



Sensitization on the Fit & Proper Process for Microcredit Entities

Financial Institutions Supervisory Division

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Objectives

Objectives:

- Raising Microcredit Institutions' awareness of their Fit & Proper obligations and responsibilities;
- Clarifying any misunderstanding relating to the Standards of Sound Practice; and
- Aiding Microcredit Institutions in making quality fit and proper submissions to the Supervisor.

Legal Basis for Fit & Proper Assessments

- Statutory function of the Regulatory Authority

- Section 4(1)(b): The Regulatory Authority shall be responsible for the general administration of this Act and for the supervision of microcredit institutions, and through the Supervisor and the Supervisory Department shall develop standards of practice and codes of conduct and guidance for the general operation of licensees including addressing the fit and proper requirements specified in section 2(2);

- Requirement for the grant of a microcredit licence

- Section (10)(5)(b): The Supervisor shall not grant a licence under this section, unless the Supervisor is satisfied that the substantial shareholders and officers of the company for whom an application is being made, are fit and proper persons.
- Section 19(5)(c): In determining whether or not to approve an application made under subsection (1), the Supervisor shall take into account such matters as the Supervisor considers relevant to the application, including whether the applicant meets the fit and proper criteria specified in section 2(2);

- Condition for the retention of a microcredit licence

- Section 27(1): The Supervisor may revoke a licence if a substantial shareholder or an officer is no longer a fit and proper person, and the licensee has refused or neglected to take the appropriate action.

Who is a Fit & Proper Person?

- Under the Microcredit Act, a Fit & Proper Person is someone who:
 - Has the knowledge, skill and experience necessary for their intended role / function;
 - Has not been convicted of an offence involving fraud / dishonesty;
 - Is not bankrupt (as defined by the insolvency act);
 - Is a person of probity;
 - Has no conflict of interest with the MCI through employment, board appointment or ownership;
 - Exhibits competence and sound judgement; and
 - Does not and has not engaged in deceitful, oppressive or otherwise improper business practices.
- The Microcredit Institution is thus advised to make good decisions in relation to who it employs to be its directors, employees and owners, i.e., to choose people whom can conform to the required standards above.

The Fit & Proper Process

- Definition:

- The Fit & Proper process is the procedure used to evaluate the probity, financial soundness, competence and suitability of relevant persons for a particular role.

- Aim of the Process

- To deter persons who are not fit and proper from trying to enter/attain ownership/access employee roles in the financial system.
- To remove persons who are not fit and proper from the financial system.
- To promote high standards of corporate governance within the MCI sector

The Fit & Proper Process

- Who Should be Assessed:

- Directors; director or trustee or other person who is a member of the board or other body of the MCI who is responsible for the governance and oversight of the company.
- Substantial shareholder; a person who holds twenty percent or more of the shares of an MCI (*Please note, however, that the Regulator may decide to assess owners even below the 20% threshold*).
- Officer; chief executive officer, president or vice-president (however designated), general manager, company secretary, chief financial officer, financial controller, chief accountant, general accountant or treasurer; **any person who performs functions similar to those normally performed by the holder of any position referred to above, by whatsoever name/position called.**

The Fit & Proper Process

- What is Required:
 - Fully completed and duly certified Personal Questionnaire (Competence, Financial Soundness & Probity).
 - Satisfactory Clearance Report from the Jamaica Constabulary Force and/or Overseas Law Enforcement Police clearance report, where applicable (Probity).
 - Satisfactory Clearance Report from the Financial Investigations Division (Financial Soundness & Probity).
 - Institution due Diligence Summary Report (Competence, Probity & Financial Soundness).
 - ✓ The institution is required to have carried out its own evaluation which served as the basis for determining that the proposed individual is “fit and proper”. A summary of this institutional assessment must be submitted to the Bank. This summary must include how the DTI came to its conclusion of the person’s competence, probity and financial soundness.
 - Credit Report (Financial Soundness).
 - Tax Compliance Certificate where relevant (Probity, Financial Soundness & Competence).
 - Photograph.
 - Identification.

The Fit & Proper Process

- When Documents are Required (Frequency):

Document	Required Frequency
Fully completed and duly certified PQ	Initially and then every 7 years (Please note, however, that a 1 page APQ will be required annually)
Police Clearance Reports (JCF)	Initially and then every 7 years
Clearance Report from the FID	Initially and then every 7 years
Overseas Law Enforcement Reports	Initially (and every 7 years if the candidate resides overseas at any time during that 7 year period)
Certified / Notarised colour passport sized picture	Initially and then every 7 years
Summary of Microcredit Institutions due diligence on the individual.	Initially and then every 7 years
Credit Report	Initially and then every 7 years
TCC (where applicable)	Initially, then annually/when requested or at frequency in line with risk profile of the licensee

The Fit & Proper Process

- What Happens Initially:
 - An initial review of documentation to identify any gaps in information.
 - A comprehensive review to include the information provided by the MCI, as well as in house BOJ due diligence and feedback from other regulators, where applicable.
 - Determination by a panel to grant a non objection, or to reject candidate.
 - A non-objection or a rejection letter is sent to the MCI Licensee's Board Chairperson and CEO.

The Fit & Proper Process

- What Happens; Other Actions that Trigger the Need for an Assessment:
 - Material Changes
 - A comprehensive assessment will also be required in other instances where there are material changes in the nature and scope of the responsibilities assumed by an individual which would require higher standards of competence or judgement in order to properly perform the duties associated with said position (e.g. upon promotion, a new appointment)
 - 7 Year Comprehensive Reassessment:
 - This Process is required to be repeated for MCIs every seven (7) years, i.e., a comprehensive reassessment. This 7-year review is a comprehensive reassessment of candidates who are continuing in their respective capacities. The institutions are again required at this point to supply the Bank with their own assessment of the candidates stewardship over the 7-year period, in addition to all other relevant documentations that must be submitted to complete the assessment.
 - Other Reasons:
 - Where findings of the MCI examinations team point to or uncover information which may affect the ongoing fitness and propriety of a relevant person;
 - In response to a request for regulatory cooperation; and
 - Where the Bank is notified of information which may adversely impact a person's fitness and propriety.

The Fit & Proper Process

- Responsibilities

Responsibilities of the MCI	Responsibilities of the Regulator
<ul style="list-style-type: none">• Manage the business prudently.• Develop and implement clear due diligence processes to guide the hiring and appointment of directors and all staff.• Ensure that all candidates remain fit and proper (this is an ongoing responsibility even though the reassessments are 7 years apart).• Ensure that the level of scrutiny of their internal fit and proper process is commensurate with the degree of candidate's influence and responsibility within the MCI.• Remove employees, directors or owners that they have found are no longer fit and proper, and inform the Regulator immediately.	<ul style="list-style-type: none">• Ensure MCI compliance with Fit and Proper requirements.• Periodically review processes for consistency with international best practice while being fit for purpose for local context.• Assess and make determinations on the fitness and propriety of candidates submitted.• Review data submitted.• Periodically scan the media, local and overseas databases regarding information on candidates.

Duty of Licensees

- Duty of Licensee:
 - Section 21(1)(b): A licensee shall, in writing, forthwith, notify the Supervisor of any circumstance which renders a substantial shareholder or officer of the licensee unfit to hold office or incapable of satisfying the requirements of a fit and proper person under section 2(2), and the action that is being taken with regard to such matter;
 - Section 30(1): Every licensee shall ensure that each substantial shareholder and officer remains a fit and proper person.
- A breach of these provisions is an offence under the MCA.

Notification to Bank of Jamaica

- All microcredit institutions are required to notify the Supervisor in writing of proposed substantial shareholders and officers.
- The microcredit institutions are required to await the final determination of fitness and propriety by the Supervisor before effecting appointments, confirmations and/or acquisitions.
- Licensees are statutorily required to immediately notify the Supervisor, in writing, of:
 - any dismissal or resignation of an officer and the reason(s) for the dismissal or resignation;
 - any circumstance that renders a substantial shareholder or officer of the licensee unfit to hold office, or incapable of satisfying the requirements of a fit and proper person under section 2(2), and advise on action that is being taken with regard to such matter; and
 - of any fraud or other criminal activity committed by or against the licensee or any other matter that could reasonably be viewed as adversely impacting the licensee's reputation or status as a licensee.

Questions

