

Joint guidelines compliance table

ESMA35-43-3020

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Date of application – 31 December 2021

Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU (ESMA35-36-2319 - EBA/GL/2021/06)

The following competent authorities* comply or intend to comply with the Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders¹:

Member State	Competent authority	Relevant ESMA/EBA	Complies or intends to comply	Comments
BE	Belgium National Bank of Belgium	EBA	No	"The National Bank of Belgium will generally and almost entirely comply with the EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU (EBA/GL/2021/06). However, as some aspects in the Guidelines differ from the requirements laid down in the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms ("Banking Law"), the following aspects of the Guidelines will be taken into account as a good practice, rather than a formal requirement:

¹ Where the notifications provided by a competent authority to ESMA and the EBA are identical, they are represented in this compliance table in single consolidated form.

					<p>- Calculation of the number of directorships (§§ 50-53 Guidelines) According to article 62, § 9 of the Banking Law, the exercise of several directorships in undertakings that form part of the group to which the institution belongs or of another group shall be counted as one single mandate. For the application of this article, "group" shall be understood to mean a set of undertakings that are formed by one parent undertaking, its subsidiaries, the undertakings in which the parent undertaking or its subsidiaries have a direct or indirect holding within the meaning of article 3, 26^o of the Banking Law, as well as undertakings forming a consortium and undertakings that are controlled by the latter undertakings or in which these latter undertakings have a holding within the meaning of article 3, 26^o of the Banking Law.</p> <p>Therefore, according to this article, the definition of group encompasses, amongst others, both subsidiaries and qualifying holdings. Consequently, the Banking Law does not require to count (i) directorships held within entities that belong to the group and (ii) directorships held in all qualifying holdings of the same group as two (separate) directorships.</p> <p>- Assessment of the suitability of the CFO (in case not part of the management body) by the competent authority for significant CRD-institutions (§ 172 Guidelines)"</p>
		Financial Services and Markets Authority (FSMA)	ESMA	Yes	As of 27 January 2022, notification date.
BG	Bulgaria	Българска народна банка (Bulgarian National Bank)	EBA	Yes	<p>On 16 December 2021, the BNB Governing Council took a decision to comply with "Guidelines on the assessment of the suitability of members of the management body and key function holders" (EBA/GL/2021/06). (Press release in Bulgarian language only: https://www.bnb.bg/AboutUs/PressOffi</p>

					ce/POPressReleases/POPRDate/PR_20211216_2_BG#)
		Комисията за финансов надзор (FSC)	ESMA	Yes	As of 3 May 2022, notification date. The respective prescriptions are implemented in chapter 2 of Ordinance No 38 of the requirements for the investment intermediaries' activities issued by the FSC.
CZ	Czech Republic	Česká národní banka (CNB)	EBA	Intends to comply**	"Intends to comply by 31.12.2021. Electronic links to effective national measures published in the Czech Republic ensuring the compliance with the Guidelines can be found on a dedicated Czech National web pages for Supervision, regulation ? Legislation ? Banks and credit unions (https://www.cnb.cz/en/supervision-financial-market/legislation/banks-credit-unions/) In particular in these ones: "" Act on Banks (21/1992 Coll.); version in force is available in Czech only "" Act on Credit Unions (87/1995 Coll.); version in force is available in Czech only "" Decree No. 163/2014 Coll., version in force is available in Czech only"
		Česká národní banka (CNB)	ESMA	Yes	As of 25 February 2022, notification date.
DK	Denmark	Finanstilsynet (Danish Financial Supervisory Authority)	ESMA	Yes	As of 17 December 2021, notification date. The assessment of suitability is implemented in the financial business act number 1447, 11/09/2020 section 64. The guidelines on the collective suitability of the management body are implemented in section 64 e of the financial business act. In Denmark there is already a requirement that at the institution has a key function responsible for AML and is also required to be fit & proper. The guidelines also specify, that there should be diversity policy, which is also a requirement in section 80 a in the financial business act.
			EBA	Yes	As of 2 May 2022, notification date.

DE	Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority, BaFin)	EBA/ESMA	No	<p>Does not comply/does not intend to comply with parts of the guidelines. BaFin intends to comply with the Guidelines except for the provisions on formal independence (Section 9.3.) and the supervisory requirements regarding key function holders (para. 171 ff.). The exceptions result from the respective (partial) non-compliance confirmation from May 2018 to the Joint EBA/ESMA Guidelines on the assessment of the suitability of members of the management body and key function holders. CRD does not include provisions for formally independent members of the management body in its supervisory function or for the assessment of key function holders. In our view, the formal independence criteria is too restrictive and narrows the institution's room for manoeuvre disproportionately when appointing members of the management body in its supervisory function. Furthermore, such specific legal requirements could result in conflicts with German labour and co-determination law as well as the state law governing the public Savings banks and their management bodies in their supervisory functions. With regard to key function holders, apart from proportionality aspects, the German corporate law assigns responsibility for their selection as well as the monitoring of their performance, fitness and propriety to the management body in its executive function. The amendments focus on AML/TF issues and diversity. Those aspects are already broadly implemented in the German Banking Act as well as guidelines and VARM explanatory notes. However, BaFin will assess whether any further highlighting in its notes is adequate.</p>
EE	Estonia	Finantsinspektsioon (Financial Supervision Authority, FSA)	EBA/ESMA	Yes	<p>As of 13 December 2021, notification date.</p> <p>Finantsinspektsioon shared with ESMA and EBA the following link: https://www.fi.ee/et/juhendid/pangandus-ja-krediit/euroopa-pangandusjarelevalve-ja-euroopa-vaartpaberiturujarelevalve-asutuse-suunise-suunised</p>

IE	Ireland	Central Bank of Ireland	EBA	Intends to comply**	Intends to comply by 31 December 2021. The Central Bank of Ireland confirm that it intends to comply with the Final Revised Guidelines from the effective date of 31 December 2021, on the basis that the requirements of the Guidelines can be met through the application of the Central Bank's Fitness and Probity Regime and Corporate Governance Requirements.
		Central Bank of Ireland	ESMA	Yes	As of 6 January 2022, notification date.
EL	Greece	Bank of Greece	EBA	Intends to comply**	When necessary legislative or regulatory proceedings have been completed.
		Ελληνική Επιτροπή Κεφαλαιαγοράς (HCMC)	ESMA	Yes	As of 18 January 2022, notification date. The HCMC has published an announcement on its website regarding its compliance status with the Guidelines (see at: http://www.hcmc.gr/el_GR/web/portal/elib/news (in Greek)). According to the announcement, the HCMC has incorporated said GLs in its supervisory practice.
HR	Croatia	Hrvatska narodna banka (National Bank Croatia)	EBA	No	"CNB does not comply and does not intend to comply with parts of the Guidelines on the assessment of the suitability of members of the management body and key function holders (revised) (EBA/GL/2021/06) with respect to Competent authorities assessment procedures for heads of internal control functions and the CFO for significant institutions as stipulated in Part VIII. points from 171. to 194. of the Guidelines (but only in the part where these points refer to the Competent authorities' assessment procedures for heads of internal control functions and the CFO). As stated in our first notification of 25 May 2018 on the Guidelines, CNB will in accordance with the SREP Guidelines continue to assess the overall internal

					<p>governance framework of the significant institutions under its supervision and whether the independent risk control function ensures that the institution's risk measurement, assessment and monitoring processes are appropriate. If there are doubts or detected serious deficiencies of the internal control functions and thus the appropriateness of the internal control framework and internal controls is considered inappropriate CNB will take appropriate supervisory measures.</p> <p>With the rest of the Guidelines the CNB will comply when necessary legislative or regulatory proceedings will be completed due to minor changes in our Decision on assessment of the suitability of the chairperson of the management board, members of the management board, members of the supervisory board and key function holders in a credit institution which is along with a Circular letter to credit institutions, a means of implementing the Guidelines. Notification received on 20.12.2021"</p>
		Hrvatska agencija za nadzor financijskih usluga (HANFA)	ESMA	Yes	<p>As of 13 January 2022, notification date.</p> <p>HANFA informed relevant market association and published related info on Hanfa web pages: Obavijest subjektima nadzora o primjeni Smjernica EBA-e i ESMA-e za procjenu primjerenosti članova upravljačkog tijela i nositelja ključnih funkcija (EBA/GL/202106 i ESMA 35-36-2319)</p>
ES	Spain	Banco de España	EBA	No	<p>"Banco de Espana intends to comply with the Guidelines by their application date, within the limits of, and without prejudice to, Spanish provisions transposing CRD except with respect to (i) Guideline 89, paragraph g (partially) regarding the period of three years; and (ii) Guideline 187 (partially); regarding the maximum period of six months; as we consider these guidelines inconsistent with the Spanish national provisions implementing Directive 2013/36/EU and we will not comply with it.</p> <p>Please find below further details:</p>

					<p>- Guideline 89, paragraph g, (partially): the Spanish national provisions implementing Directive 2013/36/EU, do not deal with the definition of independent directors. Spanish Corporate Act, sets forth, within a list of presumptions of lack of formal independence, a cooling-off period of 1 year for professional advisers or material consultants, while the Guidelines extend it to 3 years.</p> <p>- Guideline 187 (partially): Spanish law sets forth a 3 months term for the competent authority to issue a resolution on the suitability of the individual being assessed. However, in those cases where the procedure has been suspended, Spanish law does not specifically foresee a maximum term of 6 months to render a decision.</p> <p>Additionally, for the sake of transparency and for the avoidance of doubt, it is hereby clarified that credit institutions are subject to national law provisions regarding formal independence set forth in article 529 duodecies of the Spanish Corporate Act (Real Decreto Legislativo 1/2010, de 2 de julio, por el que se aprueba el texto refundido de la Ley de Sociedades de Capital). This is so, in their condition as "public interest entities". Those provisions are stricter than section 9.3 "Independent members of a relevant institution's management body in its supervisory function" of these Guidelines to that the mere fact of meeting one of the situations described therein does not automatically qualify a member as not being independent while, the Spanish regime states a iuris tantum regime. Thus, it is considered that Banco de Espana complies with this section of the Guidelines."</p>
		Comisión Nacional del Mercado de Valores (CNMV)	ESMA	Yes	<p>As of 17 January 2022, notification date.</p> <p>The joint guidelines are taken into consideration by the CNMV supervisory procedure (P01 "Supervision and inspection procedures for persons and firms operating in the securities</p>

					markets”) and therefore we comply with them. The Guidelines are to be regarded when conducting supervision as noted in section 2 (6) where it reads that any Guidelines and/or Recommendations issued by ESMA in accordance with Article 16 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority will be incorporated to this procedure provided that CNMV has confirmed it complies or intends to comply with them as required by paragraph 3 of the mentioned Article.
FR	France	Autorité de Contrôle Prudenciel et de Résolution	EBA	No	<p>"The ACPR complies with the Guidelines; it maintains its non-compliance to the paragraphs relating to the supervisory authority's assessment of the suitability of key functions holders (paragraphs 163; 172; 173 and 177), unchanged by this new version of the Guidelines.</p> <p>Non-compliance on the supervisory authority's assessment of the suitability of key functions Holders</p> <p>The declaration of non-compliance applies to paragraphs 163 and 177 (transmission to the competent authority of the results and documentation relating to the internal evaluation) and paragraphs 172 and 173 (assessment of the suitability of internal control functions managers and the Chief Financial Officer by the competent authority). In the current state of the French legal framework, the ACPR cannot comply with the above mentioned paragraphs. Currently, the suitability assessment of key functions holders is neither explicitly provided for in CRD nor in the French provisions. Current legislative provisions on the suitability requirements and assessments can be found in the French Monetary and Financial Code (see in particular articles L511-51, L533-25, L612-23-1). In compliance with these provisions, the ACPR performs suitability assessments for members of the management bodies, and only carries out a formal assessment of the suitability of internal control managers when institutions are being authorized and in case of shareholding changes. The</p>

					<p>Guidelines go further than these provisions by requesting an external suitability assessment by the competent authority of key function holders at each appointment or renewal.</p> <p>Against this background, the ACPR does not comply with paragraphs 163; 172; 173 and 177.</p> <p>Any additional information that may be necessary</p> <p>Please note that the ACPR complies with the paragraphs relating to the presence and the definition of independent members, but maintains its two reserves of interpretation that it deems allowed by the text, unchanged by this new version of the Guidelines:</p> <ul style="list-style-type: none"> - formal independence of the members of the management body and the members of the Risk Committee and the Nomination Committee does not constitute a suitability criterion, which would be enforceable in the context of examination of an individual application. Pursuant to the French law, indeed the implementation of the guidelines cannot lead to the refusal on this sole ground of an individual application under the "fit and proper" assessment. In addition, except for the specific case of audit committees of public-interest entities, for which Article L. 823-19 of the Commercial Code provides, in principle, for the presence of an independent member, under the transposition of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, the presence of independent members in management bodies and other committees is considered by the ACPR a good practice to be encouraged but is not a legal or regulatory requirement; - in law, failure to comply with one or more of the criteria listed in the guidelines (paragraph 89) does not constitute a presumption of non-independence. Noncompliance with these criteria does not exhaust the notion of independence and the analysis of this quality must also take into account other measures, in particular those that would be developed by
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					French institutions in the context of laws and regulations in force and which could achieve the same objective of independence."
		Autorité des Marchés Financiers (AMF)	ESMA	No	<p>The AMF complies with the joint Guidelines to assess the suitability of management bodies and Key Functions Holders except with the paragraphs 163, 172, 173 and 177 of the Guidelines for the reasons detailed below.</p> <p>The AMF receives the information on Key Functions Holders ("KFH") from the Autorité de Contrôle Prudentiel et de Résolution (ACPR), which is the French competent authority to authorize investment firms and/or credit institutions providing investment services.</p> <p>Since CRD IV and MiFID II do not provide for the notification of the competent authorities of the nomination of KFH or the renewal of such KFH during the lifecycle of a firm or institution, and the assessment of such persons as a result, the AMF cannot comply with paragraphs 163, 172, 173 and 177 of the Guidelines.</p>
IT	Italy	Banca d'Italia	EBA	Intends to comply**	<p>"According to Italian Law, suitability requirements for members of the management body and key function holders of banks and investment firms (IFs) must be set in two decrees of the Ministry of Economy and Finance. The Bank of Italy is called to provide an opinion, jointly with the Consob, for requirements that apply to IFs' management body and KFH.</p> <p>With regard to banks, the decree setting the suitability requirements for banks' board members and KFHs entered into force on December 30, 2020 (see Ministerial Decree no. 169/2020) and is already broadly in line with the relevant provisions lately introduced into the GLs. The suitability assessment procedure is provided in the Consolidated Law on Banking as complemented by an ad hoc Regulation of the Bank of Italy adopted on May 4, 2021 and the framework is already compliant with the GLs as well.</p> <p>As to investment firms, the Ministerial decree regarding suitability</p>

					<p>requirements for board members and KFHs is yet to be enacted.</p> <p>With regard to the GLs' provisions on the FAP assessment in the context of early intervention measures and resolution, the Bank of Italy issued a supervisory guidance in order to align the national framework to the provisions thereby set."</p>
		Commissione Nazionale per le Società e la Borsa (CONSOB)	ESMA	Intends to comply**	By such time as the necessary legislative or regulatory proceedings have been completed (adoption of a decree by the Ministry of Economy and Finance to review the current Ministerial Decree no. 468/1998).
CY	Cyprus	Central Bank of Cyprus	EBA	Intends to comply**	Intends to comply. The assessment of the suitability of members of the management body and key function holders is currently governed by the Central Bank of Cyprus (CBC) Directive on the Assessment of Suitability of the Members of the Management Body and Key Function Holders of Authorised Credit Institutions of September 2020. The said Directive is currently under revision. Once the revision is completed, the CBC will be fully compliant with the subject Guidelines.
		Επιτροπή Κεφαλαιαγοράς Κύπρου (CySEC)	ESMA	Yes	<p>As of 18 January 2022, notification date.</p> <p>CySEC announced to the public its compliance with the said guidelines, through the issuance of a Circular (see link below) dated 18 January 2022. https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=64add6f3-0e04-4e9b-9f99-8e75df7eb399</p> <p>The said Guidelines are also published on CySEC's website, under the tab 'EUROPENAN REGULATORY FRAMEWORK, under the section on our site regarding the 'REGULATORY FRAMEWORK of Services & Markets 'INVESTMENT SERVICES LAW': https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=5c5b789c-4919-4dc9-879e-71819550c677</p>
LV	Latvia	Finanšu un kapitāla tirgus komisija (FKTK)	EBA/ESMA	Intends to comply	<p>By 1 July 2022.</p> <p>"Compliance with the Guidelines will be ensured by amending the FCMC Regulation No 94</p>



				<p>"Regulation on the Assessment of the Suitability of the Executive and Supervisory Board Members and Key Function Holders" (https://www.fktk.lv/en/law/credit-institutions/fcmc-regulations-en/regulation-on-the-assessment-of-the-suitability-of-the-executive-and-supervisory-board-members-and-key-function-holders/) where regulatory requirements set by the Guidelines will be incorporated. Considering that the Guidelines refer to the Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU, which is currently in the process of implementation into national legislation, we intend to comply with the Guidelines by 1 May 2022, except for the requirements of the independent members of a management body in its supervisory function.</p> <p>According to the current Latvian regulation an institution shall assess the possibility to ensure at least one independent member in the supervisory board of an institution who meets the criteria for determination of the status of being independent as referred to in the Suitability Assessment Regulation, and the appointment of independent supervisory board members in its supervisory board shall be deemed as good governance practice.</p> <p>The partial compliance will result for the requirements of independent members of a management body in its supervisory function (hereinafter – the Board) (the principle of being independent). Given Latvia’s small banking sector both in asset size and number of market participants, and also limited options to recruit suitable candidates as independent members, it would not be proportionate to require small banks with a few Board members to artificially increase those Boards. The strengthening of the management of the</p>
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					conflicts of interest should be fostered for those banks.”
LT	Lithuania	Lietuvos Bankas	EBA	Intends to comply**	When necessary legislative or regulatory proceedings have been completed. The Bank of Lithuania intends to comply with the Guidelines on the assessment of the suitability of members of the management body and key function holders, except for the provisions relating to suitability assessment of key function holders (except for internal auditor) to be carried out by competent authority (Title VIII, sections 23-24) until the respective changes are made to the national regulation. According to Art 34 of the Law of the Republic of Lithuania on Banks, key function holders, if not being Board members, are not considered to be managers of a credit institution and their assessment is performed within the competence of a supervised entity, with the managers approved by the national competent authority. The respective changes will introduce an ex-ante fitness and propriety of key function holders assessment before they take a position in a credit institution.
		Lietuvos Bankas	ESMA	Intends to comply**	By such time as the necessary legislative or regulatory proceedings have been completed.
LU	Luxembourg	Commission de Surveillance du Secteur Financier (CSSF)	EBA/ESMA	Intends to comply**	When necessary legislative or regulatory proceedings have been completed.
HU	Hungary	Magyar Nemzeti Bank (MNB)	EBA	Yes	As of 1 July 2022, notification date. Implementing document: Recommendation No 1/2022 (I. 17.) of the MNB on the assessment of the suitability of members of the management body and key function holders (application deadline: 1 February 2022)
		Magyar Nemzeti Bank (MNB)	ESMA	Yes	As of 16 February 2022, notification date. The Guidelines are implemented by MNB Recommendations 1/2022 (I.17.).

MT	Malta	MFSA	EBA	Yes	As of 29 October 2021, notification date. Credit institutions which are licensed in terms of the Maltese Banking Act (Chapter 371 of the Laws of Malta) are required to be guided by the EBA Guidelines on the Assessment of Suitability of Members of the Management Body and Key Function Holders, as stipulated in Appendix 1 to Banking Rule BR/12 on Principles on Internal Governance.
		Malta Financial Services Authority (MFSA)	ESMA	Yes	As of 23 December 2021, notification date. The Guidelines are referred to in both the Rules pertaining to the Application Process (https://www.mfsa.mt/wp-content/uploads/2021/10/Part-A-The-Application-Process.pdf - R3-3.2.3) and the Rules pertaining to the Licensed Activities applicable to MiFID firms (https://www.mfsa.mt/wp-content/uploads/2021/08/Part-BI-Rules-applicable-to-Investment-Services-Licence-Holders-which-qualify-as-MiFID-Firms.pdf - R1-2.4.1).
NL	Netherlands	De Nederlandsche Bank	EBA	Yes	As of 15 December 2021, notification date.
		Autoriteit Financiële Markten (AFM)	ESMA	Yes	As of 31 January 2022, notification date.
AT	Austria	Finanzmarktaufsicht (FMA)	EBA/ESMA	Yes	As of 16 November 2021, notification date. "The decision on Full Compliance was passed at the meeting of the FMA's Executive Board on 16.11.2021. The FMA's Fit and Proper Circular is currently being revised to reflect changes in the revised Guidelines."
PL	Poland	Komisja Nadzoru Finansowego (KNF)	EBA	Yes	As of 1 July 2022, notification date. The compliance notification form has been delivered with the intention to comply as on January 2022. The KNF has been compliant with the guidelines beginning from that date on.

		Komisja Nadzoru Finansowego (KNF)	ESMA	Yes	As of 13 January 2022, notification date. KNF informed relevant supervised entities about the Guidelines and takes the Guidelines into account as part of its supervisory practice.
PT	Portugal	Banco de Portugal	EBA	Intends to comply**	"In order to disclose the revised Guidelines, Banco de Portugal has issued a Circular Letter informing its expectations that the addressees already implement the necessary changes in their internal processes in order comply with the new provisions stated in these Guidelines as of 31 December 2021. The necessary legislative and regulatory proceedings have been initiated in order to reflect the changes introduced mainly by Directive 2019/878 into the legislation and regulation in force in Portugal.
		Comissão do Mercado de Valores Mobiliários (CMVM)	ESMA	Yes	As of 18 January 2022, notification date. The Joint ESMA and EBA guidelines on the assessment of the suitability of members of the management body and KFHs (2021 revised), which have been published on CMVM website - https://www.cmvm.pt/pt/Cooperacao/esma/DocumentosESMACESR/Documents/joint_eba_and_esma_gl_on_the_assessment_of_suitability_pt.pdf - and are referred to in the "registration dossier" regarding authorization of firms providing investment advice (investment firms for which the CMVM is currently the competent authority for prudential supervision). The registration dossier is available on CMVM website on https://www.cmvm.pt/pt/SDI/DossierDeRegisto/intermed_fin/Documents/Autoriza%C3%A7%C3%A3o%20e%20registro%20de%20SCI.docx . There are also other references to the Joint ESMA and EBA guidelines on the assessment of the suitability of members of the management body and KFHs on CMVM website (including CMVM - Avaliação de adequação e idoneidade).
RO	Romania	National Bank of Romania	EBA	Intends to comply**	Intends to comply after date of application. NBR will implement the guideline by issuing the secondary legislation.

		Autoritatea de Supraveghere Financiară (ASF)	ESMA	Yes	<p>As of 18 January 2022, notification date.</p> <p>The ASF Regulation no. 20/23.12.2021 for the amendment and completion of the ASF Regulation no. 1/2019 regarding the assessment of the suitability of members of the management body and key function holders within the entities regulated by the Financial Supervisory Authority, that transposes the provisions of these guidelines was published in the Romanian Official Journal, Part I no. 54 / 18.01.2022.</p> <p>The regulation can be accessed here: https://www.monitoruloficial.ro/Monit/orul-Oficial--PI--54--2022.html (Romanian Official Journal link) and https://www.asfromania.ro/ro/a/2316/regulamentul-nr.-1/2019-privind-evaluarea-%C5%9Fi-aprobarea-membrilor-structurii-de-conducere-%C5%9Fi-a-persoanelor-care-de%C5%A3in-func%C5%A3ii-cheie-%C3%AE-n-cadrul-entit%C4%83%C5%A3ilor-reglementate-de-asf---consolidat-ianuarie-2022 (ASF link for the consolidated version)</p>
SI	Slovenia	Banka Slovenije	EBA	No	<p>"In carrying the tasks and powers of supervision In accordance with the Banking Act and Regulation (EU) No. 575/2013, Banka Slovenije does not intend to comply with the Guidelines within the scope of those provisions of Title VIII of the Guidelines that relate to the supervisory assessment of the suitability of Heads of Internal control functions and of the CFO where they are not part of the management body, in the case of significant CRD institutions (specifically paragraphs 171, 172, 173, 178, 187, 188 where they refer to the key function holders). Banka Slovenije intends to comply with the rest of the Guidelines by 31 December 2021.</p> <p>In Banka Slovenije's view the supervisory assessment of the key function holders in significant CRD-institutions is not proportionate in case of relatively small institutions (which is the case for Slovenian systemically important institutions compared to EU systemically important institutions).</p>

					<p>In Banka Slovenije's opinion the supervisor should particular monitor how particular key function holders contribute to the effectiveness of the institution's internal governance arrangements, and not also assess the professional qualifications of these persons. The choice of these persons should be, in particular, the decision and responsibility of the bank in accordance with its needs (size of the bank, riskiness of its portfolios, types of products, internal organization issues, nature, scope and complexity of its activities, risk management systems). Furthermore, these persons carry out their activities within the expert (and not management or strategic) functions of the bank. In Banka Slovenije's opinion the supervisor could find it difficult to adequately assess the professional qualifications of the key function holders in relation to the actual needs of the bank, especially for persons who are not known yet in the wider banking environment. This could be the case in the smaller banking systems (such as Slovenia). Furthermore, a multiple consecutive negative supervisory assessment of the suitability of the candidates for key function holders functions may result in vacant managerial positions of these functions for a longer period, considering the length of supervisory suitability assessment procedures and the length of selection processes in banks.</p>
		Agencija za trg vrednostnih papirjev (ATVP)	ESMA	Yes	As of 9 December 2021, notification date
SK	Slovakia	Národná Banka Slovenska (National Bank of Slovakia, NBS)	EBA	Intends to comply**	Intends to comply by 1 September 2022
		Národná Banka Slovenska (NBS)	ESMA	Yes	As of 3 May 2022, notification date. NBS published on their website information about these guidelines together with an electronic link to its Slovak and English version:

					<p>https://www.nbs.sk/sk/dohlad-nad-financnym-trhom/legislativa/detail-dokumentu/721c93e3-be22-4b81-a054-989f3f6ff4d2</p> <p>https://www.nbs.sk/en/financial-market-supervision1/legislation/document-details/721c93e3-be22-4b81-a054-989f3f6ff4d2</p> <p>By publishing guidelines on their website, NBS expects from supervised entities on capital market to be in compliance with them.</p>
FI	Finland	Finanssivalvonta (FSA)	EBA/ESMA	Yes	<p>As of 14 January 2022, notification date (ESMA) and 20 January 2022 (EBA).</p> <p>It has been noted in the FIN-FSA that there are no obstacles in complying with the EBA/GL/2021/06 and therefore has been decided to do so.</p> <p>Finanssivalvonta issued a supervision release: https://www.finanssivalvonta.fi/en/publications-and-press-releases/supervision-releases/2022/regulations-and-guidelines-152021-assessment-of-the-suitability-of-members-of-the-management-body-and-key-function-holders/</p>
SE	Sweden	Finansinspektionen (The Swedish Financial Supervisory Authority, FI)	EBA/ESMA	No	<p>Finansinspektionen does not comply and does not intend to comply with certain parts of the guidelines. Non-compliance is for the most part due to the Swedish law or binding regulation, which makes it impossible for the Swedish FSA to comply with the Guidelines. The specific reason for non-compliance is set forth below:</p> <ul style="list-style-type: none"> - Paragraph 172: Swedish law does not provide for suitability assessment of the heads of internal control functions and CFO. Consequently, those parts of the Guidelines which concern the competent authorities' obligation in relation to the suitability assessment of the heads of the internal control functions and the CFO will not be implemented in Sweden. For the same reason will

					<p>paragraph 165 not be implemented in Sweden.</p> <p>Any other additional information that may be necessary:</p> <ul style="list-style-type: none"> - Paragraph 175: for the avoidance of doubts, the Swedish regulation allows the assessment of the suitability before and after the appointment. Therefore, it should be noted that institutions under the supervision of the Swedish FSA are allowed to notify the Swedish FSA either before or after the appointment. - Section 9.3 (paragraph 87-91): pursuant to paragraph 88 it should be considered good practice to have independent members in the management body for investment firms. In other words, this means that the comply or explain scheme does not apply to this section for investment firms. - Section 15 (paragraph 123-127): for the avoidance of doubt, under the Swedish law the management body does not have competence in the process of selection and appointment of any of his members. As stated in paragraph 128 the section on nomination committee and its task is thus not applicable in Sweden. - Annex III, paragraph 4.1: according to this paragraph criminal records are required to be submitted to the Swedish FSA for each suitability assessment. However, as part of the suitability assessment the Swedish FSA request criminal records directly from the Police Authority. Therefore, there is no need to submit a criminal record to the Swedish FSA as part of the application of each suitability assessment.
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EU Institutions – Agencies

ECB	ECB	ECB	EBA	Yes	As 29 December 2021, notification date
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EEA – EFTA State

IS	Iceland	Central Bank of Iceland	EBA/ESMA	No	The Central Bank of Iceland generally and for the most part complies with the Guidelines on the assessment of the suitability of members of the management body and key function holders. However, in order for the Central Bank to be able to comply with Title VIII, paragraphs 170 -198, it is necessary to amend Icelandic legislation with regard to the authority's power to assess the suitability of key function holders. Furthermore, there seems to be no legal basis for such provisions in the CRD framework, which MiFID II refers to.
LI	Liechtenstein	Finanzmarktaufsicht (FMA)	EBA	Yes	As of 19 July, notification date
		Finanzmarktaufsicht (FMA)	ESMA	Yes	As of 31 May 2022, notification date. On 31 May 2022 FMA Communication 2013/07 was approved. We have published them on our homepage: https://www.fma-li.li/files/list/fma-mitteilung-2013-07-gewaehr-fuer-einwandfreie-geschaeftstaetigkeit.pdf https://www.fma-li.li/files/list/fma-mitteilung-2013-07-englisch.pdf
NO	Norway	Finanstilsynet	EBA	Yes	As of 7 July 2022, notification date. https://www.finanstilsynet.no/nyhettsarkiv/nyheter/2021/reviderte-retningslinjer-fra-esma-og-eba-om-vurdering-av-egnethet-til-styret-og-nokkelpersonell/
		Finanstilsynet	ESMA	Yes	As of 10 February 2022, notification date

* The competent authorities of the EEA States other than the Member States of the European Union are required to notify their compliance with ESMA's Guidelines relating to a legal act that has been incorporated in the EEA Agreement. This compliance table reports on Guidelines relating to MiFID II² and CRD IV³, which have been incorporated in the EEA Agreement.

** Please note that, in the interest of transparency, if a competent authority continues to intend to comply after the application date, it will be considered "non-compliant" unless (A) the Guidelines relate to a type of institution or instruments which do not currently exist in the jurisdiction concerned; or (B) legislative or regulatory proceedings have been initiated to bring any national measures necessary to comply with the Guidelines in force in the jurisdiction concerned.

Notes

² Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast).

³ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.



Article 16(3) of the EBA and ESMA's Regulations requires national competent authorities to inform us whether they comply or intend to comply with each Guideline or recommendation we issue. If a competent authority does not comply or does not intend to comply it must inform us of the reasons. We decide on a case by case basis whether to publish reasons.

The EBA and ESMA endeavour to ensure the accuracy of this document, however, the information is provided by the competent authorities and, as such, the EBA and ESMA cannot accept responsibility for its contents, or any reliance placed on it.

For further information on the current position of any competent authority, please contact that competent authority. Contact details can be obtained from the EBA and ESMA's website www.eba.europa.eu , www.esma.europa.eu