



**MONETARY BOARD  
CENTRAL BANK OF SRI LANKA**

31 December 2021

**FINANCE BUSINESS ACT DIRECTIONS**

**No. 06 of 2021**

**ASSESSMENT OF FITNESS AND PROPRIETY OF**

**KEY RESPONSIBLE PERSONS**

- |                                       |  |
|---------------------------------------|--|
| <b>1. Legal provisions</b>            | <b>1.1</b> In terms of the powers conferred by Section 12 of the Finance Business Act, No. 42 of 2011 the Monetary Board of the Central Bank of Sri Lanka hereby issues these directions on the assessment of fitness and propriety of key responsible persons of Licensed Finance Companies (LFCs).   |
| <b>2. Objectives</b>                  | <b>2.1</b> Ensure that the key responsible persons of an LFC are able to exercise their responsibilities efficiently in view of managing the LFC soundly and prudently.<br><b>2.2</b> The key responsible person of an LFC would promote good governance practices on the conduct of business of LFCs which lead to the stability.<br><b>2.3</b> An LFC shall be accountable to establish such person is fit and proper to discharge the duties and responsibilities efficiently and in the best interests of stakeholders.  |
| <b>3. Scope and the applicability</b> | <b>3.1</b> These directions will be applicable for all key responsible persons in LFCs.<br><b>3.2</b> Key responsible persons proposed to be nominated, elected or appointed of an LFC shall obtain the prior approval of the Director for the appointment or continuation to the designated post of an LFC in terms of provisions of these directions.<br><b>3.3</b> The fitness and propriety of continuing board of directors, Chief Executive Officer (CEO) and other key responsible persons shall be annually assessed subject to direction 7.<br><b>3.4</b> Any resignation, retirement or removal of a key responsible person of an LFC shall be subject to direction 8. |
| <b>4. Key responsible person</b>      | <b>4.1</b> The key responsible persons in relation to an LFC shall be,<br>(a) Board of directors of the LFC (executive or otherwise and shall include alternate directors).  |



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(b) Senior management of the LFC

i. CEO

ii. Officers in the immediate two layers below the level of CEO on the LFC organization structure including Compliance Officer, Chief Internal Auditor, Chief Risk Officer, Chief Information Security Officer and Company Secretary. Such officers shall have authority and responsibility for planning, directing, and controlling the activities of the entity.

(c) Consultants or advisors to the board of directors, board sub-committees or senior management of the LFC, and

(d) Any other persons within the definition of the 'key management personnel' of the Finance Business Act, No.42 of 2011, as may be determined by the Director.

**5. Criteria for  
fitness and  
propriety  
assessment**

**5.1** The fitness and propriety of a key responsible person shall be assessed under the following criteria but not limited to the following,

**5.1.1 Nomination, election or appointment of a new key responsible person**

**(a) Honesty, integrity and reputation**

Shall be assessed based on the criteria set out under section 21 of the Finance Business Act No.42 of 2011 or as amended.

**(b) Competency and capability**

The competency and capability of a key responsible person shall match the requirements of the post and shall be assessed based on the following factors,

(i) Academic or professional qualifications or effective experience in banking, finance, business or administration, economics, accounting, auditing, financial analysis, investment management, capital



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markets, information technology, strategic planning, risk management, human resource management, law, marketing and specific qualifications and experience according to the mandate of the LFC.

- (ii) Skills that give the ability to understand the technical requirements of the business, identify inherent risks and the management processes.
- (iii) The level of performance and contribution towards the success of the organization in the previous directorship, employment or contract term.

**(c) Financial soundness**

Shall be assessed based on whether such person has been able to fulfil any financial obligations, in Sri Lanka or elsewhere.

**(d) Standard background checks**

Shall be assessed appropriately where relevant through credit bureau, reference checks, professional bodies, regulatory authorities and/or any other authorities.

**5.1.2 Existing/continuing key responsible persons**

**(a) Board of directors and CEO,**

- i) Criteria given in direction 5.1.1 excluding direction 5.1.1 (b)(iii).
- ii) The level of performance and contribution towards the success of the LFC in the present directorship or employment.
- iii) The LFCs level of compliance with regulatory framework and the Monetary Board directions specific to the LFC.

**(b) Other key responsible persons**

- i) Criteria given in direction 5.1.1 excluding direction 5.1.1 (b)(iii).



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- ii) The level of performance and contribution towards the success of the LFC in the present employment or contract term.

**6. Approval process and subsequent changes to the fitness and propriety**

- 6.1** The Company Secretary of the LFC shall be responsible to attest and forward the information and documentation required as per Annexure I under confidential cover to the Director for the assessment of fitness and propriety of key responsible persons. The CEO of LFC shall be responsible to attest and forward the information and documentation required as per Annexure I under confidential cover to the Director for the assessment of fitness and propriety of the Company Secretary.
- 6.2** The Director shall assess the information and documentation submitted as per Annexure I based on the criteria set out under direction 5.1 and shall issue a letter approving or declining the proposed election, appointment or continuation of the key responsible person.
- 6.3** In the event the consultant or advisor is a firm, the criteria on assessment of fitness and propriety shall be applicable for the principal consultant or advisor involved in making consultative advice to the LFC.
- 6.4** The key responsible persons shall undertake to keep the Company Secretary fully informed, as soon as possible, of all subsequent events relevant to the information provided which may have an impact on the assessment of fitness and propriety.
- 6.5** The Company Secretary of the LFC shall notify the Director of all subsequent events relevant to the information provided of key responsible persons which may have an impact on the assessment of fitness and propriety within seven (7) working days of becoming aware of such facts.
- 6.6** Fitness and propriety of a key responsible person shall be carried out at any time where there are supervisory concerns in respect of any



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- key responsible person of an LFC as may be determined by the Director.
- 7. Timelines for assessment of fitness and propriety submissions**
- 7.1 Nomination, election or appointment of a new key responsible person**  
Submission of information and documentation, twenty (20) working days prior to the expected date of election or appointment.
- 7.2 Existing/continuing key responsible persons**
- a) Board of directors and CEO  
Annual submission of information and documentation, twenty (20) working days before the Annual General Meeting of the respective LFC or by end of three months after the financial year of the respective LFC, whichever is earlier.
- b) Other key responsible persons  
Submission of information and documentation, twenty (20) working days prior to changes resulting of promotions, renewal of contracts and on lateral moves to positions requiring special knowledge and/or skills.
- 8. Resignation/retirement/removal**
- 8.1** A board of director or CEO shall not be resigned, retired or be removed from an LFC without prior approval of the Director. In the event of a resignation or removal, the LFC shall submit such reasons to the Director.
- 8.2** The LFC shall inform the Director of the resignation, retirement or removal of any other key responsible persons of an LFC with reasons within three (3) working days of such event.
- 9. Appeal to the Monetary Board**
- 9.1** A person aggrieved by the declining of the proposed nomination, election or appointment by the Director under direction 6.2 above may within ten (10) working days of receipt of the communication sent by the LFC make an appeal giving reasons in writing in justifiable manner to the Monetary Board.



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- 9.2 The Monetary Board may, after considering reasons given by the Director and the objections of the aggrieved party, decide either to confirm or over-rule the decision to decline made by the Director.
10. Effective date 10.1 These directions shall come into effect commencing 01.04.2022.
11. Interpretation 11.1 'Director' shall mean Director of the Department of Supervision of Non-Bank Financial Institutions of the Central Bank of Sri Lanka.
12. Revocation of directions 12.1 The Finance Companies (Assessment of Fitness and Propriety of Directors and Officers Performing Executive Functions) Direction No.3 of 2011 will be revoked from effective date of these directions subject to direction 12.2.
- 12.2 The key responsible persons of an LFC stated in direction 4.1 who have been granted approval for fit and proper under the Finance Companies (Assessment of Fitness and Propriety of Directors and Officers Performing Executive Functions) Direction No.3 of 2011 are deemed to be fit and proper till the fitness and propriety assessment is performed under these directions.

**Nivard Ajith Leslie Cabraal**  
*Chairman of the Monetary Board and  
Governor of the Central Bank of Sri Lanka*

## Information and documentation required for assessment of fitness and propriety of key responsible persons

### 1. Information and documentation required

#### 1.1. Nomination, election or appointment of a new key responsible person

- a) The original Affidavit as given in Schedule I, which is completed in line with the guidelines given in the directions.
- b) A letter from the previous directorship, employment or contract term immediately preceding the appointment regarding the level of performance of duties assigned in the particular organization.
- c) In addition to the above, a Board resolution with a justification for the appointment of a consultant or an advisor to the board of directors, board sub-committees or senior management of the LFC.

#### 1.2. Existing/continuing key responsible persons

##### 1.2.1 Board of directors and CEO

Information and documentation required	Chairperson	Board of Director	CEO
a) <u>The original Affidavit</u> As given in Schedule I which is completed in line with the guidelines given in the directions.	x	x	x
b) <u>Self-assessment</u> Incorporating the improvement of financial performance during past 12 months, details of any special assignments, projects carried out under the leadership and explaining the future plans to increase value of the LFC	x	x	x
c) <u>Chairperson assessment</u> Performance and the contribution with key achievements during the past 12 months.	-	x	x
d) <u>Board resolution</u> For board of directors exceeding the age of 70 years up to maximum of 75 years on the continuation of the directorship. The Board resolution must be sufficiently describing the benefit to the LFC of the continuation of such board of director/s and must be	-	x	-

<b>Information and documentation required</b>	<b>Chairperson</b>	<b>Board of Director</b>	<b>CEO</b>
supported by documentation/evidence, wherever possible.			
e) <u>Non-executive directors' assessment on the chairperson performance</u> Annual independent assessment of the chairperson's performance by the non-executive directors.	x	-	-

### 1.2.2 Other key responsible persons

a) The original Affidavit

As given in Schedule I which is completed in line with the guidelines given in the directions

b) Self-assessment

Incorporating the improvement of financial performance during the past 12 months, details of any special assignments, projects carried out under his/her leadership and explaining his/her future plans to increase value of the financial institution

c) In addition to the above, the following assessments are required covering the performance and the contribution with key achievements during the past 12 months,

i) CEO's assessment

- Consultant or advisors to the senior management
- Other key responsible persons

ii) Chairperson's assessment

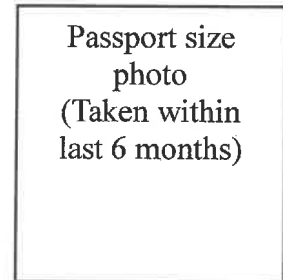
- Consultant or advisors to the board of directors or board sub-committees



**Assessing Fitness and Propriety of Key Responsible Persons of an  
Licensed Finance Company**

**AFFIDAVIT**

**Section 1: Information to be submitted in terms of Section 12 of the Finance Business Act, No.42 of 2011**



**Name of the LFC:**

I ..... (*full name*),  
holder of National Identity Card No<sup>1</sup>. ..... and Passport  
number.....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<sup>2</sup>] above named and I have been elected/  
nominated/appointed or proposed to be elected/nominated/appointed as  
.....(*designation*) of  
.....(*name of LFC*) which is  
a licensed finance company under the Finance Business Act, No.42 of 2011.

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 <sup>3</sup> :	(ix) Local/expatriate:

<sup>1</sup> Not applicable for expatriates

<sup>2</sup> A person who affirms is called an affirmant while a person who makes and oath is called a deponent. If a person has a conscientious objection to make an oath, he may, instead of making an oath, make an affirmation.

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

2.2.	(i) Contact details	Permanent address:	
		Residential address:	
	(ii) Telephone:	Mobile:	
		Fixed line:	
		Fax:	
(iii) Email	Email-official:		
	Email-personal:		
2.3	Occupation or profession:		
2.4	(i) Nominated, elected or appointed:  Post/Designation in the LFC:		(ii) Date of appointment to the Post/Designation: (dd/mm/yyyy)
2.5	Nature of the appointment <i>(Please mark X in relevant box(es))</i> :		
	Independent <sup>4</sup>		Executive
	Non-Independent		Non-Executive
	Senior Director		Alternative
	Other (Specify):		
	If non-independent, reasons for determining as non-independent:		
	If nominated by major shareholder/s, name/s of such nominating shareholder/s:		
	If an alternate, name of the principal director:		
2.6	(i) Annual Remuneration (with detailed information):		
	(ii) Annual value of income/benefits derived by the key responsible person and its relative from the LFC:		
	(iii) Expenses borne by the LFC or reimbursement of any expenses (credit card bills, utility bills etc):		
2.7	2.7.1. Details of relative in terms of Section 74 of the Finance Business Act, No.42 of 2011		
	(i) Full name of the spouse:		
	(ii) NIC number <sup>1</sup> :		(iii) Passport number:
	2.7.2. Details of dependent children:		
	Full name	NIC number <sup>1</sup>	Passport number

<sup>4</sup> In terms of the Finance Business Act, Corporate Governance Direction No. 05 of 2021

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

Qualifications (academic)	Relevant discipline <sup>5</sup>	Country	Name of the institution	Year of completion
Qualifications (Professional)				

4) I state the effective experience that I possess in banking, finance, business or administration or of any other relevant discipline<sup>5</sup> is as follows:

Positions	Name of the institution	Designation /position	Nature of appointment (as per item 2.5 as applicable)	Work specialization	Date of appointment (dd/mm/yyyy)	Service period (dd/mm/yyyy to dd/mm/yyyy)
Previous positions						
(i) Directorships						
(ii) Other						
Current positions						
(i) Directorships						
(ii) Other						

In this regard, LFC is required to maintain documentary evidence and shall submit such evidence as and when required by the Director.

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

<sup>5</sup> Banking/Finance, Business/Administration, Economics, Accounting/Auditing/Financial Analysis, Investment Management/Capital Markets, Information Technology, Strategic Planning, Risk Management, Human Resource Management, Law and Regulation, Marketing and Specific Qualifications and experience according to the Mandate of the LFC

- 6) I state that I hold/do not hold shares in LFC and the related companies (subsidiaries<sup>6</sup>, associates<sup>6</sup> and other companies<sup>7</sup>), licensed banks, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka.

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 currently have/had the following business transactions during the two years immediately preceding the appointment, with the LFC and their related companies (subsidiaries, associates and other companies), other related parties of the LFC, licensed bank, 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 the LFC's core capital
		Limit	Outstanding			
<b>Loans obtained</b>						
(i) Current						
(ii) Prior to appointment						
<b>Investments<sup>8</sup></b>						
(i) Current						
(ii) Prior to appointment						
<b>Deposits</b>						
(i) Current						
(ii) Prior to appointment						

## 8) Appointments, Shareholdings and Business Transactions of Relative

- 8.1. I state the following details of relatives presently employed as Directors, CEO or senior management of any LFC, its related companies (Subsidiaries, Associates, and Other Companies), licensed banks, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka.

Name of the relatives	Name of the institution	Position held

<sup>6</sup> In terms of the section 74 of the Finance Business Act, No. 42 of 2011

<sup>7</sup> Hold substantial interest in other companies in terms of the section 74 of the Finance Business Act, No. 42 of 2011

<sup>8</sup> Investment in debt instruments

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

Name of the relative	Name of the institution/s	No. of shares		Percentage holding	
		Direct	Indirect	Direct	Indirect

- 8.3. I state that my relative currently has/had the following business transactions with LFC, its related companies (Subsidiaries, Associates and Other Companies), licensed banks, leasing companies and primary dealers registered with/licensed by the Central Bank of Sri Lanka, during the two years immediately preceding my appointment.

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 the LFC's core capital
		Limit	Outstanding			
<b>Loans obtained</b>						
<b>Investments<sup>8</sup></b>						

- 9) I state that I am subject to/not subject to an investigation or inquiry involving fraud, deceit, dishonesty or other similar criminal activity, conducted by the police, any regulatory or supervisory authority, professional association, commission of inquiry, tribunal or other body established by law, in Sri Lanka or abroad;
- 10) I state that I am found / not found by any court of law, regulatory or supervisory authority, professional association, commission of inquiry, tribunal or any other body established by law in Sri Lanka or abroad, to the effect that such person has committed or has been connected with the commission of, any act which involves fraud, deceit, dishonesty, improper conduct or non-compliances with provisions of any statute or rules, regulations, directions or determinations issued thereunder;
- 11) I state that I have 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 am/am not able fulfil any of the financial obligations, whether in Sri Lanka or elsewhere.
- 14) 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.
- 15) 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.
- 16) 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/CEO/officer performing executive functions/senior management or any other officer in a licensed bank or any other financial institution or corporate body, in Sri Lanka or abroad.
- 17) I state that I have been/not been a Director, CEO 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.
- 18) I state that I am aware of the provisions of the Finance Business 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 LFC fully informed, as soon as possible, of all subsequent events, which are relevant to the information provided above.
- 19) I state that I am not prevented by any written law from being appointed to the above post.
- 20) I state that to the best of my knowledge, I am a fit and proper person to be nominated, elected or appointed as ..... (designation) of a LFC in terms of the provisions of the Finance Business 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 the stamp as applicable*

Before me

JUSTICE OF THE PEACE  
 COMMISSIONER FOR OATH

**Section 2: To be filled by the Company Secretary**

**1. Corporate Information**

<b>Recommendation of the nomination committee/appointing authority for Directors</b>	
<b>Assessment criteria</b> (Please specify the specific knowledge/ skills considered by the nomination committee / appointing authority)	
<b>Recommendation</b> (Please attach minutes of the resolution/decision of the nomination committee/appointing authority)	

**2. Remarks of the Board of Directors**

- (i) Any other explanation / information regarding the details furnished above.
- (ii) Submitted to the Board of Directors of the LFC /approval has been granted by the Board of Directors for above nomination, election or appointment, /proposed appointment, nomination or election at the meeting dated.....(dd/mm/yyyy)

**Name:**

**Signature of the company secretary and the official stamp**

**Date:**

## **Guidance to Duly Complete the Affidavit to be submitted by the Key Responsible Person of LFCs**

This guidance is issued to ensure that sufficient and accurate information is provided by an LFC for assessing the fitness and propriety of a key responsible person of LFC in Sri Lanka.

### **1. Purpose of obtaining the affidavit**

- (i) The purpose of obtaining affidavits of key responsible persons of LFC is to enable the Department of Supervision of Non-Bank Financial Institutions to assess their fitness and propriety in terms of the provisions of the Finance Business Act. Accordingly, the Department of Supervision of Non-Bank Financial Institutions requires comprehensive information to evaluate the qualifications, experience, integrity and compliance with other requirements specified in the Finance Business Act, to assess the suitability of the key responsible person. 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 Department of Supervision of Non-Bank Financial Institutions, 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:
  - a) He/she is an atheist or belongs to a religion not mentioned in this Affidavit; or
  - b) 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:
  - a) Signature of the person should be attested by a Commissioner for Oaths or an equivalent in the country in which he places his signature.
  - b) Attestation should be made in front of the diplomatic or consular officer of Sri Lanka in the country where the key responsible person 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) Section 2 should be filled by the Company Secretary annexing a copy of the minutes of the Nominations Committee or Approving Authority pertaining to the relevant appointment.
- (ix) In item 2(1) of Sections 2 if there is no comment, it should be stated as Not Applicable/Nil/None.

