

Addendum to Communication NBB_2022_19

Brussels, 29 May 2024

Your correspondent:

Nicolas Strypstein
Tel. +32 2 221 44 74
nicolas.strypstein@nbb.be

External functions - new “external functions” module on the NBB Supervision portal

Scope of application

- *Credit institutions governed by Belgian law and Belgian branches of credit institutions governed by the law of a third country*
- *Stockbroking firms governed by Belgian law and Belgian branches of stockbroking firms governed by the law of a third country*
- *Insurance and reinsurance companies governed by Belgian law and Belgian branches of insurance and reinsurance companies governed by the law of a third country*
- *Custodian banks governed by Belgian law*
- *Institutions governed by Belgian law providing support to central securities depositories, and branches established in Belgium of the aforementioned institutions governed by the law of a third country*
- *Financial holding companies governed by Belgian law, mixed financial holding companies governed by Belgian law and insurance holding companies governed by Belgian law*

The institutions listed above are hereinafter referred to as “financial institutions”.

Summary/Objectives

The purpose of this addendum to Communication NBB_2022_19 is to inform financial institutions of the launch on 18 November 2024 of a new notification and reporting channel for external functions performed by the senior management of financial institutions. This channel will take the form of a new, “external functions” module on NBB Supervision. It will replace the outdated eManex platform, which will be decommissioned. The information contained in the eManex platform will be automatically migrated to the external functions module in September and October 2024. Financial institutions will also be able to validate annually the completeness and accuracy of the information provided to the National Bank of Belgium on external functions, via the module. Validation should take place for the first time in the course of 2025.

Dear Madam,
Dear Sir,

The supervisory legislation applicable to financial institutions stipulates that (senior) managers and heads of independent control functions must devote the necessary time to the performance of their duties within these institutions and consequently provides a framework for their right to hold external functions.¹

In recent years, the statutory framework governing external functions has been reviewed, in particular through the publication by the National Bank of Belgium (the “Bank”) of a regulation dated 9 November 2021 on the exercise of external functions by managers and heads of independent control functions of regulated undertakings (hereinafter the “Regulation of 9 November 2021”)² and a communication dated 12 July 2022 on the exercise of external functions by managers and heads of independent control functions of regulated undertakings (Communication NBB_2022_19).

By means of this addendum to Communication NBB_2022_19, the Bank wishes to inform financial institutions of the changes to the practical arrangements for the notification of external functions that will be introduced in November 2024 upon the launch of the new external functions module on NBB Supervision.

1. Statutory and regulatory framework and scope of application

The prudential framework for external functions is governed by the following:

- the prudential supervisory legislation applicable to financial institutions;³
- the Regulation of 9 November 2021; and
- Communication NBB_2022_19.

The rules and regulations on external functions apply to:

1. directors (both executive and non-executive);
2. effective (or senior) management within the meaning of the Regulation of 9 November 2021, i.e.:
 - where a management committee has been set up: the members of the management committee and other persons whose position is at the next hierarchical level down (“N-1”), insofar as they can exercise direct and decisive influence on the management of all or some of the institution’s activities, including the managers of foreign branches;
 - where a management committee has not been set up: persons who can exercise direct and decisive influence on the management of all or some of the institution’s activities; and
3. the heads of independent control functions.

With regard to the notification of external functions to the Bank, it should be noted that the scope of application is more restricted. In accordance with the prudential supervisory legislation, the obligation to notify the Bank does not apply to the heads of independent control functions or to N-1 executives. Therefore, these two categories of managers are not subject to the notification obligations set out below. However, institutions will be able to include these two categories in the external functions module if they wish to do so. In this case, these two categories of managers should not be included in the annual validation described below.

2. Presentation of the new external functions tool

¹ NB: an “external function” refers to any function undertaken outside the institution, either within or outside the institution’s group.

² Regulation made public by Royal Decree on 8 February 2022, published in the *Moniteur belge* on 25 February 2022.

³ Namely, (i) Articles 61 §1, 62, 212, 335, 525, 573, 574 and 575 of the Act of 25 April 2014 on the legal status and supervision of credit institutions; (ii) Articles 62 and 63 of the Act of 20 July 2022 on the legal status and supervision of stockbroking firms; (iii) Articles 82 §1, 83, 443 and 470 of the Act of 13 March 2016 on the legal status and supervision of insurance and reinsurance companies; and (iv) Article 15 of the Royal Decree of 26 September 2005 on the legal status of settlement institutions and equivalent institutions.

The eManex platform has become obsolete in several respects and will be decommissioned.

It was initially foreseen that institutions would use the Fit & Proper “New elements” form to provide notification of new external functions and of changes concerning external functions for which notifications had previously been provided. For technical reasons, however, this solution was abandoned.⁴ This addendum therefore amends section 3.2.2 of Communication NBB_2022_19 and section 5:10 of the Bank’s Fit & Proper Manual on this point.

2.1. Notification of external functions

The new external functions tool will be used for the notification both of new external functions performed by existing managers (or to modify data already declared) and of external functions performed by new managers.

For existing managers, all information currently contained in the eManex platform will be migrated automatically in September and October and will appear in the new module when it is launched on 18 November 2024. Financial institutions are therefore advised to continue updating eManex so that the new module contains as little incorrect/obsolete information as possible. Furthermore, when the new external functions module is launched, the Bank expects financial institutions to check that the information migrated from eManex is correct and accurate and to amend it if necessary. In addition to this change, the new external functions module will also enable financial institutions to provide notification on an ongoing basis to the Bank that an existing manager is considering taking on a new external function. This notification alone will be sufficient, such that it will not be necessary to systematically send the Bank/ECB an additional “New element” form. Nevertheless, this notification may give rise to questions from the Bank/ECB to the institution concerned. In the event that the information provided is not sufficient or gives rise to requests for additional information or requires a Fit & Proper reassessment by the party concerned (time commitment and/or independence of mind), a “New element” form may be requested on an *ad hoc* basis.

Notification of the external functions of new managers will be provided directly via NBB Supervision as from 18 November 2024. For the sake of efficiency, information on external functions reported using the “New appointment” Fit & Proper form (see the “time commitment” section) will be automatically transferred to the external functions module once the appointment has been approved by the Bank/ECB.⁵ These data will appear in draft form and nevertheless be incomplete, as the “New appointment” form requests fewer details than required by the rules on external functions. Financial institutions should therefore complete and confirm this information in the external functions module as soon as possible.

2.2. Annual validation

One of the main new features of the module is that it will enable annual validation of the completeness and accuracy of the information reported to the Bank on external functions, required in accordance with the second paragraph of Article 7 of the Regulation of 9 November 2021.

The first such validation is expected to take place in the course of 2025, at the date most convenient to the financial institution. As indicated in section 4.1 of Communication NBB_2022_19, the Bank recommends that this annual validation be carried out at the same time as the periodic reassessment of the individual and collective suitability of the members of the management body and taking into account the date of the institution’s annual general meeting. This first validation should take place before 31 December 2025.

⁴ See the message published by the NBB on its website on 7 February 2024.

⁵ This will also apply to SI credit institutions (subject to direct supervision by the ECB). The information on external functions contained in the Fit & Proper form on the IMAS portal will be copied and transferred to the external functions module once the appointment has been approved by the ECB. This information will also need to be completed and confirmed.

It should be noted that the date selected for the first validation will result in automatic reminders being sent via NBB Supervision in subsequent years. Institutions are therefore reminded to choose this date carefully.

If validation has not taken place by 31 December 2025, the information on file on that date will be considered final.

3. Technical aspects and timetable

An instruction manual will also be made available on the NBB's website and NBB Supervision as from 1 August 2024. The new external functions module will be available as from 18 November 2024.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'PW' with a large flourish on the right side.

Pierre Wunsch
Governor