

Law, February 24<sup>th</sup>, 2020

**CIRCULAR No. 59**

**Subject: Supporting documents submitted for the evaluation of suitability of members of the Board of Directors of the market operators and data reporting service providers.**

Taking into account Articles 45, 46 and 63 of Law 4514/2018 on “Financial markets and other provisions” (OGG A/14/30.01.2018), Article 4 of the delegated regulation (EU) 2017/571 of the Commission of June 2<sup>nd</sup>, 2016, as well as the Guidelines on the managing bodies of market operators and data reference service providers (DRSP) issued by the European Securities and Markets Authority (ESMA) on 19-12-2017 (hereinafter referred to as the “Guidelines”) for the evaluation of suitability of the members of the managing bodies of market operators and data reporting service providers, the following supporting documents are submitted to the Hellenic Capital Market Commission:

1. The Minute of the BoD for the replacement of a member/members or a general meeting of the company’s shareholders for the election of a new BoD. In the second case, a minute of formation of the new BoD into a body is also filed.
2. Description of the position for which the evaluation is requested regarding the responsibilities it entails if they are executive or non-executive. Description of the main duties and responsibilities of the person who will assume the position, the scheduled start date and the duration of the mandate.
3. Information on the result of the evaluation of the person’s suitability carried out by the Market Operator or the Data Reference Service Providers (DRSP), while also providing the relevant documents (such as minutes of the Board of Directors, evaluation reports etc.) The evaluation must state whether par. 5.7 of the Guidelines regarding the diversity of the administrative body has been taken into account and if not, state the reasons of non-compliance.
4. A curriculum vitae containing details of the education and professional experience, including the name and nature of all organizations where the person in question has worked and the nature of their duties, as well as a reference to any certificates of professional competence held.
5. Statement/confirmation of the market operator or the Data Reference Service Providers (DRSP) that the person under evaluation may devote sufficient time to his duties pursuant to Article 46 of Law 4514/2018 and unit 5.1 of the Guidelines, providing at the same time the relevant information of section 13 of unit 5.1 of the Guidelines. In case of a market operator, who is important in terms of nature, scope and complexity of duties, a certificate is also provided indicating that the person complies with the restrictions on the number of positions that a member of the BoD can hold, as provided by Article 46 par. 2 section a) and b) of Law 4514/2018.
6. Statement/certificate of the market operator or the Data Reference Service Provider (DRSP) regarding the evaluation of the necessary knowledge, skills and professional experience for the performance of the role and duties of the person in accordance with

Article 46 of Law 4514/2018 and unit 5.3 of the Guidelines. In case of provision of a training plan for the person in question, the statement must include information about the content of the training, the provider and the date of project completion.

7. Statement/certificate of the market operator or the Data Reference Service Provider regarding the evaluation of honesty, sincerity and integrity of the person in question, pursuant to Unit 5.4 of the Guidelines.
8. Statement/certificate of the market operator or the Data Reference Service Provider regarding the evaluation of the circumstances that may lead to conflicts of interest based on the interest conflict policy of the market operator or the Data Reference Service Provider, as provided for in Unit 5.5 of the Guidelines. The above statement also includes any measures taken to mitigate the consequences.
9. Authorization to the Hellenic Capital Market Commission to search for the copy of the certificate of criminal records and the certificate of non-compliance.
10. Tax clearance
11. The completed information form listed in the Appendix.

## APPENDIX

### INFORMATION FORM FOR THE EVALUATION OF SUITABILITY OF PERSONS OF SUPERVISED COMPANIES PURSUANT TO THE STATUTORY PROVISIONS

#### 1. Personal details

Full name: \_\_\_\_\_

Full name at birth (if different): \_\_\_\_\_

Gender: \_\_\_\_\_

Place of birth: \_\_\_\_\_

Nationality: \_\_\_\_\_

Identity card or equivalent document number: \_\_\_\_\_

Contact address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### 2. Participations of the person under evaluation

2.1. Participation during the last five years (even if it no longer exists) in the share capital or employment in another company supervised by the HCMC.

Company name	Dates (Start-end)	Participation type

2.2. Company shareholding

	Full name/Company name	Number of shares	Percentage over the entire share capital
<b>The applicant</b>			
<b>The spouse</b>			
<b>Second degree relatives</b>			

2.3. Participation by 10% or more in the share capital of another legal person apart from the Company. If yes, is there any relationship (direct or via any other legal or natural person) with the company?

Company name	Percentage over the entire share capital	Relationship to the company

### 3. Reputation, honesty and integrity

3.1. Reference to any criminal investigations and enforcement proceedings, similar civil and administrative cases, as well as disciplinary measures or sanctions imposed by a supervisory authority in which the person is directly or indirectly involved, mainly through an official certificate or any reliable source of information regarding the absence of a criminal conviction, investigation and procedure (for example third party investigations, testimonies of lawyers or notaries established in the EU).

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3.2. Statement on whether criminal proceedings are pending or whether the person or any organization serving under the management of the person in question has become involved as a debtor in insolvency proceedings or other proceedings.

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3.3. Reference to any conviction for fraud, unfaithfulness or other illegal action in accordance with the Greek Law or the Law of another country.

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3.4. Reference to any conviction for insider information abuse either in Greece or abroad.

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3.5. Reference to any conviction for tax evasion in Greece or abroad.

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3.6. Reference to any conviction for another (apart from traffic violations) criminal act related to the exercise of the person's professional duties either in Greece or abroad.

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3.7. Reference to any declaration of the person during the last decade in bankruptcy or confiscation of any of his assets or to a promissory note or acceptance or guarantee protestation or to any issuance of bounced checks.

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3.8. Reference to any deed of transfer, during the last decade, by mortgage of the person's assets in favor of their creditors or to any inability to comply with a court decision for the offset of debts within one year from issuance of the decision.

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3.9. Reference to the rejection of an application for registration, licensing, subscription or authorization to perform a compliance, business or professional activity or the withdrawal, revocation or suspension of such registration, licensing, subscription, authorization or deletion by a regulatory or government authority or by a professional body or association.

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3.10 Reference to any resignation, during the last decade, by Investment Intermediation Firms (AEED), Investment Services Société Anonyme (AEPEY), Mutual Fund Management Companies (MFMC), Portfolio Management S.A. , Real Estate Investment Company, Real Estate Mutual Fund Management, Organized Market Operator, System Administrator or interruption of the process of granting an operating license of Investment Intermediation Firms (AEED), Investment Services Société Anonyme (AEPEY), Mutual Fund Management Companies (MFMC), Portfolio Management S.A. , Real Estate Investment Company, Real Estate Mutual Fund Management, Organized Market Administrator of Market, System Administrator, after submitting the relevant application.

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3.11. Reference to any imposition, during the last decade, of any sanction related to the professional activities of the person.

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3.12. Reference to any case in which the natural or legal person he/she worked for was the subject of an investigation for possible involvement in cases of market abuse or money laundering.

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3.13. Reference to removal, by court or administrative decision, of the professional status of a director or senior executive or managing director or authorized representative of any company, including the State.

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3.14. Reference to removal from a position of employment or from a position of trust, fiduciary relationship or other similar status, or cases where resignation from such a position has been requested (excluding dismissals for financial reasons).

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3.15 Reference to the person's resignation or dismissal for disciplinary misconduct within the last decade.

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3.16. Reference, in case of a company, the person of which was an administrative or managerial executive or shareholder, faced a situation of compulsory liquidation or appointment of a trustee or compulsory compromise with its creditors in Greece or abroad.

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3.17. Reference to any court decision against the person for an act not related to business activity, by which he was sentenced to a penalty or was awarded an amount greater than €1,000.00?

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3.18 Reference to any business activity of the person that would possibly create a conflict of interest with his capacity in the institution (except for the cases mentioned in Article 6 of the questionnaire).

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3.19 Reference to any assessment carried out by another competent authority of the person's reputation as a buyer or a person managing the institution's business activity (including the data of the said authority, the date of evaluation and proof of the result of the said evaluation), as well as the person's consent, where required, to the research for such information, the possibility of processing it, as well as the use of the information provided for suitability evaluation.

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3.20 Reference to a possible prior evaluation of the person by an authority that is part of another, non-financial, sector (including the details of the said authority and the evidence of the result of this assessment).

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3.21 Reference to anything relevant that could positively or negatively affect the formation of an opinion about the reputation and credibility of the person in question.

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**4. Financial and non-financial interests**

4.1. Description of any financial (such as loans, holdings) and non-financial interests or relationships (for example close relationships, such as spouse, common-law partner, common-law partner, child, parent or other relationship with a person with whom the person concerned lives ) between, on the one hand, the person and their close relatives (or any company with which the said person is closely connected) and, on the other hand, the Company, the parent Company or its subsidiaries or any person holding special participation in said Company, including any members of the Board of Directors of said Companies or persons holding key positions.

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4.2. Whether the person carries out any business activity or maintains (or has maintained during the last two years) any commercial relationship with any of the aforementioned Companies or persons or participates in any legal proceedings with said Companies or persons.

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4.3. Whether the person and their close relatives have any competing interests with the Company, the parent Company or its subsidiaries.

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4.4. Whether the person is proposed by any of the major shareholders.

4.5. Reference to any financial obligations towards the Company, the parent Company or its subsidiaries (excluding mortgage loans concluded under conditions of free competition).

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4.6. Reference to any positions of political influence (at national or local level) held in the last two years.

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Date: \_\_\_\_\_ 20

The Declarant \_\_\_\_\_

(Signature)

**SOLEMN STATEMENT**  
**(Article 8 of Law 1599/1986)**

The authenticity of details submitted with the present statement may be verified based on the files kept by other services (Article 8 par. 4 of Law 1599/1986)

TO<sup>1</sup>: Hellenic Capital Market Commission Legal Person of Public Law

Name \_\_\_\_\_ Surname \_\_\_\_\_

Father's full name \_\_\_\_\_

Mother's full name \_\_\_\_\_

Date of birth<sup>2</sup> \_\_\_\_\_

Place of birth \_\_\_\_\_

Identity card No. \_\_\_\_\_ Tel. \_\_\_\_\_

Home address \_\_\_\_\_ Street \_\_\_\_\_ No. \_\_\_\_\_ PC \_\_\_\_\_

Email \_\_\_\_\_

Fax \_\_\_\_\_

I solemnly and being aware of the sanctions<sup>3</sup> provided for in par. 6 of Article 22 of Law 1599/1986 declare that:

*The answers I provide in this questionnaire, as well as the documents I have filed and the information that I have disclosed to the Hellenic Capital Market Commission as part of my assessment are accurate and true.*

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<sup>1</sup> The person concerned indicated the Public Authority or Sector to which the application is addressed.

<sup>2</sup> To be written in words.

<sup>3</sup> "Whoever knowingly states false facts or denies or conceals true facts with written declaration of Article 8 is punishable by imprisonment of at least three months. If the perpetrator of these acts intended to harm himself or another financial gain by harming a third party or intended to harm another, shall be punished by imprisonment up to 10 years".

4. In case of lack of space, the statement continues on the reverse side and signed by the declarant.