

GRA GUIDELINES ON FITNESS AND PROPRIETY



GAMBLING REGULATORY AUTHORITY

GUIDELINES ON FITNESS AND PROPRIETY

APRIL 2021

DISCLAIMER

These Guidelines are intended to provide assistance to all licensees and any applicant to a licence, in meeting their obligations for fitness and propriety test, under the Gambling Regulatory Authority Act 2007, the Financial Intelligence and Anti Money Laundering Act (FIAMLA), United Nations (Financial Prohibitions, Travel Ban and Arms Embargo) Sanctions Act 2019 (UN Sanctions Act) and the Financial Intelligence and Anti Money Laundering Regulations 2018 (FIAML Regulations).

These Guidelines have been issued by the GRA pursuant Sections 7(1)(o) and 94C (4) of the Gambling Regulatory Authority Act 2007 and to Section 19H (1) (a) of the Financial Intelligence and Anti-Money Laundering Act 2002.

These Guidelines have been prepared and published for informational and educational purposes only and should not be construed as legal advice. These Guidelines shall be subject to subsequent amendments by the GRA as and when required by law. Stakeholders are urged to ensure that they consult the most up to date version.

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1. INTRODUCTION

Established in 2007, the Gambling Regulatory Authority (the “GRA”) is mandated under the Gambling Regulatory Authority Act 2007 (the “GRA Act”) to license, regulate, monitor and supervise the conduct of business activities in the Mauritian gambling sector.

As part of its mandate the GRA must assess the fitness and propriety nature of any applicant/licensee (natural person or corporate).

Section 94C (4) of the GRA Act sets out the matters to which the GRA may have regard in considering whether a person is a “*fit and proper person*” and these inter alia include his “*ability to perform the relevant functions properly, efficiently, honestly and fairly*” and his “*reputation, character, financial integrity and reliability*”.

Applicants who are granted a licence are expected to remain fit and proper at all times and any change in circumstances must promptly be notified to the GRA.

For the purposes of this Guide, a licensee includes:

- (a) any person authorised, registered or approved under the GRA Act;
- (b) any institution established to provide any service under the GRA Act.

In order to obtain a licence from the GRA to conduct any business activity in the gambling sector in Mauritius, the applicant has to demonstrate that it is a “*fit and proper person*”. This Guide sets out and describes the criteria considered by the GRA when assessing fitness and propriety and how the GRA uses those criteria to determine whether any applicant / licensee is “*fit and proper*”.

For the purposes of determining whether a licensee/ applicant is a “*fit and proper person*”, the GRA may consider any information in its possession and it may have regard to information, including but not limited to the criteria set out in section 94(C) of the GRA Act.

This Guide is issued pursuant to the powers granted to the GRA under section 7(1)(o) of the GRA Act.

2. OBJECTIVES

The objective of this Guide is to set out the matters which the GRA may have regard in assessing whether a person is “*fit and proper*”.

3. APPLICABILITY

This Guide does not intend to replace or override any legislations. Its provisions should be read in conjunction with the provisions of relevant legislations and/or directions which may be issued by the GRA from time to time.

4. WHAT DOES FIT AND PROPER MEAN?

Being “*fit and proper*” means that an applicant/licensee (whether a natural person or corporate) is, on the balance of probabilities, competent and capable of carrying out business in a manner that is both honest and correct.

5. TO WHOM DOES THIS GUIDELINES APPLY?

Pursuant to Section 94C (4) of the GRA Act, in considering whether a person is fit and proper, the GRA may have regard to the following:

- (1) whether that person –
 - (a) has been convicted of a serious offence;
 - (b) is subject to an investigation or court proceedings in respect of a serious offence;
 - (c) has been adjudged bankrupt or is subject to bankruptcy proceedings;
 - (d) is insolvent or is subject to insolvency proceedings;
 - (e) is subject to any process, investigation or proceedings under customs or revenue law.
- (2) require such information as it thinks fit from a person.

For the purposes of Section 94C (4) of the GRA Act, the GRA may have regard to any other information in its possession.

All the more so by virtue of Section 4 of the GRA Act, the objects of the GRA are, inter alia, “to promote public confidence in the integrity of the gambling industry and the horse racing industry”.

In line with the above-mentioned Section, it is therefore implied that this Guide is applicable to the following non-exhaustive list of people(s):

- (a) any shareholder of the applicant/licensee;
- (b) any beneficial owner of the applicant/licensee;
- (c) any director of the applicant/licensee;
- (d) any officer of the applicant/licensee;
- (e) any representative or agents of the of the applicant/licensee; and
- (f) any such person as may be determined by the GRA.

Officer(s)¹, beneficial owner(s) of the applicant/licensee as well as any person who is to be employed by, or associated with the applicant/licensee, any agent or representative of the applicant/licensee, the officer(s) and any shareholder of the applicants/licensees, the related corporations of the applicant/licensee and the officers(s) of those related corporations are collectively referred to as “*relevant person(s)*” in this Guide.

An initial test will be made when an applicant applies for a licence or any other authorisation and this test will be applied on an on-going basis thereafter inasmuch as a licensee/applicant must always act in a “*fit and proper*” way in relation to both its business with the GRA and with its clients.

The test will be applied on the basis of GRA's perception of the risk posed by the relevant persons who are connected to the licensee/applicant. The relevant person(s) will be subject to the full rigours of the test.

The GRA's approach is a cumulative one. It may decide that a licensee/applicant has not met the “*fit and propriety*” test having considered several situations, each of which on its own would

¹ Gambling Regulatory Authority (Personal Management License) (Amendment) Regulations 2019

not lead the GRA to conclude a lack of fitness and propriety but which may cumulatively lead to that conclusion.

The process will involve good measure of judgment which must be exercised in a fair and judicious manner, always in the best interests of the institution and the sound conduct of its business.

The criteria listed in this Guide will be applied in general terms when the GRA is determining a person's fitness and propriety.

6. THE PURPOSE OF THE FITNESS AND PROPRIETY TEST

The purpose of the test is to:

- a) establish an international benchmark for licensing and for ongoing regulation of licensees/applicants;
- b) protect the interests of investors by deterring dishonest, incompetent, unskilled or otherwise inappropriate operators in Mauritius;
- c) encourage high standards of market conduct;
- d) encourage a high level of confidence amongst those using (and those considering using) Mauritius as a base for their operations;
- e) deter the abuse of Mauritius and of its gambling sector; and
- f) promote a business environment that meets acceptable international standards.

7. RESPONSIBILITIES OF THE APPLICANT/LICENSEE AND THE RELEVANT PERSON(S) SUBJECT TO THE FITNESS AND PROPRIETY TEST

An applicant / licensee and each relevant person shall at all times be and be seen as fit and proper.

The onus is on the applicant/licensee and each relevant person to establish that it or he/she is a fit and proper person rather than for the GRA to show otherwise. As different appointment(s) and designation(s) entail different responsibilities, this Guide would be applied in a manner and to the extent that is suitable to the circumstances. The GRA will consider the nature of the responsibilities of the relevant person in determining the relative emphasis and standards that should be expected of the relevant person.

The applicant/licensee and the relevant person(s) must accordingly, complete the Fit and Proper Person Questionnaire (“PQ”), annexed to this Guide as **ANNEXURE A** and must provide any information that the GRA may require to complete its assessment. They are further obliged to notify the GRA forthwith of any event(s) or circumstance(s) that have occurred subsequent to their initial application for a license or an assessment of being a fit and proper person that might change the assessment or at least have a material bearing on it.

This is an ongoing obligation throughout the period during which an applicant/licensee holds it’s or his/her registration, certification, approval or any other authorisation under the GRA Act.

The onus of full and unequivocal disclosure is on the applicant/licensee.

8. ASSESSING FITNESS AND PROPRIETY

In arriving at a decision, the GRA will apply a '*balance of probabilities*' standard and will on a best endeavour's basis, assess all relevant evidence, irrespective of whether it is classed as positive or negative. The GRA will also consider *inter alia*, changes in key relationships such as auditors and bankers and may enquire about the reasons for such changes.

The concept of "*fit and proper*" is an open-ended one and it is aimed at ensuring sound conduct of business in the gambling sector. As such, this Guide is not exhaustive of all matters which may be relevant and/or considered. Each case is considered on the basis of its own merits. The GRA reserves its right to adapt the approach described in this Guide if the context and other relevant circumstances suggest that it would be appropriate to do so.

When assessing an application for the appointment of a relevant person, the GRA may, in addition to the "*fit and proper*" criteria set out herein, consider other factors that may be relevant, such as whether the relevant person has a good standing in the profession in respect of which the application is submitted. If the relevant person fails to satisfy the GRA that it or he/she is fit and proper, the GRA may refuse the applicant's application, or take other appropriate regulatory action, as may be applicable and necessary.

In the case where the relevant person is an institution, to establish that it is "*fit and proper*", it should satisfy the GRA that it has in place proper recruitment policies, adequate internal control systems and procedures that would ensure that the persons that it employs, authorises or assigns to act on its behalf, in relation to its conduct of activity regulated under the relevant legislations, meet the fit and proper criteria of this Guide.

The assessment process will involve a good measure of judgment, which should be exercised objectively and always in the best interests of the companies and of its sound conduct. Information relevant to the assessment of the fitness and propriety of persons within the scope of this Guide may also vary depending on the degree of their influence and responsibilities in the affairs of the companies. For example, the company may consider whether there have been material changes in the nature or scope of the responsibilities assumed by an individual. This may call for higher standards of competence or judgment in

order to properly perform the duties associated with the said position, or which may give rise to new conflicts that could impair the individual's performance in the position.

For the purpose of this Guide, the GRA has grouped the criteria for assessment of "*fit and proper*" set out in Section 94C (4) of the GRA as follows:

- (a) Honesty, integrity, diligence, fairness, reputation and good character;
- (b) Competence and capability; and
- (c) Financial soundness.

8A. Honesty, integrity, diligence, fairness, reputation and good character are qualities that must be demonstrated on an ongoing basis.

A person shall demonstrate to the GRA and provide reasonable assurance to the satisfaction of the GRA that he/she is of good repute and additionally, illustrate his/her intentions to act in an honest, ethical and trustworthy manner.

Integrity demands a disciplined, on-going adherence to high standards of behaviour, and honesty.

The following non-exhaustive factors are relevant to determining honesty, integrity, diligence, fairness, reputation and good character:

For Individual

- (a) whether the person has been refused the right or restricted in its or his right to carry on any trade, business or profession for which a specific license, registration or other authorisation is required by law in any jurisdiction;
- (b) whether the person has been issued a prohibition order as a result of an offence committed under the GRA Act the GRA or has been prohibited from operating in any jurisdiction by any regulatory authority;
- (c) whether the person has been censured, disciplined, suspended and / or disqualified by the GRA or any other regulatory authority / organisation;

- (d) whether the person has been the subject of any complaint made reasonably and in good faith, relating to activities that are regulated by the GRA or under any laws in any jurisdiction;
- (e) whether the person has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or of any investigation which might lead to those proceedings, under any laws in any jurisdiction;
- (f) whether the person has been convicted of any offence, or is being subject to any pending proceedings which may lead to such a conviction, under any laws in any jurisdiction;
- (g) whether the person has had any judgment (in particular, that associated with a finding of fraud, misrepresentation or dishonesty) entered against the relevant person in any civil proceedings or is a party to any pending proceedings which may lead to such a judgment, in any jurisdiction;
- (h) whether the person has accepted civil liability for fraud or misrepresentation under in any jurisdiction;
- (i) whether the person has had any enforcement action taken against it or him by the GRA or any other regulatory authority under any law in any jurisdiction;
- (j) whether the person has contravened or abetted another person in breach of any laws or regulations, business rules or codes of conduct, whether in Mauritius or elsewhere;
- (k) whether the person has been the subject of any investigations or disciplinary proceedings or been issued a warning by the GRA, any other regulatory authority, an operator of a market or clearing facility, any professional body or government agency, whether in Mauritius or elsewhere;
- (l) whether the person has demonstrated an unwillingness to comply with any regulatory requirement or to uphold any professional and ethical standards, whether in Mauritius or elsewhere;
- (m) whether the person has been untruthful or provided false or misleading information to the GRA or been uncooperative in any dealings with the GRA or any other regulatory authority in any jurisdiction;
- (n) whether the person has been involved with a company, partnership or other organization that has been refused registration, authorization, membership or a

license to carry out a trade, business or profession, or has had that registration, authorization, membership or license revoked, withdrawn or terminated, or has been expelled by a regulatory or government body;

- (o) whether the person has been a director, partner, or concerned in the management, of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;
- (p) whether the person has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;
- (q) whether the person has ever been disqualified from acting as a director or disqualified from acting in any managerial capacity;
- (r) whether the person has contributed significantly to the failure of an organisation or a business unit;
- (s) whether, in the past, the person has been fair, truthful and forthcoming in his dealings with his customers, superiors, auditors and regulatory authorities;
- (t) whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and other legal, regulatory or professional requirements and standards.

For a body corporate:

- (a) whether the entity has substantial shareholders, directors, key officers who are not fit and proper;
- (b) whether the entity has been subject to suspension, cancellation or revocation of its licence or other authorisation to carry on the business for which a licence is sought;
- (c) whether the entity has been subject to any regulatory or enforcement action by any authority in any jurisdiction;
- (d) whether any judgment, order or conviction has been made or any legal proceedings, actions or other claims are pending against the entity whether civil or criminal in nature; and
- (e) whether the entity has meaningful internal controls and procedures (including procedures to manage conflicts of interest).

The GRA should be informed of any of the above matters, whether those matters arose in Mauritius or elsewhere. When conducting its assessment, the GRA will consider the extent and circumstances of the person's involvement in the relevant events, the time it occurred and its seriousness.

The GRA reserves its right to gather any information from any appropriate sources, on the overall reputation of a person regardless of whether such information results from the above criteria and factor it in its assessment of the person's fitness and propriety.

A licensee/applicant must report voluntarily to the GRA any matter of a material nature or matters that may potentially give rise to regulatory concerns and which the GRA should be aware of. This might involve the licensee/applicant or a related entity. Failure or omission to do so or inordinate delay to supply material information to the GRA will be considered in the GRA's assessment of the integrity of the licensee/applicant.

Where the GRA discovers information, which should have been brought to its attention but was not, it will, among other things, take account of the circumstances, the gravity of the event(s), the time that has elapsed between the happening of the event and its discovery and the relevance of the event to the licence/authorisation issued by the GRA.

Integrity, or lack of, may also be reflected in the licensees' attitude to maintaining internal controls and effective procedures in the absence of which the business could be jeopardised.

Similarly, a licensee's attitude towards customers will be considered in assessing integrity. An applicant/licensee's failure to act with probity and/or lack of candour in dealing with the GRA will impinge adversely on the GRA's assessment of an applicant/licensee's integrity. Deceitful, oppressive and/or improper conduct will militate against an applicant/licensee.

8B. Competence and Capability

To demonstrate competence, any person involved in carrying out the business of the licensee/applicant, must act in a knowledgeable, professional and efficient manner.

The factors set out in the following paragraphs are relevant to the assessment of the competence and capability of a relevant person. The factors include but are not limited to:

For individual:

- (a) whether the relevant person has satisfactory past performance or expertise, having regard to the nature of the relevant person's business or duties, as the case may be, whether in Mauritius or elsewhere;
- (b) where the relevant person is an individual who is assuming concurrent responsibilities and whether such responsibilities would give rise to a conflict of interest or otherwise impair his ability to discharge his duties in relation to any activity regulated by GRA under the relevant legislations;
- (c) whether the person has adequate time to perform the controlled function and meet the responsibilities associated with that function;
- (d) whether the person has ever been diagnosed as being mentally ill or unstable so as to render him unfit to discharge his duties;

For body corporate or:

- (a) whether the directors, managers and other key officers of the entity are qualified, knowledgeable and experienced;
- (b) whether there are in place adequate systems and controls to provide an efficient and reliable service; and
- (c) whether there is in place adequate IT infrastructure.

The nature and extent of the competence required will depend upon the services being offered or to be offered.

The GRA will consider the qualifications and experience of those involved, and the way in which business is transacted or is proposed to be transacted. The business should be well organised, it should have an adequate infrastructure, efficient controls, and sufficient records should be maintained to demonstrate these attributes.

Individuals should have a sufficient understanding of the business, and of the instruments and markets with which they are dealing.

In assessing competence, the GRA will focus on three areas - qualifications, experience and performance but more generally, the licensee/applicant should be prudently and profitably managed while providing an efficient and reliable service to clients.

The same applies to people subsequently appointed. In so doing, the GRA may establish a minimum level of direct relevant experience in particular areas. The GRA will also consider relevant professional qualifications and the successful completion of recognised industry-based courses and examinations.

In its assessment, the GRA will also have regard to the standing of the institution or institutions with which direct experience has been obtained as well as the standing of bodies conducting courses and examinations which individuals have obtained.

Consideration will also be given to the training provided to staff on an on-going basis. This will help to indicate the extent to which the licensee/applicant is helping staff to understand the different aspects of product and services being offered to clients including the relevant risks associated.

The GRA recognises the difficulty of balancing education and experience and will look particularly for evidence of a sound knowledge of the business, a prudent approach to risk, and a scrupulous attitude towards clients. These attributes are likely to manifest themselves over time and may not be fully apparent in new applications.

Applicants must be able to demonstrate the viability of proposed operations by means of a detailed Business Plan covering the relevant years of operation. The applicant must also satisfy the GRA that it can support the operation financially in its early stages and has the financial strength to withstand unexpected, adverse developments, as well as making proper provision for the normal risks of the business.

Although the GRA recognises that it is for the board and the management of the applicant to decide how best to run their business (the same principle applies to the sole trader and partnership), the GRA expects that the approach adopted will take account of the aims of regulation. Competence, therefore, involves planning and control, appropriate to the nature and size of the business.

Competence extends also to the proper implementation of the plan and to the general organisation of the business. The GRA considers that to be well organised (and to be able to demonstrate this by records, written instructions and well-defined procedures) is of no less value to licensee/applicants themselves than to the general public. Competence in this context also requires that instructions and procedures are designed to enable licensee/applicants to comply with obligations under the relevant legislations and to enable them to provide high quality services to clients. This includes anti-money laundering procedures in general and verification of identity and suspicious transaction reporting in particular.

On the basis that most businesses rely on computer-based systems, competence includes information technology support that is adequate to maintain the integrity of the licensee/applicant's operating systems and security.

More specifically, competence requires that:

- (a) the policies of the business are properly authorised and documented and reviewed and updated regularly. In particular, licensee/applicant must be able to demonstrate anti-money laundering procedures;
- (b) authority is properly delegated, i.e. formally approved and documented;
- (c) key operating controls are authorised, documented and observed by management and staff;
- (d) management exercises proper supervision (e.g. proper systems and information are in place to enable them to do this);
- (e) only staff who are fit and proper and are of an appropriate calibre are employed and that their activities are monitored. This applies also to self-employed people on contract (e.g. consultants, advisors etc.);
- (f) there is proper and appropriate segregation of duties, particularly in relation to the authorising, recording and settlement of transactions;
- (g) the firm's documents and records are safeguarded and that there is adequate provision for the reconstruction of records in the event of a disaster;
- (h) customers' documents and assets are appropriately documented, segregated and safeguarded;
- (i) customers' business records are complete and reliable;
- (j) the firm's financial and business records are complete, accurate and reliable;
- (k) transactions are properly authorised, effected and accounted for;
- (l) receipt and payment are properly authorised, controlled and accounted for; and
- (m) internal rules concerning the avoidance of conflicts of interest are in place;

Failure to maintain adequate systems and procedures is likely to give rise to evidence of lack of competence. Such evidence might be:

- (a) complaints from customers about administrative error, lack of care in dealing with their affairs, unsuitable advice or transactions, unfair or oppressive behaviour;
- (b) complaints from other regulatory authorities about the activities of a licensee/applicant or its representatives;
- (c) complaints from others in the market place about inefficiency, unreliability, unfair practices;

- (d) demonstration of the lack of a sound knowledge of the business in which the licensee/applicant is engaged;
- (e) ignorance of the gambling sector and related legislation including serious and/or repeated breaches of the relevant Acts or Regulations made thereunder or any guidelines or code of conduct issued by the GRA;
- (f) late or inadequate returns/accounts submitted to GRA;
- (g) frequent changes in key relationships (e.g. bankers, auditor et al).

The GRA will seek to ensure that complaints are properly substantiated. Not every error or failing is necessarily significant in an assessment of competence. The GRA's approach will depend on the seriousness of the event and what it reveals about the licence holder.

Competence stems from an attitude of mind and is thus linked closely with integrity. Education and experience are clearly important but their value can only be maximised if the attitude of mind is right.

Systems and procedures are (relatively) easy to establish but have little value if there is no commitment to making them work properly. There is an unavoidable tension between the interests of those who provide financial products and services and the interests of their customers. How that tension is resolved in the day to day running of the business is the essence of competence and a key ingredient of the fit and propriety test.

8C. Financial Soundness

Financial soundness includes being able to meet liabilities as they become due and ensuring adequate control over financial risks on a continuing basis. It also involves taking proper care of customers' money.

Financial soundness is an important element in determining the suitability of applicants for licensing and in determining the on-going suitability of licensee/applicant. It goes beyond corporations, extending to their beneficial owners, controllers, directors and senior management.

Naturally, unless an individual can demonstrate that he / she can manage his/her personal affairs properly, it is unlikely that such an applicant will be entrusted to manage the affairs of others.

Therefore, the GRA will require applicants and licensees to demonstrate that they can manage their personal affairs.

The factors set out in the following paragraphs are relevant to the assessment of the financial soundness of a relevant person. The factors include but are not limited to whether:

For individual:

- (a) the relevant person is or has been unable to fulfil any of its or his financial obligations, whether in Mauritius or elsewhere;
- (b) the relevant person is subject to a judgment debt which is unsatisfied, either in whole or in part, whether in Mauritius or elsewhere;
- (c) in Mauritius or elsewhere, the person (if an individual) has made any arrangements with his creditors, filed for bankruptcy, had a bankruptcy petition served on him, been adjudged bankrupt, been the subject of a bankruptcy restrictions order (including an interim bankruptcy restriction order), offered a bankruptcy restriction undertaking, had assets sequestrated, or been involved in proceedings relating to any of these;
- (d) in Mauritius or elsewhere, the person (if a corporate body) has made any arrangements with its creditors, filed for winding up petition, had a winding up petition served on it, been the subject of a winding up order, had assets sequestrated, or been involved in proceedings relating to any of these;
- (e) whether the relevant person has entered into a compromise or scheme of arrangement with its or his creditors or made an assignment for the benefit of its or his creditors, being a compromise or scheme of arrangement or assignment that is still in operation, whether in Mauritius or elsewhere;
- (f) whether the relevant person is subject to a judgment debt; and
- (g) which is unsatisfied, either in the whole or in part, whether in Mauritius or elsewhere

For body corporate:

- (a) whether the body corporate is or has been threatened with receivership, administration, liquidation or other similar proceedings; and
- (b) whether the body corporate is able to meet any financial or capital requirements applicable to it.

The above factors may overlap with the factors listed at subparagraphs 8A and 8B above.

9. DOCUMENTS ON WHICH THE GRA MAY RELY IN ASSESSING FITNESS AND PROPRIETY INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING:

9.1 *FINANCIAL STANDING/SOLVENCY*

- (a) Audited accounts/management account
- (b) Bank Statement

9.2 *COMPETENCE*

- (a) Curriculum Vitae
- (b) Qualifications and experience, including inter alia certificates and reference letters.

9.3 *HONESTY, FAIRNESS, DILIGENCE, REPUTATION, CHARACTER RELIABILITY*

- (a) Certificate of character

10. POST LICENSING- ONGOING ASSESSMENT

The GRA Act empowers the GRA to reassess the fitness and propriety of any licensee and accordingly take measures based on the assessment, if need be.

Part of the ongoing assessment of fitness and propriety entails a review of any material changes affecting the probity questions in the PQ. Applicant/licensee and any relevant person(s) are required to promptly notify the Authority of any material changes.

As such, where an applicant/licensee and any relevant person has previously been regarded as fit and proper, the GRA reserves the right to reassess whether that person continues to be fit and proper to hold either current or proposed positions.

Section 93(b) of the GRA Act provides that no licence shall be issued to a person unless the person, or in the case of a company or other entity, any of its directors, managers, officers or any person having a direct or indirect beneficial interest in the company or entity, is a fit and proper person;

Pursuant to Section 29E (2) (b) of the GRA Act no technician shall be registered under subsection (1) unless he is a fit and proper person.

Pursuant to Section 49 (2) (b) of the GRA Act no person shall be registered under subsection (1) unless he is a fit and proper person.

Pursuant to Section 50 (3) of the GRA Act the Board shall cancel the registration of a bookmaker's clerk where it is satisfied that the clerk is no longer a fit and proper person.

Pursuant to Section 52B (2) of the GRA Act no registration certificate shall be granted unless the Board is satisfied that the person is a fit and proper person to sell sweepstakes.

Pursuant to Section 52E (3)(c) of the GRA Act the Board may cancel a registration certificate where it is satisfied that the sweepstake retailer is not, or is no longer, a fit and proper person to be a sweepstake retailer.

Pursuant to Section 66 (2) of the GRA Act no registration certificate shall be granted unless the Board is satisfied that the person is a fit and proper person to sell lottery game tickets.

Pursuant to Section 53B (2) of the GRA Act no registration certificate shall be granted unless the Board is satisfied that the collector is a fit and proper person to act as collector.

Pursuant to Section 53E (3)(C) of the GRA Act the Board may cancel a registration certificate where it is satisfied that the collector is not, or is no longer, a fit and proper person to act as collector

Pursuant to Section 69 (3)(C) of the GRA Act the Board may cancel a registration certificate where it is satisfied that the lottery retailer is not, or is no longer, a fit and proper person to be a lottery retailer.

Pursuant to Section 94C (6) (b) of the GRA Act the Authority shall not grant an approval under subsection (1)(b) where it is of the opinion that the person intending to acquire a significant interest in a licensee is not a fit and proper person.

Pursuant to Section 99 (1) (j) of the GRA Act the Board may at any time, refuse to renew, or suspend for such period as the Board may determine, or revoke or cancel from such date as the Board may determine, any licence where the licensee, or in the case of a company, any director, manager or officer of that company, is no longer a fit and proper person;

11. HOW WILL THE GRA GATHER THE INFORMATION IT NEEDS?

The persons to whom the test applies will be asked to complete a PQ Form (**ANNEXURE A**) which is the basis on which the GRA will make its assessment on whether the applicant satisfies the fitness and propriety test at that point in time.

Accordingly, the PQ Form asks detailed questions on the individual and his/her professional and academic background.

The GRA will require the PQ Form to be completed on the basis of its perceived risk.

Any applicant or licensee (to whom the test applies) who is unwilling to subject himself/herself to the fitness and propriety test will not be able to carry on any activity for which a licence or any other authorisation is necessary under the Act.

12. BREACH

Where any of the provisions described above are breached, the GRA must decide whether those involved continue to satisfy the “*fitness and propriety*” test. Failure to satisfy the “*fitness and propriety*” test means that a person will not be able to act or continue to act for a licensee.

13. MISCELLANEOUS

In assessing the fitness and propriety of a natural person, the GRA should consider the particular function for which the person will be performing. As such, a person who is “*fit and proper*” for a particular role (e.g. MLRO) in a licensee may not necessarily be considered fit and proper for any other role in the same licensee or with another licensed entity.

14. GLOSSARY

'GRA Act'	means the Gambling Regulatory Authority Act;
'GRA'	means the Gambling Regulatory Authority established under Section 3 of the Gambling Regulatory Authority Act 2007;
'PQ'	means the Fit and Proper Person Questionnaire;
'Relevant Person(s)'	means officers, beneficial owners of the applicant/licensee as well as any person who is to be employed by, or associated with the applicant/licensee, any agent or representative of the applicant/licensee, the officers and any shareholder of the applicants/licensees, the related corporations of the applicant/licensee and the officers of those related corporations.

ANNEXURE A

15. PERSONAL QUESTIONNAIRE



PERSONAL QUESTIONNAIRE

To be completed by all applicants who are required to be approved by the Gambling Regulatory Authority (“GRA”) in connection with a licence holder/licence applicant under the Gambling Regulatory Authority Act 2007 (the Personal Questionnaire may be subject to amendments from time to time).

INSTRUCTIONS FOR COMPLETING THE PERSONAL QUESTIONNAIRE FORM

- This Form is to be completed in English.
- No question should be left unanswered. Where the Applicant believes that a question does not apply, the Applicant should write “Not applicable” or “N/A”.
- If there is insufficient space on the printed Form in which to answer a question, additional information can be provided on a separate signed sheet if necessary.
- This Form should be read in conjunction with the Guidelines on Fitness and Propriety which can be accessed on the GRA’s website.
- The duly filled in and signed application must be submitted to the Authority.
- Where a Personal Questionnaire has already been filed, the Applicant shall indicate in his application that the Personal Questionnaire has been filed and inform the Authority of any material change in the information.

Please ensure that all answers and information are true and correct. Providing false or misleading information to the GRA constitutes a criminal offence and will lead to criminal prosecutions under the Gambling Regulatory Authority Act 2007.

Section 1: Applicant

1. Name of Applicant²:

Section 2: Personal Details

2. Full Name of Respondent³

Title (Mr. /Mrs. /Ms. etc.):

Surname:

Forename:

Maiden name (if applicable):

Other names(s) or aliases used (if any):

3. Capacity in which the Respondent is completing this questionnaire:

4. Previous name(s) by which you have been known (if any):

5. Date of Birth (dd/mm/yyyy):

6. Place of birth:

Town

State

Country

7. Nationality, and how it was acquired (*e.g. Birth, Naturalisation, Marriage*):

(If you hold more than one Nationality, please provide details for all Nationalities currently or previously held)

8. Passport/ Identity Card Number:

9. Current residential address (*with relevant dates*):

Address Line 1 (*Street Address*):

Address Line 2 (*Apartment, suite, unit, building, floor, etc.*):

City:

State/Province/Region:

² Applicant means the Company that has applied to the GRA for a Licence and in whose name (if the application is successful) the Licence will be issued. "Applicant" should not be interpreted to mean "Promoter" (the original shareholder) or an existing Management Company (which is merely an agent of the Applicant) who may submit the application on behalf of the Applicant.

³ Respondent means the person submitting the Personal Questionnaire to the GRA in connection with the Applicant or Licensee.

Zip/Postal:

Country:

Dates at this Address: *(mm/yyyy)*

From

To

10. Previous residential addresses during the last ten years *(with relevant dates)*

Previous address 1.

Address Line 1 (Street Address):

Address Line 2 (Apartment, suite, unit, building, floor, etc.):

City:

State/Province/Region:

Zip/Postal:

Country:

Dates at this Address: *(mm/yyyy)*

From

To

Previous residential address 2:

Address Line 1 (Street Address):

Address Line 2 (Apartment, suite, unit, building, floor, etc.):

City:

12. Do you have any pending applications with any other foreign Gambling Regulator?

Yes

No

If yes, please provide full details, including Name of Regulator, Country and Nature of Application

13. Please provide the name and address of your main bank at which you hold a principal bank account and confirm how long you have been a customer of that bank.

Name:

Address:

Date of account opening:

Section 3: Professional Qualifications

14. Current "Associateship", Membership or Fellowship (A,M or F) of professional bodies and year of admission.

A/M/F	Admitted (Yr)	Professional Body	Country

Section 4: Academic Qualifications

15. Do you hold any academic qualifications (e.g. BA, LLB, MBA, PhD)?

- Yes
- No

If Yes, specify the following in **each** case:

Qualification	Name of Institution	Address of Institution	Year Obtained

Section 5: Career History

Begin with your current occupation or employment and please give full details of all occupations and employment during the last ten years, leaving no period unaccounted for. Continue on a separate signed sheet if necessary.

Please justify any gaps in your employment history.

16. Current Occupation:

Address Line 1 (Street Address)

Address Line 2 (Apartment, suite, unit, building, floor, etc.)

City

State/Province/Region

Zip/Postal

Country

Date of employment:(<i>mm/yyyy</i>)	From	To
Position held		
Nature of Business		
Employment reference details		
Name		
Position		
Contact		
Email		
Previous Occupation 1:		
Address Line 1 (Street Address)		
Address Line 2 (Apartment, suite, unit, building, floor, etc.)		
City		
State/Province/Region		
Zip/Postal		
Country		
Date of employment:(<i>mm/yyyy</i>)	From	To

Position held		
Nature of Business		
Employment reference details		
Name		
Position		
Contact		
Email		
Previous Occupation 2:		
Address Line 1 (Street Address)		
Address Line 2 (Apartment, suite, unit, building, floor, etc.)		
City		
State/Province/Region		
Zip/Postal		
Country		
Date of employment:(<i>mm/yyyy</i>)	From	To
Position held		
Nature of Business		

Employment reference details

Name

Position

Contact

Email

Section 6: Fitness and Propriety**17. Please state any position you have held in any entity providing gambling products and services.**

Name of Company	Post	Current (C)/ Previous (P)	Country of incorporation/licence/authorisation/ approval/registration

At any time, have you been involved with an application for regulatory approval in any jurisdiction where that application has been refused or withdrawn?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

18. Are you, through any previous or current occupation, employment, position or otherwise, precluded in any way from carrying on (fully or partially) the services which the corporation (identified in 17 above) offers?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

19. Have you or any corporation in which you are or have been associated with at any time, been convicted of any offence including spent matters by any Court in any jurisdiction? If so, give full particulars of the Court by which you were convicted, the offence and the penalty imposed and the date of conviction. (Road Traffic offences should not be listed).

YES/NO (Please delete as appropriate). If yes, please give full particulars

20. Have you, or any gambling entity with which you are or have been associated⁴:

- (a) been the subject of any punitive action,**
- (b) been refused a licence or equivalent authorisation to carry on a business activity,**
- (c) have had a licence or equivalent authorisation to carry on a business activity revoked,**
- (d) been censured, disciplined or publicly criticized or adversely commented upon,**
- (e) is, or has been the subject of any investigation and/or enquiry by any professional body or any public body or any Regulatory Authority?**

YES/NO (Please delete as appropriate). If yes, please give full particulars

21. Have you ever been adjudicated bankrupt by any Court or entered into a compromise or arrangement with creditors?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

22. Have you ever failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court in any jurisdiction?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

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⁴ Associated in this form means associated as a director, secretary, controller, officer, as a senior member of staff or a controlling shareholder.

23. Has any corporation with which you have been associated been compulsorily wound up or has been subject to voluntary winding up, or made any compromise or arrangement with its creditors, or ceased trading?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

24. Are you engaged in any personal litigation with respect to the management of any business corporation?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

25. Have you ever, at any time, been the subject of an investigation in relation to a corporation, including a gambling institution?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

26. Have you ever been disqualified from acting as a director or similar position? Have you ever, at any time, been the subject of an investigation in relation to a corporation, including a gambling institution?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

27. Do you have any written complaints made against you by clients or former clients in the last five years which you have accepted, or which are awaiting determination, or have been upheld – by an Ombudsman or complaints scheme?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

28. Have you ever been refused entry to, or been dismissed, suspended or requested to resign from, any professional, vocation, office or employment, or from any fiduciary office or position of trust whether or not remunerated?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

29. Have you ever, anywhere, been censured, disciplined or criticised by any professional body to which you belong or have belonged to?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

30. In carrying out your duties, will you be acting on the directions or instructions of any other person?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

31. In the course of any trial or proceedings involving fraud, dishonesty or similar matters, have you ever been required to give evidence other than as an expert witness?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

32. Have you, a family member or a close associate, at any time, been designated as a politically exposed person (PEP)⁵?

YES/NO (Please delete as appropriate). If yes, please give full particulars.

⁵ “politically exposed person” or “PEP” –

means a foreign PEP, a domestic PEP and an international organisation PEP; and for the purposes of this definition –

“domestic PEP” means a natural person who is or has been entrusted domestically with prominent public functions in Mauritius and includes the Head of State and of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials and such other person or category of persons as may be specified by a supervisory authority or regulatory body after consultation with the National Committee;

“foreign PEPs” means a natural person who is or has been entrusted with prominent public functions by a foreign country, including Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials and such other person or category of persons as may be specified by a supervisory authority or regulatory body after consultation with the National Committee;

“international organisation PEP” means a person who is or has been entrusted with a prominent function by an international organisation and includes members of senior management or individuals who have been entrusted with equivalent functions, including directors, deputy directors and members of the board or equivalent functions and such other person or category of persons as may be specified by a supervisory authority or regulatory body after consultation with the National Committee;

33. Declaration

I hereby CERTIFY that the above information is complete and correct to the best of my knowledge and belief and I undertake that, as long as I continue to be a director, shareholder, manager, officer or controller of an institution authorised/licensed under any of the above laws, I will notify the GRA of any material changes affecting the completeness of the answers 17 to 29 above within a period of thirty days.

I also hereby AUTHORISE the GRA to make such enquires and seek such further information as it thinks appropriate in verifying the information given in the Personal Questionnaire, or in any other documents submitted as part of this application, for the purposes of performing its due diligence and background checks.

Misleading the GRA will lead to criminal prosecutions under the Gambling Regulatory Authority Act 2007.

Name of Respondent:

Signature:

Date:

Gambling Regulatory Authority
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