Annex 3

# Regulations No 201

of Financial and Capital Market Commission of 27.10.2020

**privacy statement**

**assessment of the suitability of official**

**PURPOSE AND LEGAL BASIS FOR THE PROCESSING OF PERSONAL DATA**

The safety and soundness of a credit institution depend on the availability of appropriate internal organisation structures and corporate governance arrangements. Council **Regulation (EU) No 1024/2013** of 15 October 2013 (SSM Regulation)[[1]](#footnote-1) confers specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions on the basis of Article 127(6) of the Treaty on the Functioning of the European Union. For prudential supervisory purposes, the ECB is entrusted with the tasks in relation to credit institutions established in the participating Member States referred to in Article 4, within the framework of Article 6, of the SSM Regulation.

In accordance with Article 4(1)(e) of the SSM Regulation, the ECB is to ensure compliance with the acts of the relevant Union law which impose requirements on credit institutions to have in place robust governance arrangements, including the **fit and proper requirements for the persons responsible for the management of credit institutions**. For the purpose of carrying out its tasks, pursuant to Article 16(2)(m) of the SSM Regulation, the ECB has also the supervisory power to remove at any time members from the management body of credit institutions who do not fulfil the requirements set out in the acts of the relevant Union law. Article 91(1) of **Directive 2013/36/EU of the European Parliament and of the Council**[[2]](#footnote-2)provides that members of the management body shall at all times be of sufficiently good repute and possess sufficient knowledge, skills and experience to perform their duties. Within the procedures for the supervision of significant supervised entities, Articles 93 and 94 of the **ECB** **Regulation** **No 468/2014** (SSM Framework Regulation)[[3]](#footnote-3) lay down the rules on the assessment by the ECB regarding the compliance with the fit and proper requirements for persons responsible for managing credit institutions. In order to ensure that fit and proper requirements are met at all times, according to Article 94(2) of the SSM Framework Regulation the ECB may initiate a new assessment based on new facts if the ECB becomes aware of any new facts that may have an impact on the initial assessment of the relevant member of the management body.

Personal data is thus collected and processed for the purpose of assessing whether the persons responsible for the management of significant credit institutions meet the fit and proper requirements. The assessment criteria are: (i) reputation; (ii) knowledge, skills and experience; (iii) ability to act in accordance with the corporate values of credit institution and standards of professional conduct and ethics, including independence of mind; (iv) ability to devote sufficient time to the performance of their duties; and (v) collective suitability. Besides, personal data may be processed and analysed for the purpose of conducting quantitative research and analysis and statistical reporting. If used for this purpose, personal data will be anonymised in a way that individuals cannot be identified.

**CATEGORIES OF PERSONAL DATA PROCESSED**

In relation of fit and proper assessment, the following personal data is processed:

1) **personal details** provided by the applicant (in writing or during an interview), covering:

- **information about the person**, such as full name, place and date of birth, ID/passport number, nationality, tax identification number;

- **contact details**, such as address, e-mail, phone number;

- **knowledge, skills and experience,** such as information regarding practical, professional experience gained in previous occupations and theoretical experience (knowledge and skills) gained through education;

- **reputation**, such as criminal record and relevant information on criminal investigations and proceedings, relevant civil and administrative cases, and disciplinary actions (including disqualification as a company director, bankruptcy, insolvency and similar procedures);

- **conflicts of interest**, such as any close personal relationship with a member of a management body, any significant private business transactions with the credit institution, positions with qualifying holdings, etc.;

- **time commitment**, such as other professional or personal commitments or circumstances (e.g. involvement in a court case); and

- **collective suitability,** such as the contribution of a particular applicant to the overall competence of the institution;

2) personal data that has come to the knowledge of the ECB or the Financial and Capital Market Commission (FCMC) by other means, such as via the media;

3) personal data that is not related to the applicant but to third parties;

4) comments by the ECB or FCMC staff members regarding the performance of the applicant during the fit and proper procedure, reflecting the opinion or the assessment of the examiner on the individual performance of the applicant, particularly in relation to his/her knowledge and competences in the relevant field.

**RECIPIENTS OR GROUPS OF RECIPIENTS OF THE PERSONAL DATa**

Personal data received in the course of the suitability assessment procedure is disclosed to the ECB and FCMC staff responsible for the performance of their tasks related to prudential supervision of credit institution, on a need-to-know basis, the Secretariat of the Supervisory Board and members of the Supervisory Board and the Governing Council of the ECB, the ECB experts and contractors working on behalf of the ECB, as well as to a limited number of staff members of other institutions, bodies, agencies, supervisory authorities, such as criminal prosecutors, anti-money laundering authorities.

**APPLICABLE RETENTION PERIOD**

The ECB stores personal data provided during the suitability assessment procedure for a period of 15 years from the date of application or notification if the application is withdrawn before a formal decision is reached, from the date of a negative decision, or from the date the data subjects cease to be officials or qualifying shareholders of the credit institution, in the case of a positive ECB decision, as well as from the date of the most recent ECB decision in case of reassessment of the official based on new facts.

In the event that administrative or judicial proceedings are initiated, the retention period is extended and ends one year after such proceedings are concluded by a final decision. The FCMC stores personal data provided in the application for authorisation for 10 years after the change in the status of a market participant.

**applicable DATa protection and DATa controllers**

Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC is applicable to the processing of personal data performed by the ECB. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) is applicable to the processing of personal data performed by the FCMC. Within the meaning of Regulations (EU) No 2018/1725 and No 2016/679, the ECB and FCMC are joint controllers.

**DATA SUBJECT RIGHTS**

The data subjects whose personal data are processed by the ECB and the FCMC for the prudential supervisory purpose have the right to access and the right to rectify the data concerning him or herself. You have also (with some limitations) the rights to delete your personal data or object to the processing of your personal data in line with Regulation (EU) 2018/1725.

**CONTACT INFORMATION**

In case of queries or complaints regarding the data processing, you may contact by e-mailing the ECB (authorisation@ecb.europa.eu) or the FCMC (fktk@fktk.lv). The ECB’s Data Protection Officer at dpo@ecb.europa.eu will answer all queries relating to personal data protection. Moreover, you have the right to lodge a complaint with the European Data Protection Supervisor or the Data State Inspectorate at any time.

**PRIVACY STATEMENT**

I hereby certify that I have been informed that, on the basis of regulatory requirements (e.g. Article 57 (1.1) of Credit Institution Law, Article 4 of the SSM Regulation), the FCMC, within its competence, receives and processes my personal data (as data of a natural person) submitted to the FCMC/ECB, including sensitive personal data. I am informed that my personal data is transferred to the ECB for exercising its functions, as well as the ECB transfers my personal data to the FCMC.

Full name

Signature

Done at/ date

1. 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, OJ L 175, 14.6.2014. [↑](#footnote-ref-1)
2. 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, OJ L 176, 27.6.2013. [↑](#footnote-ref-2)
3. Regulation (EU) 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, OJ L 141, 14.5.2014. [↑](#footnote-ref-3)