



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Danièle NOUY

Chair of the Supervisory Board

Mr Burkhard Balz
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 26 May 2017

Re: Your letter

Honourable Member of the European Parliament, dear Mr Balz,

Thank you for your letter, which was passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 20 April 2017.

Multiple business models can, should and do coexist in the European banking system. Such diversity increases stability and ensures that all the needs of the economy can be fulfilled. The German savings banks have a regional focus and are rooted in the traditional banking business; they play an important role for the German economy.

This makes it even more vital that these banks are well managed. The rules regarding fit and proper assessments aim at ensuring that (i) members of the management and supervisory bodies are suited to carry out their responsibilities; that (ii) the composition of these bodies facilitates the effective management and supervision of institutions; and that (iii) decisions can be taken in a balanced manner. This contributes to the safety and soundness of savings banks and reinforces the public's trust in the banking sector.

The SSM Regulation¹ has conferred on the ECB the task of ensuring that significant institutions comply with governance and "fit and proper" requirements. In carrying out this task, the ECB must apply relevant Union law, including transpositions into national law of EU Directives². Therefore, when assessing the fitness and propriety of members of management and supervisory bodies of German significant institutions, the ECB also applies the German Banking Act ('Kreditwesengesetz').

Our objective is to ensure common high standards of supervision for the euro area as a whole. Towards that end, we have developed a Guide to fit and proper assessments, which applies to significant institutions. This guide will ensure that European standards are implemented uniformly, while following a proportionate and risk based approach. We therefore take into account the specificities of the German banking sector as well

¹ See Article 4(1)(e) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013. p.63) (the SSM Regulation).

² See Article 4(3) of the SSM Regulation.

as the individual circumstances of each given case. In this context, it should be added that some characteristics of the Sparkassen and Landesbanken are also common to other institutions, such as cooperative sector credit institutions (in France).

We would also like to clarify our views with respect to the specific issues that you raised in your letter.

Firstly, it should be stressed that, although the legal framework does not allow for exemptions, the ECB Guide does not interfere with the organisational structure of the Sparkassen and Landesbanken. Per se, it does not prevent candidate board members with high political influence (e.g. mayors) from taking up a position as a board member. Nevertheless, the crucial question is whether a political mandate may inhibit a candidate from acting solely in the interest of the bank. However, even such a conflict of interest does not necessarily render the candidate unsuitable. Rather, adequate mitigating measures by the bank must be required. If such measures are taken and other suitability requirements are complied with, the candidate will be considered to be suitable. The most common example of a mitigation measure is the implementation by the credit institution of a conflict of interest policy that requires the disclosure of the potential conflicts and prevents the conflicted member from discussing and voting on topics in which he may hold an interest.

Secondly, the ECB and the NCAs assess the skills, knowledge and experience of the candidate board members of the management and supervisory function in a proportionate manner and give due consideration to the main characteristics of the candidates, including their role and the type of institution. Such a proportionate approach is clearly underpinned by our policy that management and supervisory body members should have an adequate level of knowledge, skills and experience. Moreover, the requirements for members of supervisory boards can deviate from those for members of management boards. Particularly, that may be the case when these functions are fulfilled by separate units. For instance, not all members of supervisory boards are required to possess practical experience in banking or finance.

In addition, the ECB gives specific consideration to the need for diversity in management and supervisory bodies, as well as the need for their members to have broad knowledge and experience. The ECB does not envisage a specific professional background developed in either the banking or the financial sector as a necessary requirement for being deemed fit and proper. However, a minimum level of banking or financial knowledge is required (or should be obtained through induction programmes organised by the institution or another appropriate organisation).

Yours sincerely,

[signed]

Danièle Nouy