

Deloitte Banking Alert

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ECB is taking actions towards an efficient fit & proper framework

It is the banks that hold the responsibility for ensuring the suitability of their directors. **The integrity and competence of a bank's directors is one of the most important keys to the success.** Unfortunately, the results are not always the strongest. **The ECB puts a lot of effort to pursue even higher governance standards in European banks.** An opinion piece by Yves Mersch, Member of the Executive Board of the ECB and Vice-Chair of the Supervisory Board of the ECB was published by the ECB on 1 October 2020.

Why is bank governance so important?

The integrity and competence of a bank's directors is one of the most important lines of defence against mismanagement and fraud. The ECB performs the ultimate "quality control" – in supervisory jargon, the fit and proper assessment – for the biggest banks in the euro area. This process is very challenging for the ECB. Last year alone, the ECB assessed the suitability of 2,967 individuals for more than 100 banking groups. Similar figures are expected this year.

The ECB assesses the profiles of directors against the standards laid out in 2013 European directive (CRDIV). However, the way Member States have transposed – or, for that matter, not (yet) transposed – this directive into national legislation differs. **Among other things, the directive requires bank directors to be of "sufficiently good repute", and to possess the sufficient knowledge, skills and experience to fulfil their functions. They must act at all times with honesty, integrity and independence of mind, and be able to commit sufficient time to perform their functions.**

Concepts such as reputation, independence of mind and time commitment are often construed differently from one set of national legislation to another. To help ECB take these national differences into account and adhere to the standards outlined in the directive, **the ECB has worked with national banking supervisors to develop a common interpretation of fit and proper criteria where it has been possible and legally feasible to do so.** This has enabled ECB to address some of the main obstacles. But it is not enough.

ECB raises the bar on internal governance

To address all existing gaps, the ECB will implement stricter and more intrusive fit and proper assessments. The ECB will continue to strengthen its focus on the impact managers are expected to have on the health and stability of banks. **If the assessment finds that an individual is not suitable for the position envisaged, the ECB will issue a negative decision in line with EU rules.** In addition, the ECB plans to more closely scrutinise any relevant facts which may have a negative impact on the reputation of the individual in question, such as previous criminal convictions or ongoing judicial or administrative proceedings.

This gradual raising of the bar will be accompanied by increased transparency to better convey the expectations for bank directors. **The ECB will publish a revised Guide to fit and proper assessments.** The individual accountability of board members will be examined more closely: **directors who are guilty of misconduct, or who turn a blind eye to the misconduct of their peers, will no longer be able to hide behind the collective responsibility of the board.**

In addition, to make the assessment process more efficient and accessible, **an online portal which banks can use to submit applications for fit and proper assessments of prospective directors will be created.** The ECB will encourage banks to submit their applications before individuals take up their positions, thus making it possible to frontload supervisory assessments. At the same time, **the ECB has reinforced its internal decision-making by creating a dedicated fit and proper department and an enforcement and sanctioning committee to strengthen independence and ensure due process.**

How can Deloitte help?

The focus on the governance principles is expected to be an integral part of ECB's onsite inspection methodology. **Deloitte can support you in:**

- assessing the internal corporate governance framework, using our gap analysis tool;
- assessing the fit & proper framework;
- designing a collective suitability matrix, tailored to your specific profile.

For further questions regarding the aspects mentioned in this alert, please don't hesitate to contact us.



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