



**MONETARY BOARD
CENTRAL BANK OF SRI LANKA**

19 December 2019

BANKING ACT DETERMINATION

No. 01 of 2019

**ASSESSMENT OF FITNESS AND PROPRIETY OF CHIEF EXECUTIVE OFFICER
AND OFFICERS PERFORMING EXECUTIVE FUNCTIONS IN LICENSED BANKS**

In terms of the powers conferred by Section 44A read with Section 76H of the Banking Act No. 30 of 1988, as amended, the Monetary Board hereby issues the Banking Act Determination on assessment of fitness and propriety of Chief Executive Officer (CEO) and Officers Performing Executive Functions.

1 Empowerment

1.1 In terms of Section 44A read with Section 76H of the Banking Act No. 30 of 1988, as amended, CEO and such other Officers Performing Executive Functions of licensed commercial banks and licensed specialised banks (hereinafter referred to as licensed banks) as determined by the Monetary Board shall be fit and proper persons and Section 42(2) of the Banking Act shall apply in determining whether such officers are fit and proper persons.

**2 Officers
Performing
Executive
Functions**

2.1 Officers holding following designations/ positions are determined as Officers Performing Executive Functions in a licensed bank:

- (i) Additional General Manager
- (ii) Senior Deputy General Manager
- (iii) Deputy General Manager
- (iv) Senior Vice President
- (v) Assistant General Manager
- (vi) Chief Operating Officer
- (vii) Chief Risk Officer
- (viii) Chief Accountant
- (ix) Chief Financial Officer
- (x) Chief Internal Auditor



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| | <ul style="list-style-type: none">(xi) Chief Information Officer(xii) Chief Information Security Officer(xiii) Compliance Officer(xiv) Head of Treasury(xv) Head of Legal(xvi) Head of Information Technology(xvii) Board Secretary(xviii) Any other officer falling under the definition of section 3(1)(i)(f) of the Banking Act Direction Nos. 11 and 12 of 2007 on Corporate Governance for Licensed Banks in Sri Lanka.(xix) In addition to the positions/designations mentioned above, officers in the immediate two layers below the level of CEO in the organizational structure of the licensed banks will be determined as Officers Performing Executive Functions/KMPs for the purpose of assessing fitness and propriety. |
| <p>3 Information to be furnished and deadline for submission</p> | <ul style="list-style-type: none">3.1 The person proposed to be appointed or nominated as CEO or Officer Performing Executive Functions of a licensed bank shall submit the original Affidavit as given in Schedule I, before such person is appointed to the designated post of a licensed bank.3.2 The Affidavit shall be completed in line with the attached Guidelines for completing same.3.3 The Chairman and CEO, respectively, shall attest and forward Affidavits with respect to CEO and Officers Performing Executive Functions. |



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19 December 2019

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No. 01 of 2019

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- | | | |
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| 4 | Assessment of
Fitness and
Propriety | 3.4 The Affidavit should be submitted under confidential cover to the Director of Bank Supervision 15 working days prior to the expected date of appointment. |
| | | 3.5 Licensed banks shall inform the Director of Bank Supervision of the retirements/resignations/terminations of employment of CEO or Officers Performing Executive Functions of a licensed bank with reasons within 3 working days of such retirements/resignations/termination. |
| | 4.1 | The Director of Bank Supervision shall assess the fitness and propriety of the proposed person based on the criteria set out in the Banking Act and the Directions issued thereunder. |
| | 4.2 | In addition to the provisions of Section 42 (2) of the Banking Act, the criteria set out in the Banking Act Direction Nos.11 and 12 of 2007 on Corporate Governance for licensed banks will also be applicable for the assessment of fitness and propriety of CEO and Officers Performing Executive Functions. |
| | 4.3 | The Director of Bank Supervision shall assess the information submitted through the Affidavit and issue a letter approving or declining to approve the proposed appointment. |
| | 4.4 | CEO/Officers Performing Executive Functions shall undertake to keep the licensed banks fully informed, as soon as possible, of all subsequent events relevant to the information provided in the Affidavit which may have an impact on the assessment of fitness and propriety. |
| | 4.5 | The Company Secretary of the licensed bank shall notify the Director of Bank Supervision of all subsequent events as informed by CEO/ Officers Performing Executive Functions |



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CENTRAL BANK OF SRI LANKA**

19 December 2019

BANKING ACT DETERMINATION

No. 01 of 2019

under Direction 4.4 above within 15 days of becoming aware of such facts.

- 4.6 At the time of first appointment of an officer as the CEO/Officer Performing Executive Functions in the bank, a letter from the former employer/employers during the preceding 5 years of the appointment (if the former employer is not a licensed bank in Sri Lanka) regarding the level of performance of duties assigned to him / her in the particular institution should be submitted to the Director of Bank Supervision.
- 4.7 In the case of an expatriate CEO or Officers Performing Executive Functions appointed to branches of banks incorporated outside Sri Lanka (i.e foreign banks), a letter obtained from the home country regulator with regard to any supervisory concerns on the suitability of such officers should be submitted directly to the Director of Bank Supervision.
- 4.8 Acting arrangements for CEO exceeding a period of one month approved by the Board of Directors (With respect to foreign banks, Board of Directors shall mean Head of the Office supervising Sri Lankan operations) of the respective licensed bank shall be informed to the Director of Bank Supervision 15 working days prior to the expected date of commencement of such arrangement along with the duly completed Affidavit of the proposed person.
- 4.9 A licensed bank shall not appoint any officer other than an Officer Performing Executive Functions to act on behalf of CEO.
- 5 Re-assessments
- 5.1 CEO shall submit the Affidavit annually, 15 working days before the Annual General Meeting of the respective licensed bank or by 31st March of each year, whichever is earlier.



**MONETARY BOARD
CENTRAL BANK OF SRI LANKA**

19 December 2019

BANKING ACT DETERMINATION

No. 01 of 2019

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- | | |
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| 6 Officers serving as Consultants/ Advisors to the Board/Bank | <p>5.2 Officers Performing Executive Functions will be re-assessed at the time of promotions, renewal of contracts and on lateral moves to positions requiring special knowledge and/or skills. The licensed bank shall submit the Affidavit together with the reasons and basis for such selection within 15 working days of such change.</p> <p>5.3 Fitness and propriety of CEO and Officers Performing Executive Functions will be carried out at any time where there are supervisory concerns in respect of any officer above as may be determined by the Director of Bank Supervision.</p> <p>6.1 The Board of Directors of the licensed bank shall ensure that the Consultants/Advisors to the Board/bank are fit and proper persons and shall formulate appropriate policies and procedures for obtaining the services of Consultants/Advisors to the Board/bank.</p> <p>6.2 Licensed bank shall carryout the assessment of fitness and propriety of Consultants/Advisors based on the criteria set out in Section 42(2) of the Banking Act and the Banking Act Directions Nos.11 and 12 of 2007 on Corporate Governance.</p> <p>6.3 The licensed bank shall obtain from the Consultant/Advisor to the Board/bank the duly completed Affidavit which is prepared based on the Affidavit annexed hereto and shall submit when required by the Director of Bank Supervision.</p> <p>6.4 Consultants/Advisors to the Board/bank who are engaged for specific deliverables and who is a partner or an employee of a Consultancy practice/firm are not permitted to undertake any executive functions in the licensed bank.</p> |
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**MONETARY BOARD
CENTRAL BANK OF SRI LANKA**

19 December 2019

BANKING ACT DETERMINATION

No. 01 of 2019

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| 6.5 | In the case of individuals who are employed as Consultants/Advisors, the period of engagement shall be limited to 12 months in aggregate over any 3-year period. |
| 7 Interpretation | 7.1 Key Management Personnel in Banking Act Direction Nos. 11 and 12 of 2007 on Corporate Governance for Licensed Banks in Sri Lanka shall mean Officers Performing Executive Functions as referred to in this Determination. |
| 8 Date of Implementation | 8.1 This Determination shall come into effect commencing 01 January 2020. |
| 9 Revocation of Determinations and Circular | 9.1 The following Banking Act Determinations and Circular are hereby revoked.

(i) Banking Act Determination Nos. 03 and 04 of 2010 dated 24 November 2010 on Assessment of Fitness and Propriety of Officers Performing Executive Functions in Licensed Banks.

(ii) Circular No.02/17/600/0017/001 dated 08 August 2011 on Assessment of Fitness and Propriety of Chief Executive Officers of Licensed Commercial Banks and Licensed Specialised Banks |

Dr. Indrajit Coomaraswamy
*Chairman of the Monetary Board and
Governor of the Central Bank of Sri Lanka*

**Assessing Fitness and Propriety of Chief Executive Officer¹ and Officers Performing
Executive Functions of Licensed Banks**

AFFIDAVIT

**Section 1: Information to be submitted in terms of Sections 42(2), 44A and 76H of the
Banking Act, No. 30 of 1988 (As amended)**

Passport size photo
*(Taken within last 6
months)*

Name of the Bank:

I *(full name)*,
holder of National Identity Card No². and Passport No.
.....of.....
..... *(address)*, being a [Buddhist / Hindu/ Muslim/ Christian / Catholic/other....
(please specify)] do hereby [solemnly, sincerely and truly declare and affirm/make oath and state
(please specify as appropriate)] as follows:

(1) I am the [affirmant/deponent] above named and I have been appointed or proposed to be
appointed as *(designation)* of *(name
of bank)* which is a licensed commercial bank/licensed specialised bank under the Banking Act
No. 30 of 1988.

(2) I state that my personal details are as follows:

2.1	(i) Name with Initials:		
	(ii) Title: Mr/Mrs/Ms/Dr/Prof/Other <i>(Please specify)</i>		(iii) Age as at date of signing the affidavit: days/months/years
	(iv) Date of Birth: dd/mm/yyyy		(v) Gender:
	(vi) Civil Status:	(vii) Nationality:	(viii) Citizenship: ³
			(ix) Local/expatriate:

¹ Includes Country Heads

² Not applicable for expatriates

³ A Dual Citizen is required to state whether he/she should be considered as local or expatriate

2.2	Contact Details	Permanent Address:				
		Residential Address:				
		(i) Telephone	Mobile			
			Fixed line			
			Fax			
		(ii) E-mail	Personal			
Official						
2.3	(i) Appointed or proposed Post/Designation in the bank:			(ii) Date of appointment to the Post/Designation (dd/mm/yyyy)		
2.4	(i) Details of Appointment of Chief Executive Officer/Officers Performing Executive Functions					
	New Appointment			Contract Basis		Lateral Move
	Promotion			Renewal of Contract		Other (<i>Please specify</i>)
2.5	2.5.1 Details of close relations in terms of Section 86 of the Banking Act					
	(i) Full name of the Spouse:					
	(ii) NIC No ² :			(iii) Passport No:		
	2.5.2 Details of dependent children					
	(i) Full Name			(ii) NIC No ² :	(iii) Passport No:	

(3) I state that I possess the following academic and/or professional qualification/s:

Qualifications (Academic)	Relevant discipline ⁴	Country	Name of the Institution	Year of completion
(i)				
(ii)				
Qualifications (Professional)				
(i)				

In this regard, licensed banks are required to maintain documentary evidence and shall submit such evidence as and when required by the Director of Bank Supervision.

⁴ (i) Banking/Finance (vii) Strategic Planning
(ii) Business /Administration (viii) Risk Management
(iii) Economics (ix) Human Resource Management
(iv) Accounting /Auditing / Financial Analysis (x) Law and Regulation
(v) Investment Management / Capital Markets (xi) Marketing
(vi) Information Technology (xii) Specific Qualifications according to the Mandate of the bank

(4) I state that the effective experience that I possess in banking, finance, business or administration or of any other relevant discipline⁴ is as follows:

Current Positions	Name of the Institution/ own business	Designation /Position	Nature of Appointm ent (as per item 2.4 as applicable)	Work Specializati on	Date of Appoin tment (dd/mm/ yyyy)	Service period (dd/mm/ yyyy to dd/mm/ yyyy)
<i>Directorships</i>						
(i) Specified Business Entities ⁵						
(ii) Other						
<i>Other Positions</i>						
Previous Positions						
<i>Directorships</i>						
(i) Specified Business Entities ⁵						
(ii) Other						
<i>Other Positions</i>						

In this regard, licensed banks are required to maintain documentary evidence and shall submit such evidence as and when required by the Director of Bank Supervision.

(5) In addition to the above information, I state that I possess the following additional qualifications:

Special Assignments / Consultancy	Name of the Institution	Description	Service Period (dd/mm/yyyy to dd/mm/yyyy)
(i)			
(ii)			
Outstanding Contributions (Publications, Seminars Conducted, Research etc.)			
Topic of the Research/publication		Institute/Place	Year

(6) I state that I hold/do not hold shares in licensed banks & their related companies (Subsidiaries⁶, Associates⁷ and Other Companies⁸), finance companies, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka.

⁵ In terms of the Sri Lanka Accounting & Auditing Standards Act No.15 of 1995

⁶ 'Subsidiary' as defined by Section 17(3) of the Banking Act

⁷ 'Associate Company' as defined by Section 46(1) of the Banking Act

⁸ Holds a substantial interest in terms of Section 86 of the Banking Act.

Name of the Institution/s	Voting/Non-voting	No. of shares		Percentage holding	
		Direct	Indirect	Direct	Indirect

(7) Business Transactions

7.1. I state that I have/do not have deposits with the bank, its subsidiaries or associate companies. *(If yes, please state name of the institution/s).*

7.2. I state that I currently have the following business transactions with the licensed bank & its related companies (Subsidiaries, Associates and Other Companies), finance companies, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka.

Name of the Institution/s	Date of Transaction (dd/mm/yyyy)	Amount as at dd/mm/yyyy (Rs.mn)		Classification (performing/non-performing)	Type and Value of Collateral (Rs.mn)	% of Bank's regulatory Capital
		Limit	Outstanding			
Borrowings						
Investments⁹						

(8) Appointments, Shareholdings and Business Transactions of Close Relations

8.1. I state the following details of my close relations presently employed as Directors, Chief Executive Officers or Officers Performing Executive Functions of any licensed bank, its related companies (Subsidiaries, Associates, and Other Companies), finance companies, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka.

Name of the Close Relation	Name of the Institution	Position Held

8.2. I state the following details of direct or indirect share ownership in the licensed bank, its related companies (Subsidiaries, Associates, Other Companies), finance companies, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka, if any, presently held by any close relation.

Name of the Close Relation	Name of the Institution	No. of Shares		Percentage Holding	
		Direct	Indirect	Direct	Indirect

⁹ Investments in debt instruments

8.3. I state that the close relation of mine currently has the following business transactions with the licensed bank, its related companies (Subsidiaries, Associates and Other Companies), finance companies, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka.

Name of the Close Relation	Name of the Institution	Date of Transaction (dd/mm/yyyy)	Amount as at dd/mm/yyyy (Rs.mn)		Type and value of collateral (Rs mn)	% of Bank's regulatory capital
			Limit	Outstanding		
Borrowings						
Investments⁹						

- (9) I state that there is a finding/no finding of any regulatory or supervisory authority, professional association, any Commission of Inquiry, tribunal or other body established by law in Sri Lanka or abroad, to the effect that I have committed or have been connected with the commission of any act which involves fraud, deceit, dishonesty or any other improper conduct.
- (10) I state that I am subject to/not subject to an investigation or inquiry consequent upon being served with notice of a charge involving fraud, deceit, dishonesty or other similar criminal activity, by any regulatory authority, supervisory authority, professional association, Commission of Inquiry, tribunal or other body established by law, in Sri Lanka or abroad.
- (11) I state that I have been convicted /not been convicted by any Court in Sri Lanka or abroad in respect of a crime committed in connection with financial management or of any offence involving moral turpitude.
- (12) I state that I am/am not an undischarged insolvent and have been/not been declared a bankrupt in Sri Lanka or abroad.
- (13) I state that I have failed/not failed, to satisfy any judgment or order of any Court whether in Sri Lanka or abroad, or to repay a debt.
- (14) I state that I have been/not been declared by a Court of competent jurisdiction in Sri Lanka or abroad, to be of unsound mind.
- (15) I state that I have been/ not been removed or suspended by an order of a regulatory or supervisory authority from serving as a Director/Chief Executive Officer/Officer Performing Executive Functions or any other officer in a licensed bank or any other financial institution or corporate body, in Sri Lanka or abroad.

- (16) I state that I have been/not been a Director, Chief Executive Officer or have held/not held any other position of authority in any bank or financial institution –
- (i) Whose licence has been suspended or cancelled; or
 - (ii) Which has been wound up or is being wound up, or which is being compulsorily liquidated; whether in Sri Lanka or abroad.
- (17) I state that I am aware of the provisions of the Banking Act on assessment of fitness and propriety of my position and confirm that the above information is to the best of my knowledge and belief true and complete. I undertake to keep the bank fully informed, as soon as possible, of all subsequent events, which are relevant to the information provided above.
- (18) I state that I am not prevented by any written law from being appointed to the above post.
- (19) I state that to the best of my knowledge I am a fit and proper person to be appointed or nominated as(designated) of a licensed commercial bank/licensed specialised bank in terms of the provisions of the Banking Act.

The averments contained herein were read over to the [affirmant/deponent] who having understood the contents hereof and having accepted same as true, affirmed/swore to and placed his/her signature at on this day of(Month, Year)

.....

*Affix Stamps
as applicable*

Before me

JUSTICE OF THE PEACE /
COMMISSIONER FOR
OATHS

Section 2: To be filled by the Company Secretary

1. Corporate Information

Recommendation of the Nomination Committee/Appointing Authority for the Chief Executive Officer and Officers Performing Executive Functions	
Assessment Criteria (Please specify the specific knowledge/skills considered by the Nomination Committee / Appointing Authority)	
Recommendation (Please attach minutes of the resolution/decision of the Nomination Committee/Appointing Authority)	

2. Remarks of the Board of Directors

- (1) Any other explanation / information regarding the details furnished above.
- (2) Submitted to the Board of Directors of the Bank /Approval has been granted by the Board of Directors for above appointment or nomination /proposed appointment or nomination at the meeting dated.....(dd/mm/yyyy)

Name:

Date:

**Signature of the Company
Secretary and the official stamp**

Section 3:

For Chief Executive Officer (Local banks) - To be filled by the Chairman

For Chief Executive Officer/Country Head (Foreign banks) - To be filled by the Regional Head

For Officers Performing Executive Functions - To be filled by the Chief Executive Officer

Declaration:

- (1) Any other explanation / information regarding the details furnished above and other information considered relevant for assessing the suitability of the Chief Executive Officer/Officer Performing Executive Functions of the bank.
- (2) I confirm that, in terms of Section 44A/Section 76H read with Section 44A of the Banking Act, No. 30 of 1988, the officer referred to above is fit and proper to be appointed as the Chief Executive Officer/an Officer Performing Executive Functions of
(Name of Bank)

Date:

**Signature of the Chairman / Regional
Head / Chief Executive Officer and the
official stamp**

**Guidance to Duly Complete the Affidavit
to be submitted by the Chief Executive Officers¹ (CEOs) and
Officers Performing Executive Functions of Licensed Banks**

This guidance is issued to ensure that sufficient and accurate information is provided by banks for assessing the fitness and propriety of CEOs and Officers Performing Executive Functions.

1. Purpose of Obtaining the Affidavit

- (i) The purpose of obtaining Affidavits of CEOs and Officers Performing Executive Functions of Licensed Banks (LBs) is to enable the Bank Supervision Department to assess their fitness and propriety in terms of the provisions of the Banking Act. Accordingly, the Bank Supervision Department requires comprehensive information to evaluate the qualifications, experience, integrity and compliance with other requirements specified in the Banking Act, to assess the suitability of CEOs, and Officers Performing Executive Functions.
- (ii) This Affidavit shall be the legally binding document in the event of any dispute.

2. Affidavit

- (i) It is preferable that the Affidavit is prepared as a fresh document, based on the format provided by the Bank Supervision Department, so as to avoid inclusion of unnecessary words. However, if the given format is filled, all alterations, erasures and interlineations should be initialed by the Commissioner for Oaths/Justice of the Peace immediately after all such amendments.
- (ii) All blank spaces should be completed appropriately.
- (iii) Appropriate words should be used based on the religion of the officer. If the officer refrains/objects to disclose his/her religion, a confirmation should be submitted by the officer stating that:
 - He/she is an atheist or belongs to a religion not mentioned in this Affidavit; or
 - He/she objects to disclosing his/her religion.
- (iv) Strike-out the irrelevant word(s). If the irrelevant words are stricken out, the Commissioner for Oaths/Justice of the Peace should place his initials immediately after all such amendments.
- (v) If the person is a foreigner and signs the Affidavit while overseas:

¹ Includes Country Heads

- Signature of the person should be attested by a Commissioner for Oaths or an equivalent in the country in which he places his signature.
 - Attestation should be made in front of the diplomatic or consular officer of Sri Lanka in the country where the Officer resides or in terms of the laws applicable in such country.
- (vi) Affix a stamp for the value applicable as at the date of signing the Affidavit, if applicable.
- (vii) Attest by a Commissioner for Oaths/Justice of the Peace immediately after the signature of the person at 'Before me'.
- (viii) CEOs and Officers Performing Executive Functions shall submit Terms of appointment (including designation, date of appointment, duties, responsibilities and remuneration package).
- (ix) Section 2 should be filled by the Company Secretary annexing a copy of the minutes of the Nominations Committee pertaining to the relevant appointment.
- (x) With reference to Section 3;
- With respect to CEOs of local banks, Section 3 of the Affidavit should be completed, dated and signed with official stamp/seal by the Chairman.
 - With respect to CEOs/Country Heads of branches of foreign banks, Section 3 of the Affidavit should be completed, dated and signed with official stamp/seal by the Regional Head.
 - For officers performing executive functions, this section should be duly filled by CEO.
- (xi) In item (1) of Sections 2 and 3, if there is no comment, it should be stated as Not Applicable/Nil/None.