

The logo of the Komisja Nadzoru Finansowego (KNF) is a dark blue square containing the white letters "KNF" in a bold, sans-serif font.

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Requirements for management body of market operators and data reporting services providers

Sufficient time commitment

- The anticipated time commitment should be adapted to the functions and responsibilities taking into account in particular whether it refers to an executive or a non-executive position.
- When a person is selected to become a member of the management body, the anticipated time **commitment for the position should be recorded in writing**, and the market operator or the DRSP should require the prospective member to confirm in writing that he or she can devote that amount of time to the role, including the possibility to devote additional
- time when the market operator or the DRSP is undergoing a period of particularly increased activity. **The effective appointment for the position should not take place without such a written confirmation by the prospective member.**
- Where a person is selected to become part of the management body of a market operator which is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities, this person should confirm in writing that he or she complies with the limitations of the number of directorships set out in Article 45(2)(a) of MiFID II.

Sufficient time commitment

Prospective members should provide the market operator or the DRSP with information regarding:

- a) directorships held in other financial and non-financial companies, including when acting on behalf of a legal person or as an alternate appointed by a member of the management body to attend meetings;
- b) directorships held in organizations which do not pursue predominantly commercial objectives;
- c) other functions and professional activities within and outside the financial sector relevant in terms of time commitment; and,
- d) the nature of his/her responsibilities under any of the previous points.

Sufficient time commitment: calculation of the number of directorships

Where a directorship involves at the same time executive and non-executive responsibilities, the directorship should count as an executive directorship.

Where multiple directorships count as a single directorship under the third paragraph of Article 45(2)(a) of MiFID II (directorships held within the same group or undertakings where the market operator holds a qualifying holding), that **single directorship should count as a single executive directorship when it includes at least one executive directorship. Otherwise, it should count as a single non-executive directorship.**

All directorships held in undertakings where the market operator holds a qualifying holding count as a single directorship. That single directorship should be added to the directorship held in the market operator.

All directorships held in subsidiaries within the same group and the directorship held in the market operator count as a single directorship.

When subsidiaries within the same group hold qualifying holdings in other undertakings, the directorships held in those undertakings should be counted as one separate directorship. As a consequence, the directorships held in the subsidiaries and the directorship held in the market operator should be counted as one directorship and the directorships held in the undertakings as another separate directorship.

Sufficient time commitment: calculation of the number of directorships

Directorships held in organisations which do not pursue predominantly commercial objectives should not be counted when calculating the number of directorships. However, such activities should be taken into account when assessing the time commitment of the concerned member.

Organisations which do not pursue predominantly commercial objectives include:

- a) charities;
- b) other non-for-profit organisations; and,
- c) undertakings set up for the sole purpose of managing the private economic interests of the member of the management body provided that they do not require day-to-day management.

Knowledge, skills and experience

Market operators and DRSPs should ensure that their management body has, collectively, the managerial competence required to perform its role and duties and a sufficient understanding of the firm's activities and the risks such activities entail according to the scale of the management body. When assessing the collective suitability of their management body, market operators and DRSPs should consider at least the following areas of knowledge and fields of expertise:

- a) each of the material activities of the market operator/DRSP;
- b) financial accounting and reporting;
- c) strategic planning;
- d) risk management;
- e) compliance and internal audit;
- f) information technology and security;
- g) local, regional and global markets where applicable;
- h) the regulatory environment; and,
- i) the management of (inter)national groups and risks related to group structures where applicable.

Knowledge, skills and experience

At an individual level, prospective members of the management body should have an up-to-date understanding of the activities of the market operator or DRSP and related risks, the market operator's or DRSP's governance arrangements, the prospective position and responsibilities and, where applicable, the group's structure at a level commensurate with their responsibilities. This includes an appropriate understanding of those areas for which an individual member is not directly responsible but is collectively accountable together with the other members of the management body.

As regards the education, consideration should be given to the level and profile of the education and whether it relates to financial services or activities or any other relevant area of knowledge described above (financial accounting and reporting, strategic planning and so forth). For this purpose, market operators and DRSPs should take into consideration both the theoretical knowledge and skills attained through education and training as well as the practical experience gained in previous occupations by the prospective member.

As regards the practical experience, consideration should be given to the practical and professional experience gained from a managerial position over a sufficiently long period. Short term or temporary positions can be considered in the assessment but are usually not sufficient to support adequate expertise.

Honesty and integrity

When assessing the honesty and integrity of a prospective member of their management body, market operators and DRSPs should in particular take into consideration whether the prospective member has been:

- a) subject to an adverse decision in any proceedings of a disciplinary nature brought by a regulatory authority or government body or is the subject of any such proceedings which are not concluded;
- b) subject to an adverse judicial finding in civil proceedings before a court in connection with the provision of financial or data services, or for impropriety or fraud in the management of a business;
- c) part of the management body of an undertaking which was subject to an adverse decision or penalty by a regulatory authority or whose registration or authorisation was withdrawn by a regulatory authority;
- d) refused the right to carry on activities which require registration or authorisation by a regulatory authority;
- e) part of the management body of an undertaking which has gone into insolvency or liquidation while the person was employed by the undertaking or within a year of the person ceasing to be employed by the undertaking;
- f) fined, suspended, disqualified, or been subject to any other sanction in relation to fraud, embezzlement or in connection with the provision of financial or data services, by a professional body; or,
- g) disqualified from acting as a director, disqualified from acting in any managerial capacity, dismissed from employment or other appointment in an undertaking as a consequence of misconduct or malpractice.

Other requirements

- 1) Independence of mind
- 2) Adequate human and financial resources devoted to the induction and training of members of the management body of market operators
- 3) Diversity
- 4) Record-keeping