

Regulatory Update – Hong Kong Companies Registry releases new Guideline on Fit and Proper Criteria for Licensing of Money Lenders (January 2021)

In January 2021, The Hong Kong Companies Registry, which acts as the Registrar of Money Lenders (“the Registrar”) under the Money Lenders Ordinance (Cap. 163) (“MLO”), released a new Guideline on Fit and Proper Criteria for Licensing of Money Lenders (“the Guideline”), which takes effect from 1 April 2021.

Key Changes

The Guidelines highlight the new fitness and properness criteria to be used by the Registrar when assessing applicants for money lenders licences, licensed money lenders (“the licensees”), and their related persons. The Guidelines apply to all applications under the MLO, which includes the grant, renewal or transfer of a money lenders licence and the application for new premises with respect to a money lenders licence.

The Registrar will assess whether the applicant, and its related persons, are fit and proper persons to conduct business as a money lender and will take into account relevant circumstances of each individual case, including the criteria listed below. Matters that may be considered by the Commissioner of Police in the assessment of the fitness and properness of a person, are not covered by the Guideline.

Applicability

The Guidelines apply to the following individuals / companies applying for the grant, renewal or endorsement of licenses under the MLO:

- The applicant;
- If the applicant is a firm, every partner thereof;
- If the applicant is a company, any person who controls such company and any director, secretary or other officer of the company; and
- Any person responsible for the management of the money-lending business.

If you are serving any of the above positions, you will be required to remain fit and proper whilst actively holding such position.

Fit and Proper Criteria

The Registrar will take into consideration the following criteria when assessing whether a person is fit and proper to carry on or to be associated with the business of money-lending:

Compliance Records

Whether the applicant has any record of non-compliance with the provisions set out in the MLO and its subsidiary regulation e.g. the Guidelines on Licensing Conditions of Money Lenders Licence, and whether the applicant has a good record of compliance with the Companies Ordinance (Cap. 622) (“CO”), if incorporated/registered under the CO.

Management

Whether the applicant has a serious intention to conduct the business of money lending and has implemented adequate internal control systems to cover anti-money laundering and counter-terrorist financing (“AML/CTF”), recruitment, training and supervision of staff. In a renewal of application, the Registrar will also take into account whether the applicant has been completely truthful in the information provided to the Registrar when conducting its previous money-lending activities.

Financial Status

Whether the applicant’s financial situation is suitable for conducting money-lending activities and it has not been subject to any bankruptcy proceedings under the Bankruptcy Ordinance (Cap. 6).

Ability to carry on money-lending business

Whether the applicant, and its personnel, have the sufficient skills, knowledge and experience to conduct money-lending activities in a fair and honest manner which is not detrimental to the interests of its clients.

Reliability and Integrity

Whether the applicant, or any of its personnel, have been found by a court to be guilty of fraud, dishonesty, misfeasance or other misconduct.

Disciplinary Actions

Whether the applicant, or any of its personnel, have been restricted the right to carry on any business, censored or disciplined by a professional body, or are the subject or any investigation conducted by a professional body.

How we can help

ComplianceAsia’s dedicated licensing team can assist those seeking a money lender licence with the full preparation, filing and ongoing application support up until receipt of license under the MLO, which includes a detailed assessment of the fitness and properness of the persons involved in the application.



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