publish
11	3.3 Conflicts of interest and independence of mind	3.3.1 Information	point 2.	23	Amendment	point 2. "description of involvement, either directly or indirectly, in any legal proceedings or out-of-court disputes against the supervised entity, the parent undertaking or their subsidiaries": information required should concern only current proceedings (and not past proceedings)	In terms of conflicts of interests, only current proceedings should be relevant		Don't publish
12	3.3 Conflicts of interest and independence of mind	3.3.1 Information	point 4	23	Amendment	"Description of any financial obligations towards the supervised entity, the parent undertaking or their subsidiaries that are cumulatively above EUR 200,000 (excluding private mortgages) or any loans of any value that are not negotiated at arm's length or that are not performing (including mortgages) " (page 23 and page 21 of the questionnaire) : We wonder is if all secured loans are included. We would propose the following changes : "Description of financial obligations towards the supervised entity, the parent undertaking or their subsidiaries that are cumulatively above EUR 200,000 (excluding secured, personal loans such as private mortgages and private real estate insured loans), or any loans of any value that are not negotiated at arm's length or that are not performing (including mortgages)"	We do not understand reasoning of the ECB to amend the current expectation in this regard. We strongly believe that the wording of the Guide 2018 should be kept. It does not appear justified to limit the exemption to private mortgages, as other secured, performing and non-preferential loans also do not bear a higher risk of financial conflict of interest.		Publish

13	3.3 Conflicts of interest and independence of mind	3.3.2 Assessment approach		24	Amendment	Last sub-paragraph should be replaced by : "In this Section 3.3.2 , appointee must be understood as the appointee him/herself, but also their close relatives (spouse, registered partner, cohabitee, dependent child, parent or other relation with whom they share living accommodation) and any legal person in which the appointee is or was a board member or a manager, or a qualifying shareholder, at the relevant time." We would also propose the following changes : (...) Personal potential conflict of interest Where the appointee has a relationship..." (§ 3 3 2 1)	clarifying the perimeter of close relatives		Publish
14	3.3 Conflicts of interest and independence of mind	3.3.3 Conflicts of interest statement	last paragraph	27	Deletion	§ « An ancillary provision may be targeted to the supervised entity's conflicts of interest policy, namely to pursue the supervised entity's interests or to better monitor internally potential conflicts of interest; or to create specific committees within the management body to assist the supervisory function of the management body in situations where there is a potential conflict of interest ». The duty to create specific committees within the management body to assist the supervisory function of the management body in situations where there is a potential conflict of interest has no legal ground and is likely to complicate the current governance systems (in particular for regional and/or cooperative banks). It should be also further clarified on how this requirement will be executed by the JST.			Publish
15	3.4 Time commitment	3.4.2 Information	two last bullet points	28 et 29	Deletion	The provision of this type of information seems to be very cumbersome to achieve, in practice. We would therefore like to remove these two documentary requirements.			Publish
16	3.4 Time commitment	3.4.3.2 Qualitative assessment: Two step assessment process		32 and following pages	Clarification	That section should be clarified.			Publish

17	3.5 Collective suitability of the management body		third paragraph	37	Amendment	The following section « There should be a sufficient number of members with knowledge in each area to enable effective discussions and challenges to be made and robust decisions to be taken» could suggest that there should be at least two experts on each matter, which is not always feasible in practice, especially for regional/cooperative banks. Moreover, this provision has no legal ground. This goes against the principle of the collegiality of management boards at least in some Member States and the practice of calling on experts from time to time.	We suggest an amendment : « There should be a sufficient knowledge in each area to enable effective discussions and challenges to be made and robust decisions to be taken. »		Publish
18	3.5 Collective suitability of the management body			38		Climate-related and environmental risk “In general, effective collective suitability will include an appropriate understanding of the following areas : climate-related and environmental risk”... The introduction of this requirement is seen as part of an unavoidable development. We view positively such assessment under collective suitability and not at individual level. We may have concerns as regards news policies to be developed if they are too prescriptive.			Publish
19	3.5 Collective suitability of the management body	3.5.2.2 Remediation of gaps		41	Amendment	We propose the following adjustment : «The JST might request more explanations on the self-assessment if there are doubts as to the adequacy of the collective knowledge, skills and experience. The JST might also request supporting documentation with regard to the self-assessment”	Assesment is already provided in the questionnaire, asking for copy extracts of conclusion documents could be quite inefficient workload		Don't publish
20	3.6 Assessment of individual accountability of board members			41-47	Deletion	Individual accountability can not be sought under French law as the Board is a collective body, Board members can not be seen from a legal standpoint as individually accountable, except in case of criminal offences. We do not understand the sense of sub-paragraph 3.6 and we are of the opinion that the assessment of good repute and competence have to be distinguished from individual civil responsibility.	The assessment of individual involment or responsibility with regard to non personal or corporate proceedings might be unlawfull.		Don't publish
21	5 Situations that trigger a fit and proper assessment other than new initial appointments	5.3.3 Part 2: General guidance on whether or not a new fact may trigger a reassessment		59	Deletion	In line with our previous remark, the decision wheel should not refer to individual accountability.	The assessment of individual involment or responsibility with regard to non personal or corporate proceedings might be unlawfull.		Don't publish

22	6 Interviews	6.2 ECB approach to interviews		63	Amendment	It would be appropriate to introduce proportionality for interviews in cooperative/regional banks.			
23	7 Notifications, decisions and ancillary provisions	7.1 Notification of intended appointments		68	Deletion	Such requirement has no legal basis and is in contradiction with certain national law, as the French one Thus, we suggest its deletion. In addition, such a recommendation would generate organisational impacts and workload for both ECB and banks (especially cooperative/regional banks). Last but not least, what would happen if the ECB did not approve an appointee and the bank had no time to identify someone else ?	We would like to recall that the introduction of an ex-ante assessment of all members of the management body, including members of the management body, has no legal ground and, as stated in the draft revised guide, is not provided by all national laws. We thus ask for deletion		Don't publish
24	7 Notifications, decisions and ancillary provisions	7.2 Types of decision	Time frame	69, 70	Amendment	The maximum period of 4 months is too long; 1 month would be more appropriate. At the very least, there should be an urgent procedure to approve the designation of an appointee within a shorter time.			Don't publish

Template for comments

Fit and proper Questionnaire

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Deadline: Midnight of 2 August 2021

ID	Section	Question	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	Declaration by the appointee	Could it be possible to integrate the eventual self-declaration required under national legal framework in the declaration by the appointee to avoid multiplication of documents to be produced ?	2	Amendment	To avoid excessive workload, banks should be allowed to integrate the eventual self-declaration required under national legal framework (in France, the self-declaration states that the appointee is not subject to certain interdictions provided in a list of interdictions (art. L. 500-1 of the French monetary and financial code).	Avoiding additional workload		Publish
2	1. Identity of the supervised entity and appointee	The question "Is the supervised entity a "CRD significant institution" in accordance with "national law" is unclear. Could you amend it for more clarification ?	5	Amendment	<p>This question is not very clear since according to regulation, different types of significant institutions and different thresholds of significant entities exist :</p> <ul style="list-style-type: none"> - (i) Global systemic entities, Other systemic entities, ... - (ii) specific thresholds per Member State as regards rules on limitation of number of corporate offices (i.e. 15 GE in France) - (iii) specific thresholds per Member State as regards rules on creation of specialized committees (i.e. 5 GE in France)... <p>As of now , NCA's questionnaire precises that this concerns specifically the rules relating to the limitation of the number of corporate offices (i.e. 15 GE in France) as per art.xxx of National law.</p>	It is necessary to make information clear for users and persons filling in the questionnaires. The wording of this question should thus be amended to be clarified for users.		Don't publish
3	1. Identity of the supervised entity and appointee	"Governance model" of the supervised entity : how this question should be answered considering that the French model is usually an "in-between model" between the One-tier model and the Two-tier model?	5	Clarification	<p>Should French Banks rather indicate "One-tier model" or "Other model" , considering that for French banks' most common model is specific and could rather be identified as an "In-between model " or "hybrid system" where there is a board of directors and CEO/COO ?</p> <p>In this system, the board is a collective body in charge of the supervisory function and is also in charge of the determination of the institution's strategy, whereas the executive function is ensured by one or more natural persons. In such a system, the CEO/COOs can be allowed to be members of the Board ensuring supervisory functions but when acting as such members, they do not carry out executive missions (they act as any other board members), and they are of course in minority in terms of number.</p> <p>In other One tier systems (ex. UK or Spain), there is one single collective body which performs both executive and supervisory functions.</p> <p>Two tier systems (ex. Germany or France for system with supervisory board and management board): there is one collective body in charge of the executive function and one other separate collective body is in charge of Supervisory Function.</p>	CRD and EBA guidelines are intended to apply to all existing board structures without interfering with general allocation of competences in accordance with national company law or advocating a particular structure.		Don't publish

4	1. Identity of the supervised entity and appointee	Could you withdraw the requirement of free developments about the governance model of the supervised entity in case of selection of "Other model" ?	5	Deletion	<p>Whatever the form of the corporate legal system in each country is, the aim of CRD rules is to ensure a clear separation between the daily management of the institution (executive function) and the supervision of such daily management (supervisory function).</p> <p>-in a One tier system (ex. UK or Spain), there is one single collective body which performs both Executive and Supervisory Functions;</p> <p>-in Two tier systems (ex. German or France for system with supervisory board and management board): one collective body is in charge of the Executive Function and one other separate collective body is in charge of Supervisory Function;</p> <p>-in Hybrid system/In-between systems (ex. France with its system with board of directors and CEO/COO): one collective body is in charge of the supervisory function and of the determination of the institution's strategy, whereas the executive function is ensured by one or more natural persons. In such systems, the CEOs/COOs can be allowed to be members of the Board ensuring supervisory functions but when acting as such members, they do not conduct executive missions (they act as any other board member), and they are, of course, in minority in terms of number.</p> <p>The specific rules linked to each national law should not have to be re-explained by institutions in each Fit&proper files. This point should be deleted from the questionnaire.</p>	CRD and EBA guidelines are intended to apply to all existing board structures without interfering with general allocation of competences in accordance with national company law or advocating a particular structure.	Specific case linked to national rules should not have to be re-explained each time a fit & proper file is submitted to regulators. This point should be deleted from the questionnaire.	Don't publish
5	1. Identity of the supervised entity and appointee	On schedule C "Information on the appointee", concerning the current valid identity document or passport"	6	Amendment	Should not the information related to the issuing country of the document or passport as well as the expiry date be also provided?	Providing information on the validity of the documents		Don't publish
6	1. Identity of the supervised entity and appointee	On Schedule D "Previous supervisory assessments", regarding the need to provide any supervisory assessment in the financial sector : why should institutions and Directors under assessment have to provide previous approvals or refusals on FAP files that have been already studied by European supervisors (ECB and NCAs) and which are still available for them ?	7	Amendment	Schedule D on previous supervisory assessments should be amended to limit details to be provided in frame of a new FAP file. Indeed, ECB and European NCAs should not require previous assessments that have been already studied and are thus available in their offices.	Avoiding workload for institutions and appointees concerning information that is still available in ECB and NCAs offices		Don't publish
7	1. Identity of the supervised entity and appointee	On Schedule D "Previous supervisory assessments", regarding the detail required in case of previous positive assessments with conditions, recommendations or obligations and the need to provide explanation on this. Why should institutions and Directors under assessment have to provide such details on Directorships ?	7	Deletion	<p>On Schedule D "Previous supervisory assessments", regarding the detail required in case of previous positive assessments with conditions, recommendations or obligations and the need to provide explanation on this.</p> <p>Why should institutions and Directors under assessment provide such details on directorships ? notably</p> <ul style="list-style-type: none"> - for Directorships that have already ended as the appointees have ensured their function and thus should be considered as being capable to hold their positions - for Directorships within the UE for which the ECB and NCAs are already aware of - for any Directorships when it is impossible to collect this detail of information notably in case of positions held in entities outside the banking group - when information is not available at the bank's department or appointee level 	Avoiding workload at institutions and appointees' level		Don't publish
8	1. Identity of the supervised entity and appointee	On Schedule E : could you delete the item "Grounds to suspect money laundering or terrorist financing" ?	7	Deletion	This question does not seem relevant since an appointee may have not been informed about such suspicion.	Making the questionnaire operational with information available at entity and/or candidate level.		Publish

9	2. Function for which the questionnaire is submitted	Why should key function holders and branch managers be submitted to the questionnaire ?	8	Amendment	<p>Considering the information on functions submitted to the questionnaire, banks have to indicate whether the function is executive or non-executive, but also if it is a key function holder function or a branch manager function.</p> <p>FAP files are not required for key function holders (KFH) and branch management functions in all Members States. For instance, these files are not required in France even though the supervisors can issue an opinion on the subject, notably in the frame of on-site reviews.</p> <p>Besides, the status of KFHs and branch managers is quite different from that of Directors or CEOs, Deputy CEOs, for which FAP files are actually required in France.</p> <p>KFHs and branch managers are staff members of an institution or a group. They are selected by Senior management under internal HR processes and their appointment is submitted to national Labor law. The situation is very different from that of Directors who cannot be designated or revoked in the same manner.</p> <p>The approval process of KFHs and branch managers should not follow the same process as the management body members' one. Mixing these elements is quite confusing notably because these functions do not bear the same legal risks and formalism.</p> <p>Besides, in terms of organisation, the persons in charge of branches' managers and KFH's follow up are often different. The access to the Imas portal should not be granted with the same authorisations and thus, it would be very complicated for banking groups to make processes sufficiently segregated for ensuring confidentiality.</p>	All Member States do not require FAP files for KFHs and branche managers. The designation process for these latter and for CEOs or members of the management body should not be implemented in the same manner and under common rules for all Member States.		Don't publish
10	2. Function for which the questionnaire is submitted	In the list of functions, what should be selected to identify a second effective officer who may not be considered as a corporate officer of the management body ?	8	Amendment	In the list of functions, what should be selected to identify a second effective officer that may not be considered as a corporate officer of the management body ?	Ensuring that all specific cases can be taken into account		Don't publish
11	2. Function for which the questionnaire is submitted	In the list of functions, aren't there redundancies between the different functions proposed, notably: CRO and head of the risk management function?	8	Amendment	In the list of functions, aren't there redundancies between the different functions proposed, notably : CRO and Head of the risk function?			Don't publish
12	3. Experience	In § A) Education, could you extend the list of levels of educational qualification ?	10	Amendment	<p>We are of the opinion that the choice between levels of educational qualification obtained should be extended. Otherwise many high profiles will be shown as "Other".</p> <p>In France, many high profiles qualifications are not Universities' degrees but are delivered by "High business schools", "Ingeneer schools" or Administrative schools (like "National administration school - ENA).</p>	Allowing clarification on the experience and profiles		Don't publish
13	3. Experience	In schedules B)&C) Is the scale of total assets size relevant?	10&11	Amendment	In-banking groups, the balance sheet size amounts are generally accounted in billion euros, not in millions...	the scale of total assets size does not seem suitable		Don't publish
14	3. Experience	In schedules B)&C) Practical experience Could you replace the number of subordinates scales by the actual current number of subordinates or indicate a scale in thousands rather than in hundreds ?	10&11	Amendment	Practical experience : The notion of number of subordinates would be more clear if the actual number of subordinates was indicated or whether the scale was indicated in thousands rather than in hundreds.of subordinates	Changing the scale of number of subordinates		Don't publish
15	3. Experience	In schedule D) How will the question "Does the appointee meet the presumption of adequate experience?" really help assess sufficient experience without hindering diversity and Boards' composition optimization ?	11	Amendment	<p>In schedule D) "Does the appointee meet the presumption of adequate experience" (see Table 1 and 2 of Section 3.1.3.2 of the Guide to FAP assessments)</p> <p>Current presumptions criteria are much too strict. Indeed, (10 years practice for CEO, 5 years period for executive Directors and a10 year period for non exectutive Chairmen) could prevents banks from promoting right profiles and enhancing diversity.</p> <p>The duration of the experience required for the level below or one or 2 level below the management functions or supervisory functions is also a blocking point to promote good profiles who may acquire a sufficient experience in a much shorter time than the duration required.</p>	Making the assessment more relevant and facilitating selection and promotion of suitable profiles. Ensuring rotation and diversity in the Board's composition		Publish

16	3. Experience	In schedule F) How will this question really help assess sufficient experience ?	13	Deletion	Giving such details will not add useful information when appointees have already received these trainings in the frame of their previous functions and have acquired relevant experience and skills	Making questionnaire as light as possible and avoiding administrative burdens		Publish
17	3. Experience	In of schedule G), Are you sure that these precisions really help assess "sufficient experience" ?	14	Amendment	We believe that these details on trainings are too standardized. We are of the opinion that questions on this subject should remain open since trainings need to be adapted to each one, on a case by case basis. Besides, trainings are often decided to meet specific needs and are not planned one year in advance	Making the questionnaire operational to be filled in with no excessive details		Publish
18	4. Reputation	Schedule A, Could it be possible to distinguish direct personal proceedings and proceedings on corporate entities with which the appointee has been a board member and do not ask for the same level of detail ?	15	Amendment	Schedule A is much too complex and difficult to fill in. Information collected on the subject are available and described in URD of the concerned entities. All listed entities have litigations disclosed there in. Identifying all details about each case in the FAP file would be ineffective and inappropriate. It would also be very difficult to provide the details required. Moreover, banking groups usually discuss directly with the regulators and provide them with all details requested during dedicated meetings. The granularity of information required is much too tight and could only be given by the banks' lawyers or legal experts, not by the appointees themselves or by the staff filling the FAP files.	Making the questionnaire operational to be filled in with no excessive details		Don't publish
19	4. Reputation	Schedule A, Could it be possible to precise a limited timeframe to report the past relevant administrative or civil proceedings as well as investigations ?	15	Amendment	A limit to proceedings that raised within the last 5 years seems reasonable. Giving precisions beyond the past 5 years would be very difficult to track, notably in case of non personal or proceedings concerning companies in which a corporate office position has been held by the appointee. This would also fit with legal time limits existing for legal prescription in several Members States	Limiting the timeframe under which disclosures of proceedings or investigations shall be made		Don't publish
20	4. Reputation	Schedule A, Could ECB reduce the number of questions asked and lighten the details required ?	16	Amendment	For this part of schedule A, entities should not have to transmit all these details since information per proceeding is already disclosed and explained in annual URDs. Appointees do not usually have more accurate or detailed information than that is disclosed in the certified documents which are prepared by lawyers.	Making the questionnaire operational to be filled in with no excessive details		Publish
21	4. Reputation	Schedule A	16	Deletion	Could you delete "Specify what you did to prevent and/or avoid the wrongdoing" ans "Could you have done more to avoid the alleged wrongdoing and did you learn anything from it", as it is, from our point of view, going into too many details, and could you stick with the current requirements?	Making the questionnaire operational to be filled in with no excessive details		Publish
22	4. Reputation	Schedule A, Could you delete the item "Summary of the reasoning of the decision, ruling or finding"	16	Deletion	In Schedule A : "summary of the reasoning of the decision, ruling or finding" The employee or the entity in charge of the file submission is most often not aware of the detailed information requested here, notably when this information is related to former positions held by an appointee in an outside-group entity.	Making the questionnaire operational to be filled in with no excessive details		Don't publish
23	4. Reputation	Schedule D Could you clarify the questions ?	17	Clarification	The nature and scope of the State's aids that are expected to be disclosed here should be clarified .	Clarifying what needs to be disclosed here		Don't publish
24	4. Reputation	Schedule G: Could you delete this question ?	18	Deletion	This question is too vague to be able to provide useful information. All banks have processes in place to detect and prevent money laundering or terrorist financing. Unless a sanction aimed a specific individual, it is very difficult to determine precisely what is a direct or indirect involvement of an individual within a banking entity.	Make the questionnaire operational to be filled in with no excessive details		Don't publish
25	4. Reputation	Schedule H : Could you delete this question ?	18	Deletion	The wording of this question makes it very difficult to answer under an objective standard. We suggest that it be removed.	Making the questionnaire operational to be filled in with no excessive details		Don't publish
26	5. Conflicts of interest	Conflicts of interest - Schedule C: Could you give some precisions about the notion of "value of annual payment" ?	20	Clarification	The notion of "value of annual payment" needs more precision.			Publish

27	5. Conflicts of interest	Conflicts of interest - Schedule E (Do you have any financial obligations towards the supervised entity, the parent undertaking or their subsidiaries cumulatively exceeding EUR 200,000 (excluding private mortgages) or any loans of any value that are not negotiated "at arm's length" or that are non-performing (including mortgages)?)	21	Amendment	We suggest to adjust question as follows: "Do you have any financial obligations towards the supervised entity, the parent undertaking or their subsidiaries cumulatively exceeding EUR 200,000 (excluding private mortgages and private real estate insured loans) or any loans of any value that are not negotiated "at arm's length" or that are non-performing (including mortgages)	Making the questionnaire operational to be filled in with no excessive details		Publish
28	5. Conflicts of interest	Conflicts of interest - Schedule E (Do you have any financial obligations towards the supervised entity, the parent undertaking or their subsidiaries cumulatively exceeding EUR 200,000 (excluding private mortgages) or any loans of any value that are not negotiated "at arm's length" or that are non-performing (including mortgages)?) Could you replace this question by an opened one ?	21	Amendment	We suggest that this should be phrased as an opened question, rather than with the prescriptive format proposed.	Making the questionnaire operational to be filled in with no excessive details		Don't publish
29	5. Conflicts of interest	Schedule E: Could you give precisions about the following question : Do you have financial obligations towards the supervised entity, the parent undertaking or their subsidiaries cumulatively exceeding EUR 200,000 (excluding private mortgages) or any loans of any value that are not negotiated "at arm's length" or that are non-performing (including mortgages)?	21	Amendment	Considering the banking secrecy rules and the protection of personal data, this question should not concern loans provided to persons or entities over which the appointee has no direct personal control.	Making the questionnaire operational to be filled in		Don't publish
30	8. Additional information and annexes	Additional information and annexes, Schedule B : Criminal records	29	Clarification	Concerning the provision of any criminal records, we note that this is a new requirement for many jurisdictions. For instance, in France, criminal records were not systematically required up to now. They are required only for officers who have lived outside France for more than 3 years (a similar requirement exists in the Netherlands). Furthermore, in France, the ACPR has direct access to this information for persons living on the French territory. We suggest that, where local supervisors already have access to such information, a process should be implemented, if required, directly between national supervisors and the ECB, instead of being required from banks.	Requesting new collection of certain data would create unnecessary workload.		Don't publish
31	8. Additional information and annexes	Additional information and annexes, Schedule B : Could you precise what may be considered as "suitability reports" mentioned ?	29	Clarification	We do not understand what you mean and include in the "suitability reports"			Don't publish