



INSURANCE COMMISSION  
OF THE BAHAMAS

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## GUIDELINES FOR ASSESSING GENERAL FITNESS AND PROPRIETY

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## INTRODUCTION

The Insurance Commission of The Bahamas (the Commission) is responsible for the licensing, regulation and supervision of all insurance business conducted in and from within The Bahamas. Pursuant to Section 8 of Insurance Act, 2005 (the Act), the Commission's functions and powers include, but are not limited to, the following: (i) to maintain surveillance over the insurance market; (ii) to promote and encourage sound and prudent insurance management and business practices; and (iii) to ensure that the provisions of the Financial Transactions and Reporting Act, and other anti-money laundering legislation are complied with.

The Act states that, as a condition of registration and licensing, key persons performing controlled functions must be deemed fit and proper to conduct insurance business in or from within The Bahamas. Pursuant to Section 30 of the Act, no company shall in any way effect a change in beneficial ownership or senior management without the prior approval of the Commission. All licensees and registrants are expected to conduct their affairs subject to all legislative requirements, international best practices, and regulatory reporting standards.

The Commission is also guided by the Insurance Core Principle (ICP) 5 – Suitability of Persons which provides the principles and standards which the Commission, as supervisory authority, must consider for assessing fitness and propriety for key persons performing controlled functions for regulated insurance entities.

These Guidelines should be read in conjunction with the following Guidelines:

- a. Guidance Note for Licence Application Process - for Domestic Insurers, External Insurers, and Intermediaries (Insurance Manager/Broker)
- b. Guidelines for Intermediary Registration – Agents, Brokers and Sub-Agents
- c. Guidelines for Intermediary Registration – Salespersons

## Purpose

This Guideline outlines the Commission's criteria for assessing general fitness and propriety for key persons performing controlled functions. The Guidelines do not limit the functions and powers that the Commission may exercise in requesting information to satisfy its assessment of general fitness and propriety.

## Scope

These Guidelines are applicable for all applicants, licensees, and registrants whether domestic or external, regardless of class.

Individuals identified as shareholders, directors, and senior management, charged with the responsibility of performing a controlled function, must be approved by the Insurance Commission of The Bahamas. This includes, but is not limited to, the following individuals:

1. Chairman or Deputy Chairman of the board of directors,
2. Principal Representative, Resident Representative, or Responsible Officer
3. Senior manager roles that may bear titles such as, President, Managing Director, Chief Executive Officer, General Manager, Vice President, Chief Financial Officer, Controller, or Treasurer.

## Definitions

The following terms are identified for consideration in understanding and assessing general fitness and propriety:

**Affiliated Person** – refers to a person exercising voting control of 5% or more of the share capital of the company.

**Controlled Functions** – refers to positions within an organization or outsourced to a third party that, by way of its function within an organization, exercises significant influence on the conduct of the affairs of an entity. Controlled functions within an entity includes, but are not limited to, the following areas: audit, actuarial, compliance, claims handling, money-laundering reporting and compliance, investments, treasury/finance, and underwriting.

**Key Persons**<sup>1</sup> – refers to persons identified in section 28 (f) and (g) of the Act which includes beneficial owners and persons holding the office of Managing Director, Chief Executive Officer or Principal Representative. For this guideline key persons also include individuals identified as “senior management”, Resident Representative, Chairman and Director of the Board.

**Senior Management** - Senior management will include any officer or employee of a regulated entity with sufficient knowledge and seniority to make decisions affecting the entity’s risk exposure. Senior Management may include an individual performing a controlled function or duly authorized to bind the entity.

**Significant Interest (Shareholder/Beneficial Owner)** – holding or exercising rights attaching to 10% or more of the shares of the regulated entity, whether such rights are held solely by an individual or jointly with another person or entity.

**Material Information** – any information to be submitted to the Commission and deemed material by the Commission to assess general fitness and propriety of key persons performing controlled functions.

## ASSESSING FITNESS AND PROPRIETY

The Commission’s fitness and propriety regime is an integrated approach, designed to protect policyholders and to maintain the integrity of the jurisdiction. In its assessment the Commission will consider the honesty, integrity and reputation of an applicant, licensee, or registrant (Moral Standing); review its competence, capabilities, and qualifications (Professionalism); and assess the financial soundness (Financial Standing).

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<sup>1</sup> For the purpose of these Guidelines, key persons include:- (1) Serving as a director of an entity which is supervised by the Insurance Commission of The Bahamas or of an applicant for a licence, approval or registration; (2) Serving as part of senior management (i.e., an individual who has been given the authority by the Board to commit the licensee with respect to legal and/or financial transactions) of an entity which is supervised by the Insurance Commission of The Bahamas or of an applicant for a licence, approval or registration; (3) Serving as a Principal Representative, Resident Representative, or Responsible Officer of an entity supervised by the Insurance Commission of The Bahamas; (4) Owning, holding or exercising voting control of significant interest of the share capital of an applicant or a licence, approval or registration (significant shareholders/beneficial owner); (5) Performing any other function in or for a regulated entity that is supervised by the Insurance Commission of The Bahamas and which requires approval, supervision, or monitoring by the Insurance Commission of The Bahamas.

## A. MORAL STANDING

The Commission assesses Moral Standing by considering an applicant's honesty, integrity and reputation. This includes matters not limited to:

1. Whether the applicant has been convicted of any criminal offence, not including:
  - a. Any minor offence, which may have been committed by the applicant under the age of 18, unless the same offence was committed within the last ten years; or
  - b. Any minor road traffic offence.

Special consideration will be paid to offences of dishonesty, fraud, financial crime, or other offences relating to banking, trust, insurance, and other financial services.

2. Whether the applicant, in The Bahamas, or elsewhere, has been censured, disciplined, warned as to future conduct, or made the subject of a court order at the instigation of any regulatory authority or any professional body or held a practicing certificate or licence subject to conditions.
3. Whether the applicant or body corporate, partnership or unincorporated institution which the applicant is or was associated as a director, key person, or executive officer, has been the subject of an investigation, in The Bahamas or elsewhere, by or at the instigation of a government department or agency, professional association, or other regulatory body.
4. Whether the applicant in The Bahamas or elsewhere, has been dismissed from any office or employment, or been subject to disciplinary proceedings by the applicant's employer or been barred from entry to any profession or occupation.
5. Whether the applicant, in connection with the formation or management of any body corporate, partnership or incorporated institution (insurance-related or otherwise), has been adjudged by a court, in The Bahamas or elsewhere, civilly liable for any fraud, misfeasance, or other misconduct by the applicant towards such a body or company or towards any of its members.
6. Whether any body corporate, partnership or unincorporated institution with which the applicant was associated as a director, key person, or executive officer, in The Bahamas, or elsewhere, has been wound up, made subject to an administration order, otherwise made any compromise or arrangement with its creditors or ceased operating, while the applicant was in its employ, or whether anything analogous to any of these events occurred under the laws of any jurisdiction.
7. Whether the applicant has been concerned with the management or conduct of the affairs of any institution that, by reason of any matter relating to a time when the applicant was so concerned, has been censured, warned as to future conduct, disciplined (including fines), or made the subject of a court order at the instigation of any regulatory authority, in The Bahamas or elsewhere.
8. Whether, in the past, the applicant has been candid and truthful in all dealings with any regulatory body, in The Bahamas or elsewhere and whether the applicant demonstrated a readiness and willingness to comply with the requirements and

standards of these regulatory systems and with other relevant legal and professional requirements and standards.

9. Whether the applicant is or expects to be, other than in a professional capacity, engaged in any litigation in The Bahamas or elsewhere.
10. How the applicant's reputation may impact upon the licensee or registrant, for which the controlled function is to be performed.
11. The existence of other material information, not specifically requested, but may have a bearing on the Commission's assessment of the applicant.

The Commission will assess each application on a case-by-case basis and will consider:

- How serious was the offence, and what were the circumstances surrounding the offence?
- What is the explanation offered by the convicted person and is there any evidence of rehabilitation?
- How relevant is the offence to the proposed role?
- How much time has passed since the offence has been committed?

## **B. PROFESSIONALISM**

Professionalism refers to an applicant's competence, capability and qualification. Has the applicant sufficiently demonstrated, either by experience, training, and/or qualifications, that if approved, the individual will be capable of performing the controlled function?

All senior management, and key persons in controlled functions must:

1. Have the appropriate experience and qualifications in insurance, corporate administration, business administration, law, or accounting;
2. Have the technical knowledge and ability to perform prescribed duties for which the applicant is engaged or intending to be engaged, especially recognized professional qualifications and membership to relevant professional institutions;
3. Be knowledgeable of the business affairs and activities of the licensee or registrant, and be able to respond to inquiries from the Commission about all aspects of the licensee's or registrant's operations; and
4. Be qualified and able to perform, as well as capable of assuming the responsibilities associated with the full administration and management of the licensee's or registrant's operations.

These factors will be considered in relation to the duties and responsibilities of the position the applicant wishes to hold. Persons performing a controlled function should understand the regulatory and legal environment relevant to the controlled function and be knowledgeable about the business affairs of the licensee or registrant, the industry and products associated with the licensee or registrant and the duties of the controlled function.

## **C. FINANCIAL STANDING**

To determine an applicant's Financial Standing, the Commission will consider factors including, but not limited to:

- i. Whether the applicant has failed to satisfy any overdue adjudged debt payable by the applicant, as a judgment under the court, in The Bahamas or elsewhere, or made any compromise arrangement with the applicant's creditors, specifically within the past 10 years.
- ii. Whether the applicant has been declared bankrupt by a court in The Bahamas or elsewhere.

With respect to applicants who are applying to own, hold, or exercise voting rights over 10% or more of the shareholdings of a licensee, registrant or applicant, the Commission requires the submission of a Statement of Net Worth, certified by a public accountant.

## **GENERAL CONSIDERATIONS**

Notwithstanding the above assessment criteria of moral standing, professionalism and financial standing, the Commission assesses each key person performing in a controlled function on its own merit. The considerations listed below also serve as guidance in the approval process for key persons and senior management applying to perform or presently performing in a controlled function.

- i. The assessment of fitness and propriety can be:
  - a. An initial test that is undertaken during an application for licensing or registration;
  - b. A test to approve or refuse the acquisition of a registered insurer or intermediary; or
  - c. An ongoing test in relation to the conduct of business by an entity and the Commission's ongoing regulation and supervision of that entity.
- ii. An applicant deemed fit and proper for a specific controlled function may not necessarily be considered fit and proper for any other role in the same licensee/registrant or with another entity.
- iii. While a person may have previously been considered fit and proper, the Commission reserves the right (through its functions and powers) to reassess a person's continued fitness and propriety to hold either a current or proposed controlled function; and
- iv. The Commission reserves the right to consider all relevant matters inclusive of any that may not be outlined within this guideline but are guided by its legislation and international best practices.

## **ONGOING OBLIGATIONS AND SUPPORTING SUBMISSIONS**

The Commission must be notified, in writing, in situations where there are material changes that affect any application or an entity's business model. It may be considered an offence and/or grounds to refuse an application for an applicant to knowingly:

- v. Provide false or misleading information or to make false or misleading statements (which may include withholding relevant information); or

- vi. Fail to inform or withhold from the Commission details of any material change in circumstances or new information which may be relevant or material to an applicant's status as an approved person.

As a result of ongoing regulation and supervision, the Commission will also consider an applicant's continued fitness and propriety in such circumstances where a licensee's operations have been conducted in a manner that offends the Commission's legislation and guidelines.

## **DUE DILIGENCE REQUIREMENTS**

Persons seeking to act as a key person or senior management in a controlled function must submit general due diligence documents to the Commission for their consideration and approval. The submission of general due diligence documents assists the Commission in assessing an individual's suitability to perform in a controlled function. Requirements will vary, depending on the category under which an applicant is seeking to be approved. The documents listed below are the primary documents assessed when applying to the Commission for approval as a key person and senior management.

1. **Character reference** – references should be dated within three months of receipt of the request for approval by the Commission and indicate the period and nature of relationship.
2. **Financial reference letter** – references should be provided by an approved financial institution and include a description of the nature and conduct of the financial relationship.
3. **Statement of net worth** – the statement should include all the relevant information to appropriately determine whether the applicant has the financial soundness and capacity to act in a controlled function. The statement of net worth should include a shareholder's total assets and liabilities to determine a net position.
4. **An updated resume or curriculum vitae** – the document should include a comprehensive description of past and present responsibilities, positions, education and qualified certifications to sufficiently determine the applicant's capacity to act in a controlled function.
5. **Copy of passport or other official forms of photo identification** – photo identification should be valid and bear a clear image of the applicant.
6. **Police or Criminal History Certificate** – original certificate or certified copy issued within the last six months from the jurisdiction of the applicant's most recent residence.
7. **Biographical affidavit** – form should be certified by a notary public and can be found at [www.icb.gov.bs](http://www.icb.gov.bs).
8. **Board Resolution or notification** - document issued by the appropriate parent entity or individual authorizing the request for approval by the Commission.

## APPENDIX

### I. SUBMISSIONS IN SUPPORT OF FITNESS AND PROPRIETY

Registered and Licensed Insurers and Intermediaries must submit the following for consideration of fitness and propriety for the following category of individuals:

#### **Shareholders, Directors and Senior Managers:**

- Bio-Affidavit
- Resume/Curriculum Vitae
- Character References (2)
- Statement of Net Worth<sup>2</sup>
- Valid Photo Identification (Government Issued)
- Police Record (issued within 6 months)
- Financial Reference (1)
- Additional proof of qualifications pertaining to education and experience

#### **Intermediaries – Agents, Brokers, Sub-Agents and Adjusters:**

- Bio-Affidavit
- Resume/Curriculum Vitae
- Character References (3)
- Statement of Net Worth<sup>2</sup>
- Police Record (issued within 6 months)
- Valid Photo Identification (Government Issued)
- Additional proof of qualifications pertaining to education and experience

#### **Salespersons**

- Letter of Sponsorship
- Valid Photo Identification (Government Issued)
- Police Record (issued within 6 months)
- High School Diploma (or General Education equivalent)

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<sup>2</sup> Statement of Net Worth – applicable to an affiliated person and any person holding significant interest in a registered or licensed entity. The statement of net worth may also be submitted upon request by the Commission.