

BANKA SLOVENIJE

EVROSISTEM



ASSESSMENT OF SUITABILITY OF MEMBERS OF SUPERVISORY BOARDS OF BANKS AND SAVINGS BANKS (BANKA SLOVENIJE EXPECTATIONS)

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1 INTRODUCTION

Deficiencies in corporate governance at banks have in the past been a factor in the excessive and imprudent take-up of risks by banks, and have thus played a part in systemic difficulties in the banking sector in Slovenia and around the world. The reform of the European legislation and regulations¹ and consequently the Slovenian legal framework for banking in 2015 therefore aimed to rectify the inadequacies in corporate governance arrangements at banks and savings banks (hereinafter: banks), and to establish a greater role and responsibilities for their supervisory boards in supervising the actions of their management boards and their performance, while at the same time emphasising the importance of a sound risk culture.

The supervisory boards of banks play a key role in risk management, in particular from the perspective of ensuring balance in their banking operations, and also constitute a core component of their effective internal governance arrangements. Supervisory board members exercise this role both individually and collectively, for which reason they need to be capable to constructively assess the bank's strategy and diligently review the adequacy of the bank's governance with regard to its objectives. In so doing they need to take account of the accuracy of financial information, the stability of risk management processes, the adequacy of remuneration policy and practices, the available resources, the procedures for appointing members of the management body and key function holders, and the standards of ethical and professional conduct for bank staff. With the aim of consistently exercising their statutory tasks, responsibilities and authorisations, supervisory board members work closely with the management board and the internal control functions at the bank, for which they must be adequately qualified, and must commit sufficient time to perform their tasks. In this connection the bank and the supervisory board must ensure that the knowledge and experience is balanced across individual supervisory board members, and that the composition of the supervisory board is sufficiently diverse. We should reiterate that the banks and the supervisory board members themselves also need to be aware of the importance of their role at the bank from the perspective of the responsibilities involved.

¹ The CRD IV and the EBA guidelines.

To this end Banka Slovenije and the banks conduct an initial assessment and regular reassessments of the individual and collective suitability of supervisory board members, including the workers' representatives on these bodies.² Banka Slovenije highlights its supervisory expectations below, with the rules of this assessment process, which are derived from applicable regulations and guidelines.

² In decision U-I-55/16-19 of 13 June 2019 the Constitutional Court repealed Article 33 of the ZBan-2, thereby extending to banks and savings banks the mandatory application of Title V of the Worker Participation in Management Act with regard to the right of workers' representatives to sit on management bodies.

2 POLICY FOR SELECTING SUITABLE CANDIDATES FOR SUPERVISORY BOARD MEMBERSHIP AND SUCCESSION PLANNING

Bank bodies that are responsible for the selection and appointment of members of the management body are required to draw up and implement an appropriate policy for the selection of suitable candidates³ that ensures:

1. that the management body as a whole takes into account the wide range of knowledge, skills and experience of its members;
2. initiatives to achieve diversity within the management body, including the appropriate representation of both genders, including policies to achieve these objectives by increasing the number of members of an under-represented gender on the management body; and
3. the definition of conditions for the performance of a specific function, including the required profile of members of the management body, before they are appointed.

Part of the policy for selecting suitable candidates for supervisory board membership is earmarked for the bank to implement the legal requirements on the basis of systematic and long-term succession planning. The policy must proceed from the bank's own needs and capacities, and also from the legal requirements⁴ for a management body composition that is capable of supervising the approved strategy of the bank's management and supervision, and the risk management strategy. Bank bodies responsible for selecting and appointing supervisory board members therefore need to proceed directly on the basis of these bank policies in their proposals for the selection and appointment of supervisory board members. Where appropriate, this includes the timely planning of the membership and succession of workers' representatives on bank supervisory boards, particularly for the purpose of ensuring that all fit and proper criteria are met, including the knowledge, skills and experience of these board members.

³ Second paragraph of Article 34 of the ZBan-2.

⁴ E.g. diversity, knowledge, range and experience, participation of workers' representatives.

3 BASIC REQUIREMENTS AND LEGAL FRAMEWORK FOR FIT AND PROPER ASSESSMENT

Banka Slovenije assesses whether supervisory board members meet the fit and proper criteria on the basis of:

1. the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 25/15, 44/16 [ZRPPB], 77/16 [ZCKR], 41/17, 77/18 [ZTFI-1], 22/19 [ZIUDSOL] and 44/19 [constitutional court decision]; (hereinafter: ZBan-2),
2. the Regulation on internal governance arrangements, the management body and the internal capital adequacy assessment process for banks and savings banks (Official Gazette of the Republic of Slovenia, Nos. 73/15, 49/16, 68/17, 33/18, 81/18 and 45/19),
3. the EBA Guidelines on the assessment of the suitability of members of the management body and key function holders (EBA/GL/2017/12) of 21 March 2018 (hereinafter: the EBA guidelines),
4. the ECB Guide to fit and proper assessments for supervisors, which is used by the ECB for supervisory purposes (hereinafter: the ECB guide),
5. the updated ECB Guide to fit and proper assessments, which was published in May 2018 (hereinafter: the ECB guide), and
6. the Worker Participation in Management Act (Official Gazette of the Republic of Slovenia, Nos. 42/07 [official consolidated version] and 45/08 [ZArbit]).

Each bank must ensure that members of its supervisory board are always suitable individually and collectively, and must assess or reassess that they are fit and proper persons in the following cases:

- (a) when the request to grant the authorisation to provide banking services is submitted,
- (b) whenever there is a significant change to the composition of the supervisory board (including the appointment of new members, or the reappointment of members if the requirements for the function in question have changed or if the member has been appointed to another function on the bank's supervisory board),
- (c) on a regular basis, including when there are concerns over the individual or collective suitability of supervisory board members, or

during an event that impacts the reputation of the board member or the bank, and within the framework of regular reviews of the bank's internal governance arrangements,

(d) in other cases that have a significant impact on the suitability of a member of the bank's supervisory board.

Banka Slovenije initially assesses and reassesses the individual and collective suitability of supervisory board members on the basis of documentation for proving the fulfilment of conditions for appointment as a supervisory board member,⁵ public information, and information obtained from other domestic and foreign institutions. During the fit and proper assessment procedure on the basis of the ZBan-2,⁶ Banka Slovenije may decide to conduct an oral interview with the supervisory board member, for the purposes of a detailed presentation of circumstances that Banka Slovenije deems significant to assessing the fulfilment of the conditions and duties of a member of a bank's supervisory board. Information obtained in the oral interview goes to supplement the information that has previously been obtained about the supervisory board member, and allows Banka Slovenije to make a better-substantiated assessment of the suitability of the board member in question.

⁵ E.g. the KAN and BAN questionnaires and other documentation set out by the Regulation on the documentation for demonstrating fulfilment of the conditions for appointment as a member of the management body of a bank or savings bank (Official Gazette of the Republic of Slovenia, No. 33/17).

⁶ Articles 41 and 57 of the ZBan-2.

4 BANKA SLOVENIJE CRITERIA FOR ASSESSING THE SUITABILITY OF MEMBERS OF BANK SUPERVISORY BOARDS

Banka Slovenije assesses the individual suitability of a supervisory board member on the basis of his/her reputation, theoretical and practical experience (education and qualifications, work experience and skills), independence and conflicts of interest, time commitment, and contribution to the collective suitability of the supervisory board.

In addition Banka Slovenije assesses the strategy for supervising the bank's operations submitted by the supervisory board member during the fit and proper assessment procedure, and the collective suitability of the supervisory board.

4.1 Reputation and traits

Supervisory board members must always be of good repute, and must have the requisite traits (honesty and integrity) to diligently and prudently perform their functions. The reputation of a supervisory board member (including a workers' representative on the supervisory board) is always assessed on the basis that reputation is either good or bad. There is no intermediate option, as the principle of proportionality does not apply to this criterion. A supervisory board member is deemed to be of good repute if there is no evidence to suggest otherwise, and no grounds for reasonable doubt about his/her reputation, having regard for the relevant available information about facts and circumstances related to reputation.⁷ If the personal or business conduct of the supervisory board member gives rise to any doubt about his/her ability to ensure the sound and prudent management of the bank, the materiality of the circumstances needs to be assessed. Such circumstances include concluded or pending judicial proceedings (e.g. criminal or administrative proceedings), past or pending regulatory investigations or measures by supervisory authorities, past or current business results and financial stability (e.g.

⁷ The ZBan-2 stipulates that members of the management body are deemed not to have the requisite reputation and traits for performing a function if they have been finally convicted of a criminal offence and the conviction has not yet been expunged, or they have been charged with a criminal offence prosecuted *ex officio* for which a prison sentence of one year or more may be imposed.

inclusion on a relevant list of unreliable debtors, declaration of personal bankruptcy, financial and business results of business entities currently or previously under his/her ownership, any bankruptcy or liquidation proceedings, material loans to the supervisory board member or his/her business entities, dismissal from a position or disqualification from performing a function).

Banka Slovenije must always be informed of judicial proceedings initiated or concluded against an individual supervisory board member when the application to perform the function is submitted, during his/her appointment or upon the initiation of judicial proceedings.

4.2 Theoretical and practical experience

Supervisory board members must have sufficient knowledge, skills and experience to perform their functions. The assessment of the knowledge, skills and experience of a member of the management body encompasses the theoretical experience that he/she has already acquired (education and qualifications), and also practical experience (work experience and skills acquired in previous positions).

Supervisory board members must in particular understand the bank's governance arrangements, their own functions and responsibilities, the bank's operations and risks (at least within the scope of their own responsibilities), and also areas of the bank's operations for which they hold collective rather than direct responsibility. To this end Banka Slovenije assesses whether the theoretical and practical experience of the supervisory board member in banking and financial markets, regulations, strategic planning, and understanding of the bank's business strategy and risk management are sufficient to presume that he/she can supervise the management of the bank's operations. Depending on the type of function, and the nature, scale and complexity of the bank's activities, Banka Slovenije may assess whether additional experience is required for the specific function (and combination of different functions).

Banka Slovenije applies the principle of proportionality when assessing the theoretical and practical experience of supervisory board members, with the particular aim of ensuring the horizontal comparability of banks. The required level of experience depends on the nature, scale and complexity of the activities that the bank pursues, which means that at banks where the scale and complexity of the activities are larger, more theoretical and practical experience is required of supervisory board members. Supervisory board members must in particular be

capable of constructively assessing the decisions of the bank's management board, and effectively supervising it.

Here Banka Slovenije reiterates that the ZBan-2 and the EBA guidelines set out the same criteria for the individual assessment of theoretical and practical experience for all members of the bank's supervisory board. This means that there is no legal basis for more flexible assessment of the individual suitability of workers representatives' on bank supervisory boards under this criterion than for other members of the supervisory board. This also proceeds from the Constitutional Court decision⁸ finding that the criteria for workers' representatives on the management bodies of banks should be the same in principle. Banka Slovenije nevertheless reiterates that a certain degree of flexibility in the fit and proper assessment of all supervisory board members under the criterion is still possible, in the part of the assessment relating to the collective suitability of the supervisory board. In the event of deficiencies being identified in the knowledge and experience of a supervisory board member, in certain cases special circumstances in connection with the supervisory board may be taken into account or additional measures may be taken, as a result of which the supervisory board member's fit and proper assessment may nevertheless be positive (e.g. broad experience on the part of other supervisory board members, the supervisory board member's special knowledge that the bank needs, a requirement for additional training).

4.2.1 Education and qualifications

Supervisory board members must possess the knowledge, skills and experience required to supervise and monitor the operations of a bank or an undertaking of similar size and activity to those of a bank, or other similar transactions.⁹ Because minimum qualifications are not stipulated, the fit and proper assessment procedure may also consider qualifications below university level, but only if the supervisory board member has adequately compensated for a lack of a university-level qualification in his/her career by means of relevant work and managerial experience (generally through many years of managerial experience in complex and demanding banking and financial environments) and through additional training in banking and finance.

⁸ Constitutional Court decision U-I-55/16-19.

⁹ The first paragraph of Article 38 and point 1 of the first paragraph of Article 53 of the ZBan-2.

In assessing the theoretical experience of a supervisory board member, including a workers' representative, Banka Slovenije primarily takes account of the type and level of qualification and its connection with banking and financial services or other related fields (banking and finance, economics, law, accounting and auditing, administration and business administration, financial regulations, information technology, financial analysis and quantitative methods). In so doing Banka Slovenije has a minimum expectation of basic theoretical banking experience of the aforementioned fields, given the need for adequate understanding and knowledge of banking and banking risks.

4.2.2 Working experience and skills

Supervisory board members must have adequate working experience and skills, assessed on the basis of previous functions, taking account of their duration, the size of the entity, the number of subordinates, the nature and complexity of the entity's activities, the relevance of the experience, etc. The adequacy of a supervisory board member's practical experience depends on the type of function that is the subject of the fit and proper assessment, whereby it may also have been gained from relevant academic or administrative positions or through the management, supervision or control of financial institutions or other firms. On this basis Banka Slovenije assesses whether the supervisory board member is capable of effectively participating in discussions at supervisory board level, constructively assessing the management board's decisions, and adequately supervising the management board.

The following criteria (thresholds) are taken into account in the assessment of the adequacy of the managerial experience of a supervisory board member with regard to the required length (in time terms) of this experience:

Function	Expected recent* managerial experience
Chair of bank supervisory board	10 years of recent** practical experience, of which a significant proportion should be in senior-level*** managerial positions.
Member of bank supervisory board	3 years of relevant practical experience in high-level**** managerial positions, including theoretical experience in banking. Practical experience gained in the public or academic sector could also be relevant depending on the position held.

* No more than two years old.

** The degree of similarity of the institutions (size and complexity) where experience was obtained should be considered.

*** B-1 positions.

**** B-1 and/or B-2 positions.

If the supervisory board member meets the aforementioned thresholds of managerial experience, he/she is ordinarily (automatically) presumed to have sufficient experience, unless there is an indication to the contrary. Even if the thresholds of managerial experience are not met, the supervisory board member may still be considered fit and proper if the bank can provide adequate justification. To this end the bank must conduct a complementary assessment of the supervisory board member's experience, taking into account the need to have sufficient diversity and the collective suitability of the supervisory board. If the supervisory board ensures adequate diversity and breadth of experience, whereby the supervisory board member provides adequate justification to the bank (or the nomination committee) that he/she has the theoretical banking experience to be able to constructively assess the decisions of the bank's management board, the supervisory board member may still be considered a fit and proper person. A workers' representative on the supervisory board may also be assessed as fit and proper under the same conditions in a case of this type. Irrespective of any relevant experience of the supervisory board as a collective identified in the complementary assessment, the bank must still be able to argue that the supervisory board member in question has at least basic theoretical experience of banking in the fields cited in the previous section.

Examples of justifications for a positive fit and proper assessment obtained on the basis of a complementary assessment (when the supervisory board member fails to meet the thresholds of managerial experience set out by the ECB guide) may include a training plan in a field where the supervisory board member lacks experience, appointment for a specific role limited in time (e.g. during wind-down), specific theoretical or practical experience that the bank needs (e.g. in the field of information technology), and fulfilment of all other fit and proper requirements.

4.3 Independence and conflicts of interest

The EBA guidelines stipulate that banks must have a sufficient and appropriate number of formally independent members on their supervisory boards and committees.¹⁰ They play a key role in enhancing supervision of decisions taken by the bank's management board, as they ensure that the interests of all stakeholders, including

¹⁰ The independence criteria are set out in paragraph 91 of the EBA guidelines.

minority shareholders, are taken into account in discussions and decision-making. Formally independent supervisory board members can also contribute to reducing or balancing out the dominance of individual members of the management body who solely represent a specific group or stakeholder. There has recently been a rise in the number of formally independent supervisory board members, but there is still room for improvement at banks. Here it should be reiterated that according to the EBA guidelines workers' representatives on the supervisory board are automatically deemed to be formally independent members provided that they meet both of the following conditions:

- the member does not belong to the bank's highest hierarchical level, which is directly accountable to its management board,
- the member has been elected to the supervisory board in the context of a system of workers' representation, and national law provides for adequate protection against abusive dismissal and other forms of unfair treatment.¹¹

Irrespective of whether a supervisory board member is formally independent, independence of mind is expected of all supervisory board members. Independence of mind relates to the pattern of the supervisory board member's actions in debate, and is a prerequisite for taking sound, objective collective decisions in the best interest of the bank. Only supervisory board members with the capacity for independence of mind can form their own opinions of each issue, and apply them in debate at supervisory board level. Debate on the supervisory board must therefore take account of the views of each supervisory board member, while the decisions of the supervisory board are the result of the collective assessment of all members. In its assessment of the independence of mind of supervisory board members, Banka Slovenije assesses whether the supervisory board member has the requisite personal traits, including the courage, conviction and strength to effectively assess and (as necessary) challenge the proposed decisions of other members of the management body, and the ability to ask questions of the members of the management board and to resist

¹¹ This condition is deemed to have been met, as the national legislation provides for adequate protection against abusive dismissal and other forms of unfair treatment of employees, under the Employment Relationships Act (Official Gazette of the Republic of Slovenia, Nos. 21/13, 78/13 [corrigendum], 47/15 [ZZSDT], 33/16 [PZ-F], 52/16, 15/17 [constitutional court decision], 22/19 [ZPosS], 81/19 and 203/20 [ZIUPOPVDVE]) and the Worker Participation in Management Act (Official Gazette of the Republic of Slovenia, Nos. 42/07 [official consolidated version] and 45/08 [ZArbit]).

group-think. This assessment should primarily take account of the past and ongoing behaviour of the supervisory board member at the bank.

All supervisory board members must meet the criterion of independence of mind, while only certain supervisory board members need to meet the criterion of a formally independent position.

Potential conflicts of interest also have an impact on a supervisory board member's ability to act independently, particularly if this could hinder their capacity to independently and objectively perform their function. Conflicts of interest can also mean that the interests of a supervisory board member adversely affect the interests of the bank, including his/her financial interests (e.g. a material financial holding in or financial liabilities to the bank or the group), personal interests (whether he/she is a party to judicial proceedings against the bank or the group, business links with the bank or in it), professional interests (e.g. with holders of a qualifying holding in the bank or close family members, external suppliers and service providers of the bank, via a business relationship with an entity with conflicting interests, and other employments or previous employments), or political interests (e.g. a position with major political influence).

All actual, potential and perceived conflicts of interest should be communicated to Banka Slovenije by the bank and the supervisory board member, and the approach to their prevention or management should be explained. It should be reiterated that it is vital that the bank and the candidate for supervisory board membership examine in detail the potential for conflicts of interest as early as the initial fit and proper assessment, and propose appropriate measures to manage and prevent them. Should they fail to identify conflicts of interest that nevertheless exist, this reduces their ability to manage and prevent them, which might also be indicative of a lack of understanding of the issue by the bank and the supervisory board member.

On the basis of the information provided by the bank, Banka Slovenije assesses the materiality of conflicts of interest and the adequacy of the measures for their management proposed by the bank. Should Banka Slovenije assess the bank's measures to be insufficient for their proper management, in this connection it may stipulate additional conditions for the supervisory board member to be assessed as fit and proper (e.g. prohibition from receiving particular material or participating in any supervisory board meeting or decision-making concerning a particular disclosed interest, resignation from a certain function, close monitoring of the supervisory board member's actions, reporting to Banka

Slovenije by the bank on the particular situation with regard to a conflict of interest, a cooling-off period for the supervisory board member, an obligation on the part of the bank to publish the conflict of interest, application of the “at arm’s length” principle, specific approvals by the supervisory board for a certain conflict of interest situation to continue).

Should Banka Slovenije assess that none of the measures to prevent or manage the conflict of interest is sufficient to adequately manage the risks posed by the conflict of interest, the supervisory board member cannot be considered fit and proper.

4.4 Time commitment and holding of other directorships

Supervisory board members must be able to commit sufficient time to performing their functions, as this enables their understanding of the bank’s internal governance arrangements, its business and its main risks, and the impact of the business strategy and the risk management strategy on the bank’s performance. The ability to commit time also allows the supervisory board member to devote sufficient time to realising his/her vision of supervision at the bank as proposed to Banka Slovenije in the fit and proper assessment procedure.

A supervisory board member who holds a mandate at a significant bank under the ZBan-2¹² must also act in accordance with the legal restrictions on the maximum number of directorships that can simultaneously be held at other firms and organisations. These restrictions are as follows:

- one executive directorship with a maximum of two non-executive directorships; or
- a maximum of four non-executive directorships.¹³

For the purposes of this criterion, executive or non-executive directorships at firms in the same group¹⁴ and executive or non-executive directorships at credit institutions that (under certain

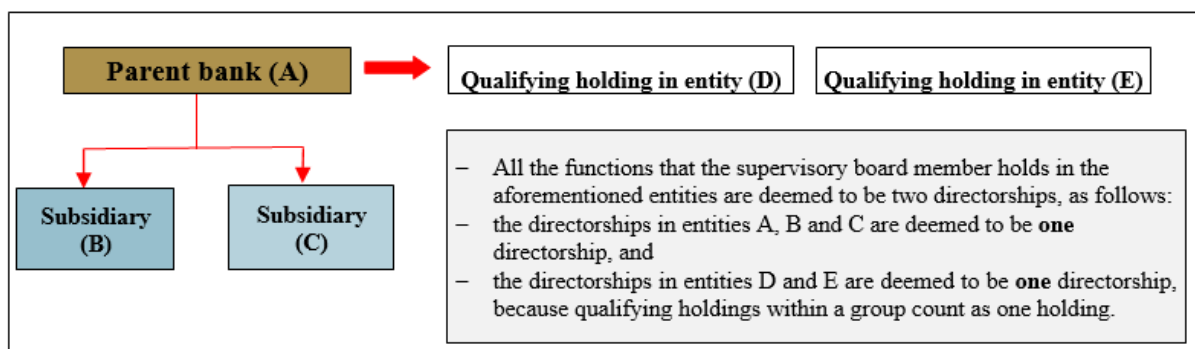
¹² Points 22 and 25 of the first paragraph of Article 7 of the ZBan-2.

¹³ The third paragraph of Article 36 of ZBan-2.

¹⁴ Pursuant to point 24 of Article 7 of the ZBan-2, a group means a parent undertaking and its subsidiaries. A firm is deemed to be the controlling undertaking of another firm if it meets one of the conditions set out in the second paragraph of Article 56 of the ZGD-1 (if it holds a majority of the voting rights in the other firm; if it has the right to appoint or dismiss a majority of the members of the other firm’s senior management or supervisory board and is simultaneously a member of the firm; if it has the right to exercise control over the other firm on the basis of a control agreement or any other legal basis; if it is a member of the other firm and if on the basis of a contract with the other members of the firm it controls a majority of the voting rights in the firm or if it exercises control over the other firm or if the running of the firm is under its control).

conditions¹⁵) are members of the same institutional deposit protection scheme, and at firms (including non-financial entities) in which the bank holds a qualifying holding are deemed to be a single directorship (privileged counting).

Example: A supervisory board member holds one directorship in each of entities (A) to (E)



In the privileged counting of directorships it is nevertheless necessary to take account of the supervisory board member's total time commitment, which must allow him/her to commit sufficient time to perform the function at the bank. Account is taken of the size of the entity where the supervisory board holds a directorship, the situation at the entity, and the nature, scale and complexity of the entity's activities. Within the framework of this criterion an assessment is also made of other professional or personal commitments and circumstances, the travel time required for the role, the number of meetings scheduled for the supervisory board, the time needed for induction and training, the need for ongoing learning and development, the nature of the function and the responsibilities of the supervisory board member and the need for a buffer for unforeseen circumstances.

The criteria with regard to the maximum number of directorships and the time commitment for performing the function of supervisory board membership also apply to workers' representatives on a bank supervisory board.

4.5 Vision for the bank's business and supervision

In the fit and proper assessment procedure supervisory board members must propose a strategy for supervising the bank's performance. Banka Slovenije assesses the extent to which the strategy proceeds from an actual understanding of the bank and its risks, and the

¹⁵ The seventh paragraph of Article 113 of Regulation (EU) No 575/2013.

current situation in the broader macroeconomic environment. Here it is important that the strategy and objectives proposed by the supervisory board member relate to fields that he/she will cover on the supervisory board, and that he/she clarifies the objectives of his/her work on any committees that he/she will sit on, and connects his/her strategy with the bank's general business and risk management strategies. On this basis Banka Slovenije assesses the relevance and originality of the contribution that the supervisory board plans to make to the implementation of the bank's overall strategy. A vision for the bank's business and supervision that is based solely on the content taken from legal acts or bank policy documents or even from strategies already submitted to Banka Slovenije as part of other fit and proper assessment procedures is not adequate, as it indicates a shortfall of knowledge and experience and a lack of awareness of the issues facing the bank.

4.6 Assessment of the supervisory board's collective suitability

The supervisory board has collective responsibility for monitoring and taking decisions on the supervision of the bank. Consistently ensuring the requisite knowledge, skills and experience on the part of supervisory board members is therefore a prerequisite for the understanding and effective discussion of the bank's business and its risks at supervisory board level. Supervisory board members as a collective must cover knowledge in all of the bank's business lines and its risks, and must ensure that this is evenly distributed across all members. Although each individual supervisory board member does not need to have knowledge of all of the bank's business lines and risks, the supervisory board as a collective is expected to have a thorough knowledge of any issue. In light of the general progress in banking (e.g. the development of digital banking), it is also very important for members of the supervisory board and its committees to develop their individual and collective knowledge in a balanced fashion (e.g. digital banking, cyber risks, ESG risks). Otherwise the supervisory board risks being less effective in adequately discussing any issue in the bank's business as it arises, and in assessing the decisions of the management board, which could increase the risk of adverse financial consequences for the bank. The bank's awareness of the importance of a qualified, effective supervisory board as a collective should be reflected in the quality of the internal collective suitability assessment of each supervisory board member, which is submitted to Banka Slovenije as part of the fit and proper assessment procedures.

The diversity of the supervisory board also has an impact on the effectiveness of the supervisory board's collective decisions. It can encourage the presentation and expression of independent and critically constructive views by board members during discussions on the supervisory board, of course under the aforementioned assumption that the supervisory board members also have sufficient theoretical and practical banking experience to understand and adequately supervise the bank's business. Banks must ensure the diversity of the supervisory board with regard to age, gender, geographical provenance, and educational and professional background, where the gender balance is highly important. Worker representation on the supervisory board also has an impact on diversity, as workers' representatives raise the quality of debate on the basis of their actual knowledge of internal relations at the bank and its work. It should nevertheless be emphasised that the need to meet diversity objectives cannot be allowed to affect the quality of the supervisory board's work as a collective, or its ability to critically assess the decisions of the bank's management board. The bank should also provide for the diversity of the supervisory board on the basis of long-term planning of HR policy and succession policy.

Banka Slovenije assesses the supervisory board's collective suitability within the framework of the initial fit and proper assessment procedure initiated for each supervisory board member, and within the framework of ongoing supervisory procedures, making use of the *Template for the assessment of collective suitability*¹⁶ from Annex 1 of the EBA guidelines, if submitted by the bank. When a supervisory board member simultaneously sits on one or more supervisory board committees, Banka Slovenije also assesses collective suitability from the perspective of the composition of these committees, and the knowledge, skills and experience that the board member is able to contribute when performing the tasks of these committees. The tasks of supervisory board committees that are required to be performed by law¹⁷ are complex and extensive, for which reason Banka Slovenije expects the composition of these committees to reflect the suitable collective knowledge, skills and experience of their members.

In each fit and proper assessment procedure initiated for members of the management body, Banka Slovenije assesses the collective

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https://www.eba.europa.eu/documents/10180/2164888/Guidelines+on+assessment+of+suitability+of+members+of+MB+KFH+%28EBA-GL-2017-12%29_SL.zip/07295d37-aae7-46bb-ae43-c2394eaacec5.

¹⁷ Articles 49 to 52 of the ZBan-2.

suitability of the management body on the basis of the following information provided by the bank:

- a description of the composition of the supervisory board, including a list of the names of the other members and a brief description of their roles and functions, and
- a reasoned statement on how the appointee will contribute to the collective suitability of the bank's supervisory board. The reasoned statement must contain analysis of the existing composition of the supervisory board from the perspective of its strengths and any weaknesses, and the impact of the new member on the status quo.

Weaknesses identified in the overall composition of the supervisory board or its committees do not necessarily mean that the particular supervisory board member is individually not a fit and proper person. In this event Banka Slovenije may take specific actions to ensure adequate collective suitability on the part of the supervisory board, including requirements to provide individual or collective training for supervisory board members, the reassignment of tasks between members, the dismissal or replacement of supervisory board members, and changes to the composition of the supervisory board.

5 CONCLUSION

Banka Slovenije finds that since the introduction of more stringent criteria with regard to the suitability of members of management bodies in 2015 there has been a significant improvement in the composition and expertise of management boards, but developments are dragging slightly when it comes to the collective suitability of bank supervisory boards. Although supervisory boards are generally effective, it is our opinion that improvements can in particular be made in the area of the theoretical and practical banking experience of their members. In this connection Banka Slovenije expects banks to consistently ensure that the majority of supervisory board members have in-depth theoretical and practical experience of banking and finance, including recent relevant experience in high-level and senior-level managerial positions. The appointment of new supervisory board members cannot be allowed to weaken the collective suitability of the supervisory board, even when upholding legal requirements for diversity and worker representation.

In its fit and proper assessment of supervisory board members, Banka Slovenije upholds exacting criteria and standards, which must be met by all supervisory board members irrespective of who appoints them. Legal and regulatory requirements in connection with knowledge and experience do not allow for distinctions between supervisory board members from this perspective, as only in this way can the equal participation of all board members in debate and decision-making on the supervisory board be ensured. These criteria thus also apply to workers' representatives on bank supervisory boards. Although their role as representatives of the interests of employees can differ from that of other supervisory board members, their appointment cannot be allowed to affect the collective suitability of the supervisory board.

Banka Slovenije expects banks to take account of its expectations and approaches to the fit and proper assessment of supervisory board members in their own internal suitability assessment procedures, thereby helping to raise the quality of supervisory board members even before the supervisory fit and proper assessment is undertaken.

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¹⁸ <https://www.bankingsupervision.europa.eu/press/speeches/date/2019/html/ssm.sp190620-f9149fe258.en.html>.

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