



## **Fitness and Propriety Guidelines**

These Guidelines (the “Guidelines”) are issued pursuant to Section 6 and 167 of the Securities Industry Act 2021 (the “SIA”), as amended from time to time.

*FSC/GG/003-4*

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## **1. PURPOSE AND SCOPE**

These Guidelines aim to establish the expectations of the Financial Services Commission (the “Commission”) as it relates to the fitness and propriety of all relevant persons, whether individuals or legal entities (hereinafter referred to as “Regulated Persons”) in relation to the carrying out of any activity regulated by the Commission under the SIA.

These Guidelines seek to ensure that Regulated Persons understand the importance of fitness and propriety requirements imposed by the Commission, the specific criteria considerations themselves, and the Commission’s approach to conducting fit and proper assessments.

These Guidelines are designed to provide general guidance and do not replace or override any legislative provisions. They should be read in conjunction with Section 6 of the SIA.

Please note that terms capitalized in this document but not otherwise defined should have the same meaning ascribed to them in the SIA.

Regulated Persons are expected to reflect the elements of these Guidelines in their internal policies, procedures and controls and apply this guidance in their assessment of persons who own, manage, control, direct or perform key functions of the Regulated Person.

The Commission will review these Guidelines periodically as it deems appropriate.

## **2. WHO NEEDS TO COMPLY WITH THE FIT AND PROPER GUIDELINES**

Below is a non-exhaustive list of Regulated Persons who are required to meet fit and proper requirements under the Guidelines:

- a) Controlling and significant shareholders of a Regulated Person (10% or more), whether nominally or beneficially, who operate or seek to operate a Securities Business regulated by the SIA.
- b) Persons who apply to the Commission to be registered or to operate a Securities Business or participate in a market regulated by the Commission.
- c) Individuals who make up the board of directors of any Regulated Person under the SIA.
- d) Acquirers of any Regulated Person.
- e) Individuals who seek to be registered as a securities representative<sup>1</sup>.
- f) Directors, executives, and officers of Self-Regulatory Organizations (SROs).
- g) Senior employees or persons who direct, control, or manage critical functions within the organisation and or are responsible for key aspects of risk management.
- h) Auditors and compliance officers.

Persons are encouraged to seek guidance from the Commission if they are unsure whether a particular Person meets the definition of a Regulated Person for the purposes of these Guidelines.

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<sup>1</sup> “Securities representative” means an individual carrying out any securities activity who is a representative of a registrant in a capacity other than Chief Executive Officer or Compliance Officer as defined by the Securities Industry Regulation, 2023.

### **3. DETERMINATION OF “FIT AND PROPER”**

The criteria for considering whether a Regulated Person is fit and proper include but are not limited to the following:

- I. financial status or solvency;
- II. educational or other qualifications or experience;
- III. ability to carry on the regulated activity competently, honestly, and fairly;
- IV. reputation, character, reliability, and financial integrity; and
- V. track record and viability.

The SIA also empowers the Commission to take into consideration any of the following matters in determining whether a Regulated Person is fit and proper:

- 1) any decision made in respect of the Person by the Commission, any domestic regulatory authority, or any overseas regulatory authority.
- 2) any information in the possession of the Commission, whether provided by the Person or not, relating to
  - a. the natural person—
    - any other Person who is or is to be employed by or associated with the Person for the purposes of the regulated activity<sup>2</sup> for which the registration is granted, or the application is made; or
    - any other Person who will be acting for or on behalf of the Person in relation to the regulated activity; and
  - b. if the Person is a company in a group of companies—
    - any other company in the same group of companies; or

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<sup>2</sup> “Regulated activity” means the activity carried on or proposed to be carried on by the person that requires registration, recognition of other approval by the Commission under the SIA.

- any significant security holder or officer of any other company in the group of companies;
- if the determination relates to a registration under section 23 or section 35(1) of the SIA, or an application for such registration, whether the Person has established effective internal control procedures and risk management systems to ensure compliance with all applicable regulatory requirements; and
- the state of affairs of any other business that the Person carries on or proposes to carry on.

#### **4. FINANCIAL STATUS OR SOLVENCY**

Financial soundness is a key element in determining fitness and propriety. In assessing the financial soundness of a Regulated Person, the Commission will consider whether the Regulated Person can maintain solvency and prudent financial control. This includes meeting liabilities as they become due and mitigating financial risks on a continuous basis.

Though these factors are not exhaustive, in determining the financial soundness of a Regulated Person, the Commission is not likely to be satisfied if that Regulated Person:

- a) is an undischarged bankrupt<sup>3</sup>, either voluntary or involuntary;
- b) is currently subject to bankruptcy proceedings or is bankrupt;
- c) is in a state of becoming insolvent or has become insolvent;

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<sup>3</sup> An undischarged bankrupt refers to an individual who has been declared bankrupt by a court but has not yet been released from their bankruptcy obligations.

- d) is placed under supervision or is currently subject to a receivership<sup>4</sup>, or other similar proceedings;
- e) has failed to meet any judgement debt in Belize or elsewhere;
- f) has failed to pay taxes, rates or stamp duty in Belize or elsewhere;
- g) is unable to maintain assets in Belize that ensure liabilities are met; and
- h) is unable to meet the minimum initial and on-going capital requirements as outlined in the Securities Industry Regulation (the “SIR”) 2023 or any other enforceable guidelines/policy.

## 5. EDUCATIONAL OR OTHER QUALIFICATION OR EXPERIENCE

In considering educational or other qualification or experience the Commission will look at the nature of the functions the Regulated Person will perform. The Regulated Person must demonstrate the competence to perform regulated activities efficiently and effectively. This will be assessed with reference to the Regulated Person’s academic and industry qualifications along with the requisite experience. The level of knowledge expected varies according to the level of responsibility and the type of regulated activity to be carried out.

Though these factors are not exhaustive, Regulated Persons are generally expected to:

- a) have a qualification in disciplines associated with financial and commercial matters obtained from a tertiary educational institution recognized and accepted by the Commission;
- b) have examinations or certifications or alternative evidence of skill and knowledge that, based on facts and circumstances specific to the Regulated Person seeking registration with the Commission, the Commission find acceptable. (For a list of examinations and certifications that the Commission may find acceptable, refer to **Schedule 1** attached hereto).

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<sup>4</sup> Receivership is a process that is put in place to protect a company. A period of receivership may be thought of as a protective umbrella for a troubled company. During this time, a receiver, or trustee, steps in to manage the entire company, its assets, and all financial and operating decisions.

- c) understand the general structure of the regulatory framework that applies to their proposed activities;
- d) understand the legislative provisions, codes, guidelines, and rules that apply to the functions that they would perform;
- e) understand the obligations owed to clients and the general obligations owed to their employers; and
- f) understand the products they deal in or advise upon and the market in which the service is provided.

## **6. ABILITY TO CARRY ON THE REGULATED ACTIVITY COMPETENTLY, HONESTLY AND FAIRLY**

Honesty, integrity and reputation are qualities that are demonstrated over time and demand a disciplined and ongoing commitment to ethical standards.

Though these factors are not exhaustive, the Commission is not likely to be satisfied that a Regulated Person can carry on the regulated activity competently, honestly, and fairly if that Regulated Person is:

### **1. A natural Person that:**

- a) has been refused the right to carry on any trade, business or profession for which a specific license, registration or other authorisation is required by law in any jurisdiction;
- b) has been issued a suspension or revocation order under any legislation administered by the Commission or has been prohibited from operating in any jurisdiction by any financial services regulatory authority;
- c) has been disciplined, suspended or refused a membership, license or registration by the Commission, any other regulatory authority, an operator of a market, trade repository or clearing facility, any professional body or government agency, whether in Belize or elsewhere;
- d) has been the subject of any complaint made reasonably and in good faith, relating to activities that are regulated by the Commission or under any law in any jurisdiction;

- e) has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or of any investigation which might lead to those proceedings, under any law in any jurisdiction;
- f) has been convicted of any offence or is being subject to any pending proceedings (particularly those involving dishonesty, fraud, breach of trust, money laundering, theft or other financial crime) which may lead to such a conviction, under any law in any jurisdiction.
- g) has had any judgement (in particular, that associated with a finding of fraud, misrepresentation or dishonesty) entered against the Regulated Person in any civil proceedings or is a party to any pending proceedings which may lead to such a judgement, under any law in any jurisdiction;
- h) has accepted civil liability for fraud or misrepresentation under any law in any jurisdiction;
- i) has had any enforcement action taken against it or him by the Commission or any other regulatory authority under any law in any jurisdiction;
- j) has demonstrated an unwillingness to comply with any regulatory requirement or to uphold any professional and ethical standards, whether in Belize or elsewhere;
- k) is showing, or has shown at any time, a strong objection or lack of willingness to maintain effective internal control systems and risk management practices;
- l) has been the subject of any investigations or disciplinary proceedings or been issued a warning or reprimand by the Commission, any other regulatory authority, an operator of a market, trade repository or clearing facility, any professional body or government agency, whether in Belize or elsewhere;
- m) has been disciplined by a professional, trade or regulatory body or the person has been dismissed or requested to resign from any position or office for negligence, incompetence, or mismanagement.
- n) has been untruthful or provided false or misleading information to the Commission or been uncooperative in any dealings with the Commission or any other regulatory authority in any jurisdiction;

- o) does not have a satisfactory past performance and expertise, having regard to the nature of the relevant persons' business or duties demonstrated by experience through years of employment and positions held, as case may be, whether in Belize or elsewhere;
- p) does not have a high level of understanding in his professional area of expertise and other areas that might affect the business of the institution, including financial markets, the regulatory and legal environment, strategic and business planning, risk management practices, accounting and auditing, understanding financial statements and corporate governance;
- q) will assume concurrent responsibilities and those responsibilities would give rise to a conflict of interest or would impair his ability to discharge his duties in relation to any activity regulated by the Commission; and
- r) does not have satisfactory educational qualifications, training, skills or practical experience, whether in Belize or elsewhere.

The Commission will review on a case-by-case basis and will consider several factors such as time since the event, the seriousness of the event, circumstances surrounding, the explanation offered, the relevance of the offence to the proposed role, and evidence of the individual's rehabilitation along with the responsibility to be undertaken. The source and quality of evidence will also be considered.

**2. Is a Person (other than a natural Person) that:**

- a) has failed to demonstrate that it is competent to perform the regulated activities efficiently and effectively;
- b) has organisational structure and personnel that are unable to comply with the relevant legislative or regulatory requirements; and/or
- c) lacks the infrastructure and internal control systems to manage risk effectively, avoid conflict of interest, and provide a proper audit trail.

In assessing these elements, the Commission will seek to understand the Person's organizational structure to ensure it has the right skills and resources in place to

execute its responsibilities. Special attention must be paid to the documents required for application as outlined in the SIR.

## **7. REPUTATION, CHARACTER, RELIABILITY, AND FINANCIAL INTEGRITY**

Though these factors are not exhaustive, the Commission is not likely to be satisfied that a Person has a good reputation, character, reliability, and financial integrity if that Person has been:

- a) found liable by a court for any of the following offences: fraud, dishonesty, or misfeasance;
- b) convicted of a criminal offence or is the subject of unresolved criminal charges which are of direct relevance to fitness and properness;
- c) censured, disciplined, or disqualified by any professional or regulatory body in relation to any trade, business or profession;
- d) refused or restricted from the right to carry on any trade, business or profession for which a specific licence, registration or other authorisation is required by law;
- e) dismissed by former employers or asked to voluntarily resign from employment due to proven gross misconduct<sup>5</sup>
- f) found culpable of market misconduct by a competent authority or failed to abide by any regulations promulgated by the Commission or other regulators in Belize or overseas.

The extent of the Regulated Person's involvement in the relevant events, and the Person's behaviour at that time, will have a substantial impact on the weight that the Commission attaches to the events in considering the Person's fitness and properness.

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<sup>5</sup> 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.

## **8. TRACK RECORD AND VIABILITY**

Though these factors are not exhaustive, in determining satisfaction of track record and viability, the Commission will take into consideration the following:

- a) Whether Regulated Person is newly incorporated (one year or less) and therefore attention is drawn to the feasibility and viability of the applicant's business plan; and the establishment of satisfactory internal control procedures; money laundering prevention control procedures; risk management control systems; and compliance procedures and systems.
- b) 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.
- c) Whether the Regulated Person holds or was a holder of a license under the Financial Services Commission Act 2023, the conduct and history of the Regulated Person with the Commission will be considered.

## **9. CONTINUING REQUIREMENTS**

A person registered under the SIA shall remain fit and proper for the duration of the registration.

## Schedule 1

### List of Examinations and Certifications that the Commission may find acceptable based on facts and circumstances of the Regulated Person seeking registration with the Commission pursuant to the SIA.

*N.B.: The examination or qualification listed below should serve as a guide and are not a restrictive or pre-approved list. If an examination or qualification is not listed below, the Commission will review and approve the same on a case-by-case basis if relevant for a particular job function.*

Registration Category: Compliance Officer	
Examination	Administered By
Regulatory AML/CFT/FCP Professional Certification ICA International Diploma in Anti-Money Laundering or Governance, Risk, and Compliance (MICA/FICA)	University of Belize (UB) Duration of 15 weeks
Certified Securities Compliance Professional (CSCP)	The National Society of Compliance Professionals Duration of 14 weeks
Certified Anti-Money Laundering Specialist (ACAMS)	Association of Certified Anti-Money Laundering Specialist Duration 3 to 4 months. (valid 3 years)
Certified Financial Crime Specialist (CFCS)	Association of Financial Crime Specialist Duration N/A
Certified Compliance & Ethics Professional (CCEP)	Society of Corporate Compliance and Ethics Duration N/A (Valid 2 years)
Certified Risk and Compliance Management Professional (CRCMP)	Society of Corporate Compliance and Ethics Duration N/A

<b>Registration Category: Securities Representative</b>	
<b>Examination</b>	<b>Administered By</b>
General Securities Industry Essentials (GSIE)	University of Belize – Institute of Banking & Finance Duration 13 Weeks
Series 7 – General Securities Representatives Examination	FINRA/National Association of Securities Dealers Duration N/A
Registered Representatives Examination	Irish Stock Exchange/Dublin City University Duration N/A
Canadian Securities Course (CSC)	Canadian Securities Institute/Securities Training Institute Duration 3-12 months
Certified Financial Planner (CFP)	Certified Financial Planner Board of Standards, Inc Duration N/A
Chartered Financial Analyst (Level 1)	CFA Institute/Associate for Investment Management and Research Duration N/A
Certificate in Investment Management	UK Securities Institute Duration N/A
Investment Management Certificate	United Kingdom Society of Investment Professionals/Institute of Investment Management and Research Duration 12 Months
Licensing Examination for Securities and Future Intermediaries; Certificate in Securities; Certificate in Derivatives, Certificate in Asset Management	Hong Kong Securities and Investment Institute Duration 3 Years