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# **GUIDELINES ON FIT AND PROPER CRITERIA**

**GUIDELINE NO: FSG-G01**

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## Application of Guidelines

These Guidelines set out the fit and proper criteria applicable to all relevant persons in relation to the carrying out of any activity regulated by the Monetary Authority of Singapore [“MAS”] under any written law [“relevant legislation”].

2 MAS expects a relevant person to be competent, honest, to have integrity and to be of sound financial standing. This provides MAS with the assurance that the relevant person is willing and able to fulfill its or his obligations under any written law. This also underpins our requirements that the relevant person performs the activities regulated under the relevant legislation efficiently, honestly, fairly and acts in the best interests of its or his stakeholders and customers.

3 The onus is on each relevant person to establish that it or he is a fit and proper person rather than for MAS to show otherwise<sup>1</sup>. As different appointments and designations entail different responsibilities, these Guidelines would be applied in a manner and to the extent that is suitable to the circumstances. MAS will consider the nature of the responsibilities of the relevant person in determining the relative emphasis and standard that should be expected of the relevant person. When assessing an application for the appointment of a relevant person to senior or critical functions, MAS may, in addition to the fit and proper criteria set out in these Guidelines, consider other factors that may be relevant, such as whether the relevant person has a good standing in the profession in

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<sup>1</sup> Where a relevant person (X) is required under the relevant legislation to ensure that another relevant person (Y) is fit and proper, the onus is on X to establish to the satisfaction of MAS that Y is fit and proper.

respect of which the application is submitted. If the relevant person fails to satisfy MAS that it or he is fit and proper, MAS may refuse the person's application, revoke the person's authorisation or exemption, or take other appropriate regulatory action, as may be applicable and necessary.

4 These Guidelines provide general guidance, and are not intended to be comprehensive nor replace or override any legislative provisions. They should be read in conjunction with the provisions of the relevant legislation, the subsidiary legislation made under the relevant legislation, as well as written directions, notices, codes and other guidelines that MAS may issue from time to time pursuant to the relevant legislation and subsidiary legislation.

### **Definitions**

5 For the purposes of these Guidelines:

“Appointed Actuary” means an actuary appointed by a registered insurer under section 31 of the Insurance Act (Cap. 142) [“IA”];

“authorisation” means —

- (a) an approval as an approved exchange under section 8(1) of the Securities and Futures Act (Cap. 289) [“SFA”] respectively;
- (b) an approval as an approved holding company under section 81W of the SFA;
- (c) a designation as a designated clearing house under section 55(1) of the SFA;

- (d) a recognition as a recognised market operator under section 8(2) of the SFA;
- (e) a licensing as a holder of a capital markets services [“CMS”] licence or representative’s licence under section 82(1) or 83(1) of the SFA respectively;
- (f) a licensing as a licensed financial adviser [“FA”] or licensed representative under section 6(1) or 7(1) of the Financial Advisers Act (Cap. 110) [“FAA”] respectively;
- (g) a registration as an insurance broker under section 35X of the IA;
- (h) an approval as an approved MAT insurance broker, an approved general reinsurance broker or an approved life reinsurance broker under regulation 4 of the Insurance (Approved Marine, Aviation and Transit Insurance Brokers and Approved Reinsurance Brokers) Regulations (Rg 14);
- (i) an approval as an approved MAT insurer under regulation 5 of the Insurance (Approved Marine, Aviation and Transit Insurers) Regulations (Rg 15);
- (j) an authorisation as a general reinsurer or life reinsurer under section 8(A) of the IA;
- (k) an approval to establish a representative office under section 6 of the IA; or
- (l) a licensing as a licensed trust company [“TC”] under section 3(1) of the Trust Companies Act (Cap. 336) [“TCA”];

“broking staff”, in relation to an insurance broker, means any employee of the insurance broker or any other person who is authorised by the insurance broker to act on its behalf to provide technical advice to any client of the insurance broker in respect of —

- (a) insurance policies relating to general business and long-term accident and health policies, other than insurance policies relating to reinsurance business; or
- (b) reinsurance of liabilities under insurance policies relating to life or general business;

“business rules” has the same meaning as in section 2(1) of the SFA;

“Certifying Actuary” means an actuary approved by MAS under section 37 of the IA;

“exempt entity” means:

- (a) a person exempt from the requirement to hold a CMS licence under paragraphs 4(1)(c), 5(1)(d) or 7(1)(b) of the Second Schedule to the SFR(LCB); or
- (b) a person exempt from holding an FA licence under regulation 27(1)(d) of the FAR;

“exempt financial institution” means:

- (a) a financial institution exempt from the requirement to hold a CMS licence under section 99(1)(a), (b), (c), (d), (f) or (g) of the SFA;
- (b) a financial institution exempt from holding an FA licence under section 23(1)(a), (b), (c), (d), (e) or (ea) of the FAA;
- (c) a financial institution exempt from registration as an insurance broker under section 35ZN(1)(a), (b), (c), (d), (e) or (ea) of the IA; or
- (d) a financial institution exempt from holding a TC licence under section 15(1)(a), (b) or (c) of the TCA, or regulation

4(1)(j) of the Trust Companies (Exemption) Regulations (Regulation 1);

“exempt person” means:

- (a) a person exempt from the requirement to hold a CMS licence under paragraphs 4(1)(c), 5(1)(d) or 7(1)(b) of the Second Schedule to the SFR(LCB);
- (b) a key officer of a person referred to in paragraph (a);
- (c) a substantial shareholder of a person referred to in paragraph (a);
- (d) a person exempt from holding an FA licence under regulation 27(1)(d) of the FAR;
- (e) a key officer of a person referred to in paragraph (d); or
- (f) a substantial shareholder of a person referred to in paragraph (d);

“institution”, in relation to a relevant person whose activity is regulated by MAS under the FAA, the IA or the SFA, means:

- (a) an approved exchange;
- (b) a recognised market operator;
- (c) a designated clearing house;
- (d) an approved holding company;
- (e) a holder of a CMS licence;
- (f) a licensed FA;
- (g) a registered insurance broker;
- (h) an approved MAT insurance broker;
- (i) an approved general reinsurance broker;
- (j) an approved life reinsurance broker; or
- (k) a licensed TC;

“key officer”, in relation to an exempt person, means:

- (a) a director or equivalent person; or
- (b) a chief executive officer or equivalent person;

“person having control” :

- (a) in relation to an approved MAT insurance broker, an approved general reinsurance broker or an approved life reinsurance broker, is as defined in section 12A(7) of the IA read with regulation 16(2) of the Insurance (Approved Marine, Aviation and Transit Insurance Brokers and Approved Reinsurance Brokers) Regulations (Rg 14);
- (b) in relation to an authorised reinsurer, is as defined in section 12A(7) of the IA;
- (c) in relation to a representative office, shall have the same meaning as in section 12A(7) of the IA as though the references to authorised reinsurer were references to a representative office; and
- (d) in relation to an approved MAT insurer, shall have the same meaning as in section 12A(7) of the IA as though references to authorised reinsurer were references to an approved MAT insurer;

“relevant person” means:

- (a) in relation to a bank incorporated in Singapore that is licensed by MAS under the Banking Act (Cap. 19):
  - (i) a substantial shareholder;
  - (ii) a director;

- (iii) a chief executive officer or deputy chief executive officer;
  - (iv) a chief financial officer;
  - (v) Head of Treasury; or
  - (vi) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (iii) or (v),  
of the bank;
- (b) in relation to a bank incorporated outside Singapore that is licensed by MAS under the Banking Act:
- (i) a chief executive officer or deputy chief executive officer;
  - (ii) Head of Treasury; or
  - (iii) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (i) or (ii),  
of the bank;
- (c) in relation to a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186) [“MAS Act”]:
- (i) a chief executive officer or deputy chief executive officer;
  - (ii) Head of Treasury; or
  - (iii) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (i) or (ii),  
of the merchant bank;

- (d) in relation to a person whose activity is regulated by MAS under the FAA:
  - (i) a substantial shareholder of a licensed FA;
  - (ii) a licensed FA;
  - (iii) a licensed representative under the FAA;
  - (iv) a chief executive officer, or director of a holder of a FA licence;
  - (v) an exempt financial institution or its representatives;
  - (vi) an exempt person or its representatives;
  - (vii) a person for which an application for authorisation has been made to MAS under the applicable provision in the FAA;
  
- (e) in relation to a person whose activity is regulated by MAS under the IA:
  - (i) a substantial shareholder of a registered insurer as defined under section 29(3) of the IA;
  - (ii) a registered insurance broker;
  - (iii) a substantial shareholder of a registered insurance broker;
  - (iv) a broking staff of a registered insurance broker;
  - (v) a chief executive officer, or director of a registered insurance broker;
  - (vi) a principal officer or director of a registered insurer;
  - (vii) an Approved Actuary;
  - (viii) a Certifying Actuary;
  - (ix) a chief executive officer, or director of the administrator as defined in the Insurance (Lloyd's Asia Scheme) Regulations;

- (x) a chief executive officer, or director of a Service Company registered with the administrator under the Insurance (Lloyd's Asia Scheme) Regulations;
  - (xi) a Singapore representative whom the representative office has appointed to be responsible for the activities of the representative office in Singapore;
  - (xii) an exempt financial institution or its broking staff;
  - (xiii) a person for which an application for authorisation has been made to MAS under the applicable provision in IA;
  - (xiv) a person having effective control of a registered insurer as defined under section 27 of IA;
  - (xv) a person having control of a registered insurer as defined under section 28 of the IA;
  - (xvi) a person having control of an approved MAT insurer, an authorised reinsurer, or a representative office;
  - (xvii) a person having control of an approved MAT insurance broker, an approved general reinsurance broker or an approved life reinsurance broker;
- (f) in relation to a person whose activity is regulated by MAS under the SFA:
- (i) a substantial shareholder of a holder of a CMS licence, an approved exchange, an approved holding company, a designated clearing house or a recognised market operator;
  - (ii) a holder of a CMS licence;
  - (iii) a holder of a representative's licence;
  - (iv) an approved exchange;
  - (v) a recognised market operator;

- (vi) an approved holding company;
  - (vii) a designated clearing house;
  - (viii) a chief executive officer, director or key person stated in a notice under section 28(2), 76(2) or 81ZF(3) of the SFA, of an approved exchange, an approved holding company or a designated clearing house;
  - (ix) a chief executive officer, or director of a holder of a CMS licence or a recognised market operator;
  - (x) an exempt financial institution or its representatives;
  - (xi) an exempt person or its representatives
  - (xii) a person for which an application for authorisation has been made to MAS under the applicable provision in the SFA;
- (g) in relation to a finance company licensed by MAS under the Finance Companies Act (Cap.108):
- (i) a substantial shareholder;
  - (ii) a director; or
  - (iii) a chief executive officer or deputy chief executive officer
  - (iv) a chief financial officer; or
  - (v) any person by whatever name described, who has responsibilities or functions similar to any of the persons referred to in this sub-paragraph,
- of the finance company;
- (h) in relation to a holder of a money-changing or remittance licence granted under the Money-changing and Remittance Businesses Act (Cap. 187):
- (i) a substantial shareholder;

- (ii) a director of the holder; or
  - (iii) in the case of a holder of a money-changing licence that is a partnership, a partner,  
of the holder;
- (i) in relation to a credit card or charge card issuer licensed under section 57B of the Banking Act (Cap. 19):
- (i) a director;
  - (ii) a chief executive or deputy chief executive;
  - (iii) any other officer by whatever name described, who has responsibilities or functions similar to any of the persons referred to in sub-paragraph (i) or (ii),  
of the credit card or charge card issuer;
- (j) in relation to an operator of a payment system designated under the Payment Systems (Oversight) Act 2006:
- (i) a chief executive officer;
  - (ii) a director; or
  - (iii) any person by whatever name described, who has responsibilities or functions similar to a chief executive officer,  
of the operator;
- (k) in relation to a TC licensed by MAS under the TCA:
- (i) a licensed TC;
  - (ii) a controller;
  - (iii) a director; or
  - (iv) a resident manager,  
of the trust company.

5A The expressions used in these Guidelines shall, except where expressly defined in these Guidelines, have the same meanings as in the applicable Acts in which the expressions are referred to or used.

### **Fit and Proper Test**

6 MAS will broadly take the following criteria into account in considering whether a relevant person is fit and proper:

- (a) honesty, integrity and reputation;
- (b) competence and capability;
- (c) financial soundness.

7 However, the failure by a relevant person to meet any one of the criteria set out in paragraph 6 may not lead to an automatic refusal of an application, revocation of an authorisation, revocation of an exemption or other regulatory action by MAS. The significance and relevance of a relevant person failing to satisfy MAS that it or he meets a specific criteria depends on:

- (a) the seriousness of, and surrounding circumstances resulting in, the relevant person not meeting the specific criteria;
- (b) the relevance of the failure by the relevant person to meet the specific criteria to the duties that are, or are to be, performed and the responsibilities that are, or are to be, assumed by the relevant person; and
- (c) the passage of time since the failure by the relevant person to meet the specific criteria.

8 In addition to paragraph 7, in the case where the relevant person is an institution, to establish that it is fit and proper, an institution should satisfy MAS that:

- (a) all of its substantial shareholders meet the fit and proper criteria of these Guidelines;
- (b) each of its directors and chief executive officer, or equivalent persons, meet the fit and proper criteria of these Guidelines; and
- (c) it has in place appropriate recruitment policies, adequate internal control systems and procedures that would reasonably ensure that the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the fit and proper criteria of these Guidelines.

9 In addition to paragraph 7, in the case where the relevant person is an exempt financial institution, to establish that it is fit and proper, the exempt financial institution should have in place appropriate recruitment policies, adequate internal control systems and procedures that would reasonably ensure that the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the fit and proper criteria of these Guidelines.

10 In addition to paragraph 7, in the case where the relevant person is an exempt entity, to establish that it is fit and proper, an exempt entity should satisfy MAS that:

- (a) all of its substantial shareholders meet the fit and proper criteria of these Guidelines;

- (b) each of its directors and chief executive officer, or equivalent persons, meet the fit and proper criteria of these Guidelines; and
- (c) it has in place appropriate recruitment policies, adequate internal control systems and procedures that would reasonably ensure that the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, meet the relevant fit and proper criteria of these Guidelines.

### **Honesty, Integrity and Reputation**

11 The factors set out in the following paragraphs are relevant to the assessment by MAS of the honesty, integrity and reputation of a relevant person. MAS will consider<sup>2</sup>, amongst others, whether the relevant person:

- (a) has been refused the right or restricted in its or his 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 prohibition order under any Act administered by MAS or has been prohibited from operating in any jurisdiction by any financial services regulatory authority;

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<sup>2</sup> MAS will consider any or all of the factors as may be relevant to the extent that it is reasonably feasible to do so.

- (c) has been censured, disciplined, suspended or refused membership or registration by MAS, any other regulatory authority, an operator of a market or clearing facility, any professional body or government agency, whether in Singapore or elsewhere;
- (d) has been the subject of any complaint made reasonably and in good faith, relating to activities that are regulated by MAS 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 which may lead to such a conviction, under any law in any jurisdiction;
- (g) has had any judgment (in particular, that associated with a finding of fraud, misrepresentation or dishonesty) entered against the relevant person in any civil proceedings or is a party to any pending proceedings which may lead to such a judgment, 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 civil penalty enforcement action taken against it or him by MAS or any other regulatory authority under any law in any jurisdiction;
- (j) has contravened or abetted another person in breach of any laws or regulations, business rules or codes of conduct, whether in Singapore or elsewhere;
- (k) has been the subject of any investigations or disciplinary proceedings or been issued a warning or reprimand by MAS, any other regulatory authority, an operator of a market or clearing facility, any professional body or government agency, whether in Singapore or elsewhere;
- (l) has been refused a fidelity or surety bond, whether in Singapore or elsewhere;
- (m) has demonstrated an unwillingness to comply with any regulatory requirement or to uphold any professional and ethical standards, whether in Singapore or elsewhere;
- (n) has been untruthful or provided false or misleading information to MAS or been uncooperative in any dealings with MAS or any other regulatory authority in any jurisdiction;
- (o) in addition to sub-paragraphs (a) to (n), where the relevant person is an individual:

- (i) is or has been a director, partner, substantial shareholder or concerned in the management of a business that has been censured, disciplined, prosecuted or convicted of a criminal offence, or been the subject of any disciplinary or criminal investigation or proceeding, in Singapore or elsewhere, in relation to any matter that took place while the person was a director, partner, substantial shareholder or concerned in the management of the business;
- (ii) is or has been a director, partner, substantial shareholder or concerned in the management of a business that has been suspended or refused membership or registration by MAS, any other regulatory authority, an operator of a market or clearing facility, any professional body or government agency, whether in Singapore or elsewhere;
- (iii) has been a director, partner, substantial shareholder or concerned in the management of a business that has gone into insolvency, liquidation or administration during the period when, or within a period of one year after, the relevant person was a director, partner, substantial shareholder or concerned in the management of the business, whether in Singapore or elsewhere;
- (iv) has been dismissed or asked to resign from —
  - (A) office;
  - (B) employment;
  - (C) a position of trust; or;
  - (D) a fiduciary appointment or similar position, whether in Singapore or elsewhere;

- (v) is or has been subject to disciplinary proceedings by his current or former employer(s), whether in Singapore or elsewhere;
- (vi) has been disqualified from acting as a director or disqualified from acting in any managerial capacity, whether in Singapore or elsewhere; and
- (vii) has been an officer found liable for an offence committed by a body corporate as a result of the offence having proved to have been committed with the consent or connivance of, or neglect attributable to, the officer, whether in Singapore or elsewhere.

### **Competence and Capability**

12 The factors set out in the following paragraphs are relevant to the assessment by MAS of the competence and capability of a relevant person. MAS will consider<sup>2</sup>, amongst others:

- (a) whether the relevant person has satisfactory past performance or expertise, having regard to the nature of the relevant person's business or duties, as the case may be, whether in Singapore or elsewhere;
- (b) where the relevant person is an individual who is assuming concurrent responsibilities, whether such responsibilities would give rise to a conflict of interest or otherwise impair his ability to discharge his duties in relation to any activity regulated by MAS under the relevant legislation;

- (c) in relation to a relevant person whose activity is regulated by MAS under the FAA, the IA, the SFA or the TCA and where the relevant person is an institution, exempt financial institution or exempt entity, whether its directors or equivalent persons, chief executive officer or equivalent person, the persons that it employs, authorises or appoints to act on its behalf, in relation to its conduct of the activity regulated under the relevant legislation, where applicable, have satisfactory educational qualification or experience, whether in Singapore or elsewhere;
  
- (d) in relation to a relevant person whose activity is regulated by MAS under the FAA or the SFA, whether the representative of the relevant person has:
  - (i) satisfactory educational qualification or experience, whether in Singapore or elsewhere, having regard to the nature of the duties they are required to perform; and
  - (ii) satisfied the requirements stipulated in the Notice on Minimum Entry and Examination Requirements for Representatives of Holders of CMS Licence and Exempt Financial Institutions [Notice No. SFA 04-N06] or Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers [Notice No.FAA-N07], as the case may be and as may be applicable to the representative;

- (e) in relation to a relevant person whose activity is regulated by MAS under the IA, whether the broking staff of the relevant person has:
  - (i) satisfactory qualification or experience, whether in Singapore or elsewhere, having regard to the nature of the duties he is to perform; and
  - (ii) satisfied the requirements stipulated in the Notice on Minimum Standards and Continuing Professional Development Requirements for Insurance Brokers and their Broking Staff [Notice No. MAS 502], as may be applicable to the broking staff;
  
- (f) in relation to an Appointed Actuary or a Certifying Actuary:
  - (i) whether the actuary has satisfactory past performance or expertise indicating knowledge of the local life or general insurance market;
  - (ii) whether an Appointed Actuary is a Fellow of Singapore Actuarial Society (SAS);
  - (iii) whether a Certifying Actuary is a member of the SAS and is a Fellow of an association recognised by the International Actuarial Association.

### **Financial Soundness**

13 The factors set out in the following paragraphs are relevant to the assessment by MAS of the financial soundness of a relevant person. MAS will consider<sup>2</sup>, amongst others, whether the relevant person:

- (a) is or has been unable to fulfil any of its or his financial obligations, whether in Singapore or elsewhere;
- (b) has entered into a compromise or scheme of arrangement with its or his creditors or made an assignment for the benefit of its or his creditors, being a compromise or scheme of arrangement or assignment that is still in operation, whether in Singapore or elsewhere;
- (c) is subject to a judgment debt which is unsatisfied, either in whole or in part, whether in Singapore or elsewhere;
- (d) in addition to sub-paragraphs (a) to (c), in the case where the relevant person is an individual:
  - (i) is or has been the subject of a bankruptcy petition, whether in Singapore or elsewhere;
  - (ii) has been adjudicated a bankrupt and the bankruptcy is undischarged, whether in Singapore or elsewhere; or
  - (iii) is or has been subject to any other process outside Singapore that is similar to those referred to in sub-paragraph (i) and (ii); and
- (e) in addition to sub-paragraphs (a) to (c), in the case where the relevant person is a corporation:
  - (i) is or has been the subject of a winding up petition, whether in Singapore or elsewhere;
  - (ii) is in the course of being wound-up or otherwise dissolved, whether in Singapore or elsewhere;

- (iii) is or has been a corporation where a receiver, receiver and manager, judicial manager, or such other person having the powers and duties of a receiver, receiver and manager, or judicial manager, has been appointed, in relation to, or in respect of any property of, the corporation, whether in Singapore or elsewhere; or
- (iv) is or has been subject to any other process outside Singapore that is similar to those referred to in subparagraphs (i) to (iii).

### **Cancellation of Guidelines**

14 These Guidelines take immediate effect. The Guidelines on Fit and Proper Criteria (Guideline No. MCG-G01) issued on 1 July 2005 are cancelled.

Issue Date : 7 September 2007