



Guidelines for the Fit and Proper Assessment

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1. INTRODUCTION

The Financial Services Commission (the “Commission”) is responsible for the regulation and supervision of persons engaged in financial services and managing services in and from within Belize, pursuant to the Financial Services Commission Act, Chapter 272 of the Substantive Laws of Belize, Revised Edition 2020 (the “Act”).

The Commission, in collaboration with its licensees has a duty to promote and maintain high standards of conduct and management in the provision of financial services and managing services.

These Guidelines should be read in conjunction with the fit and proper standard set out in the FS Practitioners (Code of Conduct) Regulations, 2001 (“Code of Conduct”). This assessment forms a part of the Commission’s licensing and other requirements and ongoing supervisory programmes, including periodic on-site inspections, and required regulatory reporting.

2. PURPOSE

The purpose of these Guidelines is to outline the Commission’s approach in assessing the ‘fit and proper requirements’ before considering the grant of a licence or on renewal of a licence.

3. APPLICABILITY

These Guidelines should be considered together with the [Second Schedule](#) of the Code of Conduct.

They apply to:

- i. A legal entity (the ‘applicant’) wishing to obtain a licence to provide managing services (both a first-time & renewal).
- ii. key staff of the applicant intending to perform or performing any of the key positions, as follows:
 - a. Directorship, Managerial, Compliance, Senior Executive Officer, Senior Officer, or any other Officer serving in a managerial capacity.
 - b. Officers exercising shareholding and beneficial ownership interest (i.e., Shareholders and Beneficial Owners). As regards to corporate shareholders, the following will be considered:
 - financial soundness and strength
 - nature and scope of business

- fitness and propriety of key individuals
 - organizational structure
- c. Nominee shareholders holding shares for the benefit of another person, including nominee directors.
 - d. Performing any other key functions that require the Commission's prior written approval.

4. DEFINITION

'Educational qualification' means –

- (a) qualifications obtained from a tertiary educational institution recognised in Belize and accepted by the Commission in disciplines associated with financial and commercial matters;
- (b) knowledge of the activities of the industry and ability to respond to inquiries from the Director General about all aspects of the applicant's business operations; and
- (b) ability to perform, and capable of assuming the duties and responsibilities associated with the full governance and management of the applicant's business operations.

5. FIT AND PROPER STANDARD

In assessing satisfaction with the fit and proper standard, the Commission, may in addition to any other relevant information taken into consideration, verify that the applicant has due regard to the following four (4) elements:

I. Integrity –

The Commission is **not** likely to be satisfied that the applicant is fit and proper if the assessment of a person against this element would yield any one of the following factors:

- i. The applicant is found to be providing false/misleading information in support of its application.
- ii. It is considered that the interest of customers or potential customers of the applicant would be threatened by the applicant's business operations/viability, including persons holding key positions may be considered to ascertain whether those threats identified would pose a risk to the applicant customers/investors' best interests, including the reputation of Belize as a well-regulated jurisdiction.

- iii. Applicant's inability to meet client's obligations.
- iv. Applicant, including its key individuals has been convicted of a criminal offence, particularly a financial crime¹ or has been subject of investigation for a regulatory breach.
- v. Applicant has been refused the grant of a professional, occupational, or vocational licence/registration by any regulatory, financial, or other competent authority or any licence previously held has been suspended or revoked.
- vi. The applicant has been served with a winding up petition.
- vii. Persons in key positions or intending to carry out any key functions in the applicant Company:
 - a. have been disciplined or disqualified to act in such positions by any professionals or regulatory bodies (i.e., for example, to act in the capacity of a director).
 - b. Dismissed by former employers or asked to voluntarily resign from employment due to proven gross misconduct².
 - c. The licence/registration to carry on any financial services for other entities in which the person occupying a controlling or ownership interest was suspended/revoked by any regulatory authority.
 - d. An entity has gone into insolvency or liquidation while the person exercised managerial capacity.
 - e. Withholding of information required to be reported to the Commission without undue delay and for which the Commission determines that the information is damaging to the integrity of the applicant and any of its key individuals, including:
 - being the subject of any written customer complaint involving allegations of manipulation, deception, forgery, fraud, theft or misappropriation of funds or securities which has been proven.

¹ Financial crime is connected to offences primarily to money laundering, terrorist financing, fraud/forgery, theft, misappropriation of funds or securities, manipulation, deception, misrepresentation, bribery, and corruption, etc.

² Gross misconduct includes and is not limited to any incident, breach and/or violation of employer's integrity-related rules, compliance policies, i.e., for example, wilful blindness or negligence to comply with AML obligations, tipping-off, etc.

- is named a defendant or respondent in any criminal or regulatory proceeding or any civil proceeding exceeding US\$25,000.00, whether in Belize or abroad may be a disqualifying factor if the outcome of the case shows culpability by relevant individuals which the Commission is not comfortable with.

II. Financial Stability, Solvency and Financial Control –

The Commission is **not** likely to be satisfied that an applicant is fit and proper should it be that the applicant:

- i. during the consideration for the issue of a first-time licence, the Commission identifies several indicators that may suggest that the applicant will be unable to meet projected liabilities as they become due.
- ii. has been the subject of a judgement debt in Belize or elsewhere, that was not satisfied within a date specified; alternatively, it remains outstanding.
- iii. is in a state of becoming insolvent or has become insolvent.
- iv. is an undischarged bankrupt, either voluntary or involuntary.
- v. is placed under supervision or is currently subject to receivership, rehabilitation, liquidation, conservatorship, or other similar proceedings.
- vi. is unable to satisfy the applicable capital requirement by any of the forms permitted in the Financial Services (Capital Requirement) Regulations, 2020 or any other enforceable means.

III. Skill, Competence and Managerial Control –

In determining the applicant's satisfaction as regards this element, the Commission will consider factors including:

- i. ability to perform duties in relation to the proposed business activity in a sound, prudent, fair, and reputable manner.
- ii. capacity to employ adequate number of employees to effectively perform duties relative to the number of FS Practitioners and other Companies.
- iii. the nature of the duties/responsibilities intended to be performed or being performed, including satisfactory educational qualification, adequate expertise, skills, knowledge, as well as training to fulfil the role for which a relevant person is to be employed or has been employed.

- iv. in the case of proposed person to be employed or is employed as an executive officer, time to perform the functions and meet the responsibilities associated with economic substance outsourced by the FS Practitioner/Company to the managing agent.
- v. ability to respond to enquiries made by the Commission in relation to its operations in a timely manner.
- vi. Applicants must demonstrate that they are within the scope of the economic substance requirements.

IV. Track Record and Viability –

In determining satisfaction of this element, the Commission will take into consideration the following:

- i. whether entity is newly incorporated (one year or less) and therefore attention drawn to feasibility and viability of the applicant's business plan; on the surface, the establishment of satisfactory internal control procedures; money laundering prevention control procedures; risk management control systems; and compliance procedures and systems.
- ii. whether the entity is not newly incorporated (in existence for over one year) and in addition to the scrutinization for the factors raised for newly incorporated entity, attention drawn to previous business activities; successes of its current business activities, relevant adverse information as well as vulnerabilities posed to Belize's reputation.

6. CONTINUING REQUIREMENTS

Assessing the fitness and propriety of licensees is an ongoing process. In this respect, the Commission expects that all licensees and their key staff (see section 3(ii) above) must continue to satisfy the fit and proper standards for the duration of period whilst a licence remains in force.