



公 司 註 冊 處
COMPANIES REGISTRY

**Guideline on Fit and Proper Criteria
for Licensing of Money Lenders**

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Part 1 Introduction

- 1.1 This Guideline on Fit and Proper Criteria for Licensing of Money Lenders (“this Guideline”) is issued by the Registrar of Money Lenders (“the Registrar”) to outline the criteria and matters that the Registrar will normally consider in determining the fitness and properness of applicants for money lenders licences, licensed money lenders (“the licensees”), and their related persons.
- 1.2 For the purposes of determining whether there are grounds for making an objection to the licensing court against an application under the Money Lenders Ordinance, Cap. 163 (“the MLO”) for the grant, renewal or transfer of a money lenders licence (“licence”) or the endorsement of new premises with respect to a licence, the Registrar will assess whether the applicant and his/her/its related persons (if applicable) are fit and proper persons to carry on business as a money lender or to be associated with the business of money-lending. In considering whether to make an application to the licensing court for revocation or suspension of a licence, the Registrar will consider, among others, whether the licensee has ceased to be a fit and proper person to carry on business as a money lender.
- 1.3 In assessing the fitness and properness of a person, the Registrar will take into account the relevant facts and circumstances of each individual case, including but not limited to the criteria and matters set out in this Guideline.
- 1.4 This Guideline provides general guidance on matters that will be considered by the Registrar in determining the fitness and properness of a person, but is not intended to be exhaustive. Matters that may be considered by the Commissioner of Police in his assessment of the fitness and properness of a person are also not covered by this Guideline.
- 1.5 This Guideline should be read in conjunction with the MLO, the conditions imposed on the licence (“licensing conditions”), other relevant ordinances, and any relevant rules, regulations and guidelines. If considered necessary, the relevant party should seek independent professional advice.
- 1.6 This Guideline will be kept under review and may be revised from time to time as considered appropriate.

Part 2 Application of this Guideline

2.1 This Guideline applies to the following persons with respect to applications for the grant, renewal or endorsement of licences under the MLO:

- (a) in the case of an application for the grant or renewal of a licence¹:
 - (i) the applicant,²;
 - (ii) if the applicant is a firm, every partner thereof³;
 - (iii) if the applicant is a company, any person who controls such company or in accordance with whose directions or instructions the directors thereof are accustomed to act⁴, any director or secretary or other officer of the company⁵;
 - (iv) any person responsible for or proposed to be responsible for the management of the business of money-lending of the applicant, or any part thereof⁶;
- (b) in the case of an application for endorsement of his or her name on the licence of a deceased money lender, the applicant⁷; and
- (c) in the case of an application for endorsement of new premises (by way of addition or substitution) on a licence, any person responsible or proposed to be responsible for the management of the business of money-lending carried on at such premises⁸.

Persons referred to in this paragraph 2.1 should continue to be fit and proper persons after the grant of licence or endorsement and for so long as they serve the position(s) referred to in this paragraph 2.1 in relation to the licensee concerned or the business of money-lending of such licensee.

2.2 The criteria and matters set out in this Guideline also apply to the consideration by the Registrar as to whether the licensee has ceased to be a fit and proper person to carry on business as a money lender in relation to the making of an

¹ Sections 8 and 13 of the MLO.

² Section 11(5)(a) of the MLO.

³ Section 11(5)(a) of the MLO.

⁴ Section 11(5)(b) of the MLO.

⁵ Section 11(5)(c) of the MLO.

⁶ Section 11(5)(c) of the MLO.

⁷ Section 15(2) and (7)(b) of the MLO.

⁸ Section 15(3), (4) and (7)(e) of the MLO.

application to the licensing court for an order to revoke or suspend the licence⁹. In considering whether a licensee has ceased to be fit and proper, apart from the licensee being the holder of the licence, the fitness and properness of the following persons who are related to the licensee would also be considered under the criteria and matters set out in this Guideline:

- (a) any person responsible for the management of the business of money-lending of the licensee, or any part thereof; and
- (b) in the case of the licensee being a company, any person who controls the licensee or in accordance with whose directions or instructions the directors thereof are accustomed to act, any director or secretary or other officer of the licensee.

2.3 With respect to an application for the name of an applicant to be endorsed on the licence of a deceased money lender¹⁰, apart from the applicant, the fitness and properness of any person responsible for or proposed to be responsible for the management of the business of money-lending of the deceased money lender, or any part thereof, would also be considered.

⁹ Section 14 of the MLO.

¹⁰ Section 15(2) of the MLO.

Part 3 Criteria and Matters for Considering Fitness and Properness

- 3.1 For the purpose of Part 3 of this Guideline, unless otherwise specified, a reference to a “person” means the licensee and any other person referred to in paragraphs 2.1, 2.2 and 2.3 above, as the case may be.
- 3.2 In assessing whether a person is fit and proper to carry on business as a money lender or to be associated with the business of money-lending, the Registrar will take into account the following criteria and matters in so far as they are applicable or relevant to the person concerned, which will be considered in the context of the relevant facts and circumstances of each individual case.

Compliance records

- (a) Whether the person has any record of non-compliance with any provisions of the MLO, the Money Lenders Regulations, Cap. 163A or the licensing conditions. Examples are the issue of rectification orders or warning letters, taking of prosecution actions, raising of objection to applications for the grant or renewal of licences, or previous revocation or suspension of licences in relation to any non-compliance with the MLO, the Money Lenders Regulations or the licensing conditions.
- (b) Whether the person is in compliance with guidelines promulgated for licensees, including but not limited to the Guidelines on Licensing Conditions of Money Lenders Licence and the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Licensed Money Lenders issued by the Registrar.
- (c) In case the person is a company incorporated or registered under the Companies Ordinance, Cap. 622 (“CO”), whether the person has good records of compliance with the CO, e.g. compliance with various filing obligations as required by the CO.

Management

- (d) Whether the person has genuine intention and readiness to carry on the business of money-lending as proposed in the licence application and the business plan submitted therewith (if applicable).
- (e) Whether the person has established effective anti-money laundering and counter-terrorist financing (“AML/CTF”) systems to ensure compliance with all applicable AML/CTF requirements for money lenders. A positive example is the appointment of a competent compliance officer of a sufficient level of seniority and authority within the licensee to oversee the establishment and maintenance of the licensee’s AML/CTF systems.
- (f) Whether there are adequate and effective policies, procedures and controls in relation to recruitment, training and supervision of staff to ensure that persons who are employed by, or associated with, or act for the licensee in relation to the business of money-lending are and remain fit and proper for the business.
- (g) Whether the person has provided the necessary infrastructure and internal control systems to manage risk effectively, avoid conflict of interest and provide proper audit trail.
- (h) Whether the person has been untruthful or provided false or misleading information or omitted material information to the Registrar or been uncooperative with the Registrar in the performance of a function under the MLO. Examples include failure to submit or late submission of completed proforma for various exercises for collection of information as requested by the Registrar pursuant to the relevant licensing condition, failure to notify the Registrar of changes of particulars entered in the register of licensees within the period prescribed under the MLO.

Financial status

- (i) Whether the financial position of the person is suitable for the carrying on of the business of money-lending. Negative examples are the person has failed to satisfy any judgment debt under a court order or has made any compromise or arrangement with his creditors.
- (j) Whether the person, being an individual, is an undischarged bankrupt or is the subject of any bankruptcy proceedings under the Bankruptcy Ordinance, Cap. 6.
- (k) Whether the person, being a corporation, is in the course of being wound-up or whether a receiver has been appointed in relation to or in respect of any property of the corporation.

Ability to carry on money-lending business

- (l) Whether the person is equipped with the skills, knowledge, experience and professionalism necessary to carry on the money-lending business efficiently and effectively. In making the assessment, the person is generally expected to be able to display an understanding of the statutory and other regulatory requirements that apply to the business of money-lending.
- (m) Whether the person has the ability to carry out or manage, as the case may be, the money-lending business competently, honestly and fairly and, in a manner which is not detrimental, or likely to be detrimental, to the interests of the borrowers or members of the public. Positive examples are the person has not contravened any law designed for consumer protection, and the person has not been the subject of any complaint made reasonably and in good faith relating to the licensee's conduct of carrying on the money-lending business.
- (n) Whether there is any event or incident indicating that the person may be incompetent or negligent, e.g. the person having been dismissed or requested to resign from any position or office for

misconduct, incompetence, negligence or mismanagement.

Reliability and Integrity

- (o) Whether the person has been found by a court or other competent authority in Hong Kong or elsewhere civilly liable for fraud, dishonesty, misfeasance or other misconduct.
- (p) Whether the person, in connection with the formation or management of the applicant or another business entity, has been found by a court or other competent authority in Hong Kong or elsewhere civilly liable for fraud, dishonesty, misfeasance or other misconduct by the person towards the applicant or the business entity (as the case may be) or any members thereof.
- (q) Whether the person has been disqualified by a court in Hong Kong or elsewhere from being a director.

Disciplinary Actions

- (r) Whether the person has been refused or restricted, in Hong Kong or elsewhere, from the right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law.
- (s) Whether the person has been reprimanded, censored, disciplined, publicly criticized or disqualified by any professional or regulatory body in Hong Kong or elsewhere in relation to any trade, business or profession.
- (t) Whether the person is the subject of an investigation and/or disciplinary action or proceeding conducted by any professional body established under any laws, regulatory authority or law enforcement agency in Hong Kong or elsewhere.