## EXTERNAL GUIDELINE FOR THE APPLICATION OF ARTICLE 62 OF THE BELGIAN BANKING LAW

## **TYPES OF ACCUMULATION RESTRICTIONS - STRUCTURE OF ARTICLE 62**

The legal accumulation restrictions, as stated in Article 62 of the Law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms (hereinafter the "Banking Law"), can be divided into two categories, namely:

- > <u>qualitative restrictions:</u> see Article 62, §4, §5, first sentence, and §6, first sentence, of the Banking Law;
- > quantitative restrictions: see overarching principle in Article 62, §1, and further elaboration in Article 62, §5, second sentence, §6, second sentence, in conjunction with Article 62, §7 and §9.

According to Article 62, §3, of the Banking Law, all credit institution are required to develop an internal policy on external mandates. This policy may include both qualitative and quantitative provisions.

With respect to the (mixed) financial holding companies and third country branches, Articles 212 and 335, 3°, of the Banking Law contain references to the aforementioned Article 62.

## **SCOPE OF APPLICATION**

The scope of application varies depending on whether the accumulation restrictions are qualitative or quantitative. Quantitative restrictions have a narrower scope of application than qualitative restrictions. The scope of each of these two categories will be further elucidated below on the basis of the following four criteria:

- 1) Which external mandates?
- 2) Within which entities?
- 3) Exercised by whom?
- 4) Significant or non-significant credit institution or (mixed) financial holding company?

## A. QUALITATIVE RESTRICTIONS

- 1) external mandates as director or manager or participant in administration or policy-making, whether or not representing the credit institution or (mixed) financial holding company,
- 2) ... of a commercial company, a company having a commercial form, a company with another Belgian or foreign legal form or a Belgian or foreign public institution with industrial, commercial or financial activities
  - → associations fall outside the scope of these restrictions;
  - → "company" implies a motive of profit
- 3) ... exercised by members of the bodies of the credit institution or (mixed) financial holding company and any person who, under whatever name and in whatever capacity, participates in the administration or policy-making
- 4) ... regardless of whether the credit institution or the (mixed) financial holding company is significant.