



EUROPEAN CENTRAL BANK

BANKING SUPERVISION

Andrea Enria

Chair of the Supervisory Board

Mr Sven Giegold
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels
BELGIUM

Frankfurt am Main, 22 April 2020

Re: Your letter (QZ013)

Honourable Member of the European Parliament, dear Mr Giegold,

Thank you for your letter on fit and proper assessments, which was passed on to me by Ms Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 20 March 2020.

Within the Single Supervisory Mechanism (SSM), the ECB and the national competent authorities have been jointly assessing the fitness and propriety of banks' new board members since November 2014 in accordance with national legislation implementing the Capital Requirements Directive (CRD IV)¹. During this time, 12,567 individual assessments have been conducted, of which 2,967 in 2019. The charts in Annex 1 show the number of assessments concluded each year since the SSM was established. This information is also available in the recently published ECB Annual Report on supervisory activities 2019.²

In your letter, you also refer to fit and proper decisions related to money laundering and/or financial crime. Please note that ECB Banking Supervision is not directly competent for the prevention of money laundering. Nevertheless, in the exercise of its prudential supervisory tasks, the ECB acts upon any concerns about money laundering and terrorist financing that may have an impact on the safety and soundness of a credit institution. Concerns of this nature are inter alia, taken into account in the authorisation process and in the assessment of the suitability of the members of management bodies of credit institutions and key function holders. Against this background, there is a clear need for closer cooperation and increased information exchange between prudential supervisors and the authorities responsible for anti-money laundering and

¹ 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, p. 338), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0036>.

² <https://www.bankingsupervision.europa.eu/press/publications/annual-report/html/ssm.ar2019-4851adc406.en.html#toc50>

combating the financing of terrorism. In some cases enforcement actions taken by AML authorities or prosecutors have triggered fit and proper reassessments of relevant Board members by the ECB.

Furthermore, credit institutions themselves play a leading role in fighting money laundering and terrorist financing in the financial sector. They have to ensure that members of the management body and senior managers are at all times of sufficiently good repute and possess sufficient knowledge, (collective) skills and experience to perform their duties in this regard. Similarly, credit institutions are responsible for ensuring that their governance and risk management are adequate and enable them to identify, assess and manage the risks to which they are or may be exposed, including money laundering and terrorist financing risks.

Regarding your second question, for around 30% to 40% of the members of management bodies assessed each year, the ECB identifies concerns regarding one or more of the fit and proper criteria. Consequently, in these decisions the ECB imposes ancillary measures in the form of conditions, obligations or recommendations on the relevant credit institutions to address the identified concerns. While conditions and obligations are legally binding, recommendations are not. However, recommendations are imposed when the ECB has supervisory expectations based on best practice or non-binding standards that the credit institution and the candidate may still take into consideration. The ECB monitors compliance with these ancillary measures as part of its ongoing supervision. In 2018-2019, most ancillary provisions were related to reputation, experience and time commitment of board members, but none was related to findings regarding money laundering and terrorist financing.

Where there are doubts or concerns about the suitability of a candidate, the ECB's fit and proper assessment involves interaction with the relevant national competent authority and the credit institution. This interaction gives the ECB the opportunity to convey its concerns and share its preliminary assessment and the potential outcome. This is done through informal interaction or in the course of a formal exchange that takes place either through the right to be heard (hearing phase) during the decision phase and after the Supervisory Board has approved the draft decision. During the hearing phase, the bank and/or the candidate have two weeks to provide written comments and/or ask for meetings to express their views before the final decision is adopted by the ECB. The result is often that either the candidate or the bank decides to resign or withdraw the application and hence the case does not result in a negative decision. Since its inception, the SSM has not issued negative decisions related to fitness and propriety. However, since the beginning of the SSM more than 50 applications were withdrawn or ended up in suspension or resignation of board members following interaction with the candidate or the bank, including 11 cases where the ECB voiced concerns related to money laundering and terrorist financing.

Yours sincerely,

[signed]

Andrea Enria

Annex 1

Chart 1: Fit and proper assessments conducted by ECB Banking Supervision between 2015 and 2019

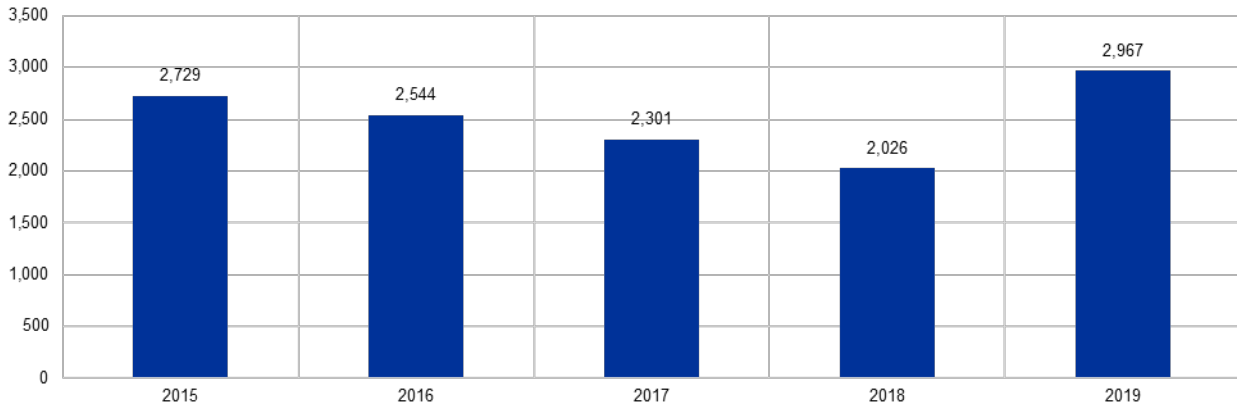
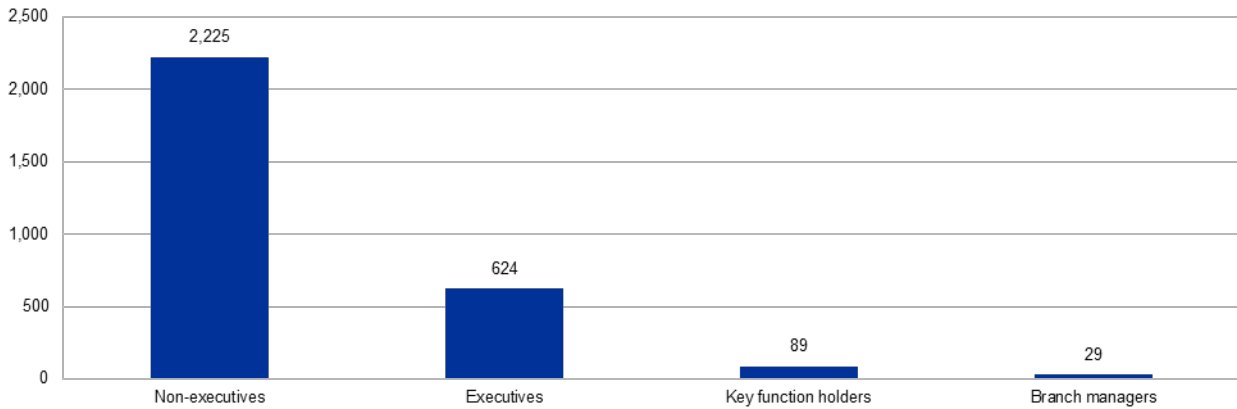
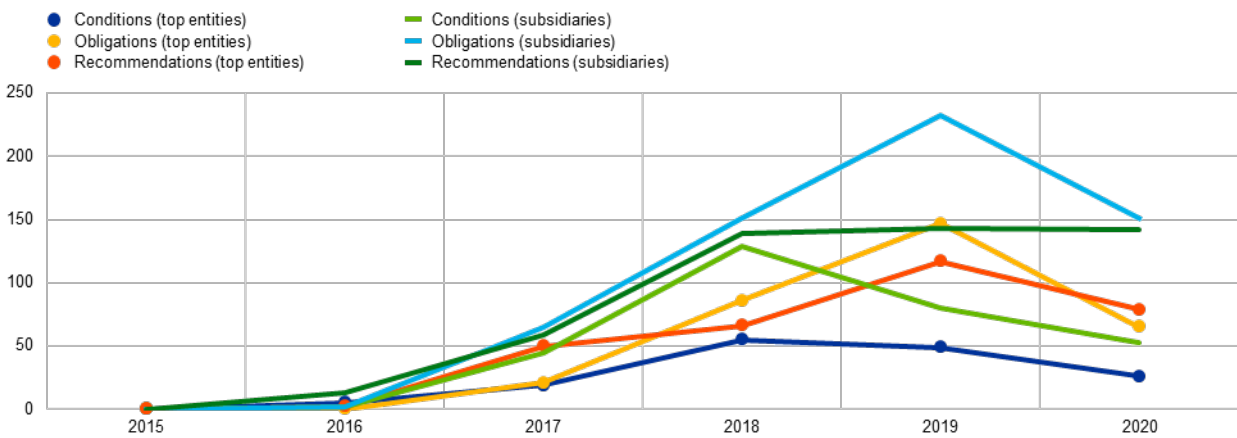


Chart 2: Number of fit and proper assessments per function in 2019



Source: ECB.

Chart 3: Number of ancillary provisions imposed by the ECB between 2015 and 2019



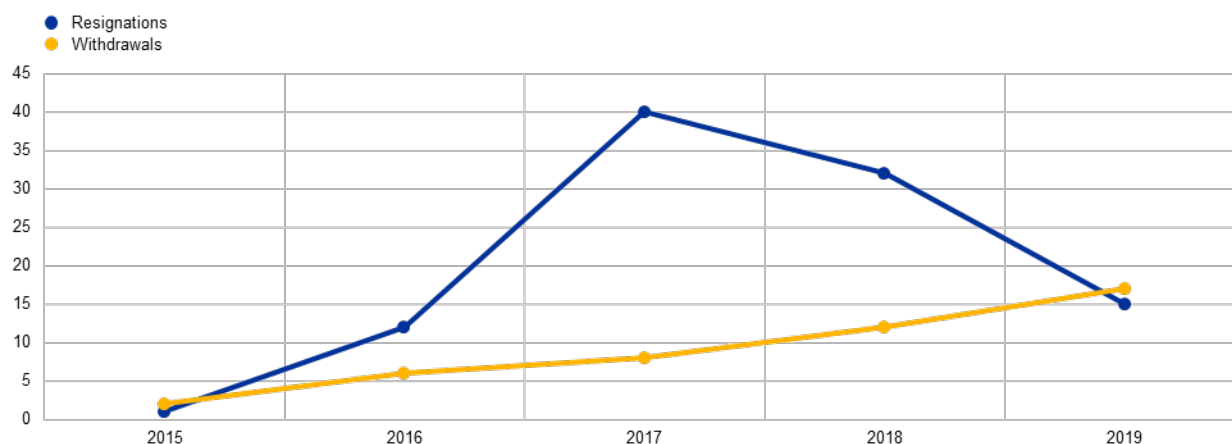
Source: ECB.

Table 1: Breakdown of ancillary provisions imposed between 2015 and 2019 (top entities and subsidiaries) – conditions, obligations and recommendations

	Recommendation		Obligation		Condition	
	TOP	SUB	TOP	SUB	TOP	SUB
Collective suitability	17	9	9	6	0	0
Reputation	18	12	67	112	0	0
Conflict of interest	69	57	100	132	23	13
Experience	104	153	59	66	87	254
Time commitment	107	260	92	289	44	40
	315	491	327	605	154	307

Source: ECB.

Chart 4: Number of resignations and withdrawals



100 resignations* of members of the management body (59 at top entities and 41 at subsidiary level), mainly due to concerns regarding:

Conflict of interest (20%)

Time commitment (80%)

*Resignations of members of the management body from positions held in other institutions.

45 withdrawals** of candidates for positions on the management body (at top entities and subsidiary level), due to concerns regarding:

Reputation (35%)

Experience (18%)

Time commitment (13%)

Multiple concerns (18%)

**Withdrawals after a formal FAP application was filed.

Source: ECB.