

Annex to Handbook

**FSMA\_2024\_06-07 of 22/03/2024**

Notification of a change to the information provided for the appointment of a member of an operational body or a key function holder of an Institution for Occupational Retirement Provision (IORP)

Scope:

Institutions for Occupational Retirement Provision

Members of an operational body of an IORP and key function holders of an IORP must possess the necessary professional integrity and appropriate expertise for the exercise of their function (i.e. be ‘fit & proper’). The FSMA is tasked with evaluating whether these requirements are met.

The FSMA expects both the IORP and the designated persons to immediately communicate to the FSMA any fact or aspect that involves a change to the information provided during the appointment, especially if it may have a significant negative impact on the professional integrity or the appropriate expertise necessary for the exercise of the function concerned.

For this purpose, we ask you to communicate such changes by filling in the present questionnaire and uploading it in the correct section of the eCorporate application.

|  |  |
| --- | --- |
|  | However, as a *transitional measure*, the notification of a change shall be made using the [‘initial appointment’ questionnaire](https://www.fsma.be/sites/default/files/media/files/2024-06/fsma_2024_06-01_en.docx) **if the person has not yet filled in a questionnaire, in the version applicable from 17 July 2019**, for an initial appointment to any position *at the IORP* concerned[[1]](#footnote-1).  In such a case, please fill in the *entire* ‘initial appointment’ questionnaire. |

We ask you these questions pursuant to Article 77 of the Law of 27 October 2006 on the supervision of institutions for occupational retirement provision (‘LIRP’).

The function holder and the IORP must both fill in this questionnaire.

|  |  |
| --- | --- |
|  | **It is important that you answer all questions sincerely, truthfully and completely.**  **The time needed to process your application will greatly depend on the quality of your answers.**  You need to supply **all** the information you could reasonably expect would be useful to our assessment.  We will take into account any specific circumstances as well as any explanations you have given. |

Therefore, disclosing certain information does not necessarily lead to a reconsideration of your expertise or professional integrity. The FSMA will make a decision based on an overall assessment, weighing up all the information in its possession. We will take into account any mitigating circumstances, the extent to which you are accountable for the facts, the measures taken to resolve problems, how long ago the facts took place etc.

If you are *unsure* as to whether certain information may or may not be pertinent, it is best to mention it in any case, and explain why you think this information is not—or is no longer—pertinent. We may also invite you for an interview.

**We advise you to fill in this form on the computer.**

***We respect your privacy***

**Processing of personal data**

The personal data provided through the present questionnaire and its annexes will be processed by the FSMA in the way described in our [Privacy Policy](https://www.fsma.be/en/faq/fsma-privacy-policy).

The FSMA collects the requested data as part of its supervision of compliance with the requirements for professional integrity and appropriate expertise as provided for by Article 77 of the LIRP.

For more information on your rights relating to your personal data and on the way in which they may be exercised, please see the FSMA’s [Privacy Policy](https://www.fsma.be/en/faq/fsma-privacy-policy).

*Should you share other persons’ personal data in this questionnaire and/or in the accompanying explanatory document, we ask you to inform those persons that their personal data have been communicated to the FSMA and that the FSMA will process those data in accordance with its Privacy Policy for Fit & Proper assessments, which is available on its website.*

**Structure**

1. Which IORP?
2. Which function?
3. Who exercises the function?
4. What change?
5. When?
6. Signature of the function holder
7. Signature of the IORP
8. Which IORP?

|  |  |
| --- | --- |
| **Name of the IORP** |  |
| **FSMA identification code** |  |

1. Which function?

You currently exercise the following function at the IORP …

|  |
| --- |
|  |

1. Who exercises the function?

If the function is exercised by a legal entity, please fill in section 3.1, section 3.2 and, if applicable, section 3.3.

* 1. The natural person

|  |  |
| --- | --- |
| Surname |  |
| First name(s) |  |
| National ID number[[2]](#footnote-2) |  |

* 1. The legal entity function holder (if applicable)

|  |  |
| --- | --- |
| Company name |  |
| Company number[[3]](#footnote-3) |  |

#### 

* 1. The legal entity permanent representative of the legal entity function holder (if applicable – for key functions only)

|  |  |
| --- | --- |
| Company name |  |
| Company number[[4]](#footnote-4) |  |

1. What change?

Please tick the change you wish to notify.

I am a director and will become chair of the board of directors.

I am a non-executive director and will become an executive director.

I am a director representing the members or beneficiaries and will become a director representing a sponsoring undertaking.

The content of my job will change.

The distribution of tasks within the operational body will change.

I have been convicted in legal proceedings.

I have been summoned to court.

A (new) conflict of interest has arisen.

The legal entity function holder is changing its name but is not undergoing a structural change, and its permanent representative is not changing.

The legal entity function holder is undergoing a structural change with continuity of asset relations[[5]](#footnote-5), [[6]](#footnote-6).

Other change (*elaborate*):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please provide further **explanations** of the change.

|  |
| --- |
|  |

If the change relates to some aspect of your professional integrity or to conflicts of interest, please also fill in and attach the relevant section of the **explanatory document** in question:

- [*explanation relating to professional integrity*](https://www.fsma.be/sites/default/files/media/files/2024-06/fsma_2024_06-03_en.docx)

*-* [*explanation relating to conflicts of interest*](https://www.fsma.be/sites/default/files/media/files/2024-06/fsma_2024_06-04_en.docx)

1. When?

The change will take effect on Click or tap to enter a date.

1. Signature of the function holder

***You confirm to the FSMA that***

the information provided in this questionnaire is truthful and complete.

|  |  |
| --- | --- |
| **Date** | Click or tap to enter a date. |
| **Surname** |  |
| **Signature** |  |

1. Signature of the IORP

***You confirm to the FSMA that***

the information provided in this questionnaire is truthful and complete;

the IORP has, with due diligence, verified that the information provided by the function holder is accurate and complete;

the IORP considers, based on a careful and reasonable evaluation, that the function holder continues to possess appropriate expertise and professional integrity.

|  |  |
| --- | --- |
| **Date** | Click or tap to enter a date. |
| **Surname** |  |
| **Role** |  |
| **Signature** |  |

1. If the person has already filled in a questionnaire, in the version applicable from 17 July 2019, for an initial appointment to any other position *at the IORP concerned*, the questionnaire need not be completed again and this form for a notification of a change may be used. [↑](#footnote-ref-1)
2. If you do not have a Belgian national ID number, you must state your date of birth. [↑](#footnote-ref-2)
3. Foreign legal entities must provide an equivalent national company number. [↑](#footnote-ref-3)
4. Foreign legal entities must provide an equivalent national company number. [↑](#footnote-ref-4)
5. This refers to any structural change that entails the ‘universal transfer’ of the company's assets. This is the case with:

   a merger (Article 12:2-12:3 Code on Companies and Associations);

   a division (Article 12:4-12:5 Code on Companies and Associations);

   a mixed division (Article 12:6 Code on Companies and Associations);

   a transaction equivalent to a merger or a division (Articles 12:7 and 12:8 respectively of the Code on Companies and Associations);

   universal contribution/transfer (Article 12:9 Code on Companies and Associations); and

   a contribution/transfer of a branch of activity (Article 12:10 Code on Companies and Associations);

   with the proviso that such transactions take place in accordance with the conditions and procedures laid down in the Code on Companies and Associations. [↑](#footnote-ref-5)
6. However, as explained in the [Handbook](https://www.fsma.be/sites/default/files/media/files/2024-06/fsma_2024_06_en.pdf)*,* a new ‘initial appointment’ questionnaire must be submitted if the legal entity function holder undergoes a structural change with *discontinuity* of asset relations. [↑](#footnote-ref-6)