

**BELIZE:**

**FINANCIAL SERVICES COMMISSION (FINANCIAL SERVICES PRACTITIONERS CODE OF CONDUCT AND BEST PRACTICES) REGULATIONS, 2023**

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**BELIZE:**

**STATUTORY INSTRUMENT**

**No. 128 2023**

*REGULATIONS made by the Financial Services Commission with the approval of the Minister, in exercise of the powers conferred upon it by section 76 of the Financial Services Commission Act, Act No. 8 of 2023, and all other powers thereunto it enabling.*

*(Gazetted 18th November, 2023).*

**PART I**

*Preliminary*

1. These Regulations may be cited as the

Citation.

**FINANCIAL SERVICES COMMISSION  
(FINANCIAL SERVICES PRACTITIONERS  
CODE OF CONDUCT AND BEST PRACTICES)  
REGULATIONS, 2023.**

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“BCCAR” means the Belize Companies and Corporate Affairs Registry established under section 284 of the Belize Companies Act;

Act No. 11 of 2022.

“company” has the meaning assigned under section 3 of the Belize Companies Act;

Act No. 11 of 2022.

“beneficial owner” has the meaning assigned under section 2 of the Money Laundering and Terrorism (Prevention) Act  
“educational qualification” means—

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- (a) qualifications obtained from a tertiary educational institution recognised in Belize and accepted by the Commission in disciplines associated with financial and commercial matters;
- (b) knowledge of the activities of the industry and ability respond to inquiries from the Director General about all aspects of the applicant’s business operations; and
- (c) ability to perform, and capable of assuming the duties and responsibilities associated with the full governance and management of the applicant’s business operations;

Act No. 11 of  
2022.

“FATF” means the international body known as the Financial Action Task Force or such other international body as may succeed it;

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“foreign company” has the meaning assigned under section 3(2) of the Belize Companies Act;

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“offence” has the meaning assigned under section 2(1) of the Money Laundering and Terrorism (Prevention) Act;

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“professional intermediary customer” means an intermediary or third party on whom an FS Practitioner relies on to undertake its obligations under the Money Laundering and Terrorism (Prevention) Act or to introduce business to it;

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“proliferation financing” has the meaning assigned under section 2 of the Money Laundering and Terrorism (Prevention) Act;

Act No. 11 of  
2022.

“property” has the meaning assigned under section 2 of the Money Laundering and Terrorism (Prevention) Act;

“register” means the register of members, shareholders, directors, and of beneficial owners required to be kept by a company;

“Registrar of Companies” means the person appointed under section 283 of the Belize Companies Act;

“registrant” means any person registered or required to be registered under Parts III and IV of the Securities Industry Act;

“sole practitioner” means a person licensed by the Commission to conduct the business of a registered agent who does not in the normal course of doing so act in association with any other person to conduct the business;

“Supervisory Authority” has the meaning assigned under section 2 of the Money Laundering and Terrorism (Prevention) Act; and

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“terrorist financing” has the meaning assigned under section 2 of the Money Laundering and Terrorism (Prevention) Act.

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“the Act” means the Financial Services Commission Act.

Act No. 8 of 2023.

## PART II

### *Code of Conduct*

#### *Sub-Part 1*

*Duty to cooperate for prevention of money laundering, terrorist financing, proliferation financing or any offence*

3.–(1) All FS Practitioners shall comply with the guidelines and directions issued by the Commission for the implementation of these Regulations.

Cooperation with the Commission.

(2) For the purposes of these Regulations, FS Practitioners include registrants of the Commission.

(3) All FS Practitioners shall follow the Central Bank of Belize’s due diligence procedures and other requirements

with respect to the acceptance of large cash deposits and in cases of doubt, they shall seek the advice of the Central Bank.

Cooperation  
for prevention  
of money  
laundering and  
other offences.  
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4.-(1) All FS Practitioners shall determine the identity of the beneficial ownership of all their client's accounts and shall not open or maintain such accounts, unless they are satisfied of this requirement, as stipulated in the Money Laundering and Terrorism (Prevention) Act and the Regulations.

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(2) All FS Practitioners shall take all reasonable measures to ensure that accounts are not used for the purpose of holding property obtained as the result of, or for facilitating the commission of any offence or for any purpose contrary to the Money Laundering and Terrorism (Prevention) Act and the Regulations or any law in Belize.

(3) FS Practitioners shall develop and implement policies and procedures to identify and avoid money laundering, terrorist financing and proliferation financing transactions and to ensure compliance with the requirements of any relevant Belize legislation; and such policies shall include an appropriate training programme for their staff.

(4) FS Practitioners shall, on a regular basis but at least annually, independently evaluate the effectiveness of their policies and control procedures in complying with these Regulations and any relevant guidelines, and such evaluation shall be an integral component of any internal audit.

(5) FS Practitioners shall be vigilant in ensuring the prevention of their involvement or misuse in money laundering, terrorist financing or proliferation financing activities, and shall not knowingly accept property or enter into business relationships where there is reasonable cause to believe that such property may have been acquired illegally or that they represent the proceeds of an offence.

(6) FS Practitioners shall establish procedures to identify and verify the identity of clients and shall maintain adequate and updated records of client identity by undertaking on-going reviews of existing records on a risk sensitive basis.

(7) FS Practitioners shall maintain records of client identity and transactions involved in such a manner as to assist, if necessary, in the investigation of an offence.

(8) FS Practitioners shall make a common-sense judgment about what, if any, further due diligence steps are required to be taken in relation to existing clients and relationships established prior to these Regulations coming into effect, and they shall also implement a system that can proactively review customer account activity periodically.

(9) All staff of FS Practitioners shall have access to information relating to these Regulations and any relevant guidelines for the prevention detection and reporting of money laundering, terrorist financing and proliferation financing.

(10) FS Practitioners shall adopt procedures to monitor staff compliance with these Regulations, relevant guidelines, policies, internal controls, and any procedures relating to the prevention, detection and reporting of money laundering, terrorist financing, proliferation financing and any offences.

(11) FS Practitioners shall have specific policies and procedures for the acceptance of cash for the account of clients and for the ongoing monitoring of account activity.

**5.-(1)** A registered agent shall, at all times, retain physical possession of the registers at the registered office, whether he deals directly with the end user customer or with a professional intermediary customer.

**Registered agent to retain physical possession of registers.**

(2) Where the professional intermediary customer has the registers in his possession, the professional intermediary

customer shall submit those registers to the registered agent in order for the registered agent to comply with sub-regulation (1).

Duty of professional intermediary customer and consequences of failure to comply.

6.-(1) Where a registered agent deals with a professional intermediary customer (such as an overseas law firm, an accounting firm or company formation agent who requests Belize companies to be incorporated in Belize on behalf of his customers), the registered agent shall have a contractual relationship with such customer requiring the professional intermediary customer to perform his own “know your customer” due diligence with his end-user customer in accordance with accepted international standards.

(2) In relation to the registers under regulation 5-

- (a) the registered agent’s contractual relationship pursuant to sub-regulation (1) shall include the requirement of the professional intermediary customer to submit the Registers to the registered agent immediately upon receipt of such registers from the company;
- (b) the professional intermediary customer shall submit the registers or changes to the registers to the registered agent immediately upon its receipt or within ten days of the date of incorporation of a company, if applicable, whichever date is the earlier date;
- (c) if the professional intermediary customer refuses or fails to forward the registers to the registered agent in accordance with this regulation, the registered agent shall-
  - (i) immediately notify the Director General of the professional intermediary customer’s failure to supply the required registers;

- (ii) immediately provide the Director General with information contained in its record of the professional intermediary customer;
  - (iii) review the risk profile of the professional intermediary customer and consider ceasing the business relationship with that professional intermediary customer; or
  - (iv) undertake any other action required by the Director General in relation to that professional intermediary customer including resignation as registered agent for such company if it is verified that the company is not in compliance with the Belize Companies Act in relation to the keeping of Registers; and
- (d) the Director General may consider any other appropriate penalties applicable against the professional intermediary customer including the following–
- (i) an administrative penalty of five thousand dollars for failure to submit Registers pursuant to regulation 5(2);
  - (ii) an administrative penalty of five thousand dollars for failure to submit changes to the registers in respect of those changes submitted to it by the company;
  - (iii) an administrative penalty of five thousand dollars for failure to submit a declaration required by the Act which it has in its possession; or
  - (iv) a daily administrative penalty of one thousand dollars per day or part of a day

Act No. 11 of  
2022.

for each day the professional intermediary fails to comply with any requirement under the Act or fails to take such measure or cease the particular activity, behaviour or practice.

7. A professional intermediary customer shall comply with the following–

Additional  
duties of  
professional  
intermediaries.

(a) the Central Bank of Belize's due diligence procedures and other requirements with respect to the acceptance of large cash deposits and in cases of doubt, they shall seek the advice of the Central Bank;

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(b) adhere to the Money Laundering and Terrorism (Prevention) Act;

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(c) adhere with the Financial Services Commission Act and regulations;

(d) have systems and procedures to maintain relevant records pertaining to the business of financial service providers and provide the Commission with the records required to monitor effectiveness;

(e) where applicable, provide the managing agent with reports, communications, and other documents to enable it to properly discharge its record-keeping requirements; and

(f) have adequate and effective systems, policies, processes and controls to ensure compliance with obligations.

Duty of FS  
Practitioner  
with respect  
to professional  
intermediary  
customers.

8.–(1) A FS Practitioner shall not deal with professional intermediary customers in any jurisdictions that the FATF has identified as having strategic deficiencies in their regimes to combat money laundering, terrorist financing, and

proliferation or are declared by the Commission as falling below acceptable international standards.

(2) Where a FS Practitioner deals with a professional intermediary customer who subsequently has been identified as having strategic deficiencies in their regimes to combat money laundering, terrorist financing, and proliferation or has been declared by the Commission as falling below acceptable international standards, the FS Practitioner shall take all measures to cease all dealings with such professional intermediary customer.

(3) The Commission. may issue warning notices against professional intermediary customers of the FS Practitioner who have been identified as having strategic deficiencies in their regimes to combat money laundering, terrorist financing, and proliferation or has been declared by the Commission as falling below acceptable international standards.

(4) A FS Practitioner shall provide an undertaking to conduct an annual review of the professional intermediary to ensure compliance with this regulation and regulation 7 and report those findings to the Commission.

(5) A FS Practitioner shall submit a list of its intermediaries, including the location of the intermediaries, to the Commission annually.

**9.** FS Practitioners that use agents shall include the agents in their AML/CFT/TF programme and monitor them for compliance with the program.

**Duty of FS Practitioners that use agents.**

### *Sub-Part 2*

#### *Assessing Risk and Applying a Risk-Based Approach*

**10.**-(1) FS Practitioners shall take steps appropriate to the nature, scope and size of the business to identify, assess,

**Assessment of risk.**

and understand its money laundering, terrorist financing and proliferation financing risks in relation to–

- (a) a customer of the person;
  - (b) the country or geographic area in which the customer under paragraph (a) resides or operates;
  - (c) the products, services and transactions of the person; and
  - (d) the delivery channels of the person.
- (2) FS Practitioners shall–
- (a) document the assessments of risk of the person;
  - (b) consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied;
  - (c) keep the assessments of risk of the person current;
  - (d) maintain appropriate mechanisms to provide assessment of risk information to competent authorities and self-regulatory bodies;
  - (e) implement policies, controls and procedures which are approved by senior management, to enable the person to manage and mitigate the risks that have been identified by the country or by the FS Practitioner;
  - (f) identify and assess the money laundering or terrorist financing risks that may arise in relation to the development of new products and new business practices, including new delivery

mechanisms and the use of new or developing technologies for both new and pre-existing products;

- (g) monitor the implementation of the controls referred to in paragraph (e) and enhance the controls where necessary; and
- (h) take enhanced customer due diligence to manage and mitigate the risks where higher risks are identified.

**11.** FS Practitioners in respect of new products and business practices, new delivery mechanisms and new or developing technologies shall—

Assessment of risk of new products etc.

- (a) undertake assessment of risk prior to the launch or use of the new products and business practices, new delivery mechanisms and new or developing technologies; and
- (b) take appropriate measures to manage and mitigate risks.

### *Sub-Part 3*

#### *Procedures for client verification and know your customer principle*

**12.**—(1) FS Practitioners shall ensure that all their staff are familiar with and apply relevant procedures to verify and adequately document the true identity of clients, when the practitioner establishes a business relationship and for this purpose, identity will usually include a current address or place of business.

Procedures for client verification.

(2) FS Practitioners shall not conduct business with persons using obviously fictitious names or addresses and shall not keep anonymous accounts.

(3) In the absence of a business relationship, verification and adequate documentation of identity shall be required when an FS Practitioner conducts any transaction in an amount equal to or above the sum of twenty thousand Belize dollars or its equivalent in any other currency, whether conducted as a single transaction or several transactions that appear to be linked.

(4) FS Practitioners shall be required to take steps to verify and adequately document a client's identity if money laundering is known or suspected.

(5) Where money laundering, terrorist financing, or proliferation financing is known or suspected, an FS Practitioner shall not refrain from making a report to the Financial Intelligence Unit merely because of the size of the transaction.

(6) In the case of FS Practitioners that are money transmission service providers, verification and adequate documentation of the originator of the transfer shall be required where the amount being transferred exceeds the sum of two thousand Belize dollars, including where the transaction is carried out in several operations that appear to be linked and together exceed the sum of two thousand Belize dollars or its equivalent in any other currency.

(7) FS Practitioners shall be required to take steps to verify and adequately document a client's identity where it has doubts about the veracity or adequacy of previously obtained customer identification data.

Payment on account in a financial institution in Belize.

**13.**—(1) Where a transaction involves payment by a client and the client does so by remitting funds from an account in a financial institution in Belize, it may be unnecessary to take any further steps to verify client identity if the FS Practitioner has evidence identifying the branch or office of such financial institution and verifying that the account is in the name of the client.

(2) Where business is placed over the telephone or other electronic means and payment is made in the manner specified in paragraph (1) above, an FS Practitioner shall retain a record indicating how the transaction arose, in addition to a record of the relevant branch or office and the account name.

**14.**-(1) A prospective client shall provide his true name and permanent address and his date of birth and nationality shall be sought and recorded; and it will usually be appropriate to verify this information by reference to a national identity card, passport or other similar identification document, a copy of which should be retained.

**Individual clients.**

(2) FS Practitioners shall take particular care to obtain adequate documentary evidence of identity in any case where prospective clients deal with them by mail or otherwise.

**15.**-(1) FS Practitioners shall exercise appropriate care with respect to corporate clients and shall obtain relevant information relating to client identity as described in this regulation.

**Corporate clients.**

(2) FS Practitioners shall obtain a copy of the certificate of incorporation and, where applicable, certificate of change of name, certificate of good standing, and a properly authorised mandate of the company to establish the business relationship.

(3) FS Practitioners shall have an understanding of the nature of the business conducted by a company and should be able to identify the beneficial owners of the same.

(4) In the case of a foreign company, FS Practitioners shall obtain certificates of incorporation, certificates of good standing, and a properly authorised mandate of the company to establish the business relationship.

(5) FS Practitioners shall obtain copies of identification documents of beneficial owners and authorised signatories of the company in accordance with the general procedure for

the verification of the identity of individuals and shall also obtain a copy of the memorandum and articles of association or bye laws of the company.

(6) With the exception of publicly traded companies, FS Practitioners shall obtain the register of members or a list of the names and addresses of shareholders holding a controlling interest in the company and shall obtain details which would be required of an individual client in respect of the beneficial owners of corporate shareholders shown to be holding twenty five per centum (25%) or more of the issued shares of a company or of any shareholder who appears to have a controlling interest.

(7) FS Practitioners shall identify and take reasonable measures to verify the identity of beneficial owners through the following information—

- (a) the identity of the natural person (if any) who ultimately has a controlling ownership interest in a legal person; and
- (b) to the extent that there is doubt under (a) as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, the identity of the natural person (if any) exercising control of the legal person or arrangement through other means; and
- (c) where no natural person is identified under (a) or (b) above, the identity of the relevant natural person who holds the position of senior managing official..

**16.**—(1) In the case of limited partnerships, it will usually be appropriate, as the case may be, to obtain a copy of the certificate of registration and a certificate of good standing.

(2) In the case of unincorporated businesses or partnerships in which the general partner does not fall within sub-regulation (1), FS Practitioners shall obtain where relevant—

- (a) evidence of the identity of a majority of the partners, owners or managers and the authorised signatories;
- (b) a copy of the mandate from the partnership or unincorporated business authorising the establishment of the business relationship, and confirmation of any authorised signatories.

(3) Consideration shall also be given as to whether it is reasonable to obtain a copy of the partnership agreement or documents governing the business.

**17.** Nothing in these Regulations shall prevent an FS Practitioner from making reasonable inquiries about transactions passing through clients' accounts that give cause for concern, or from reporting those transactions if any suspicions cannot be satisfied.

Clients acting on behalf of a third party or as a trustee.

**18.**—(1) A trustee shall verify the identity of a settlor or any person adding property to a trust in accordance with the procedures relating to the verification of identity of clients and the trustee shall recognise the purpose and the nature of the trust and the identity of the funds settled on it.

Procedures specific to trustees.

(2) Where an FS Practitioner acts as trustee with control and custody of the trust property, he shall ensure that payments from the relevant trust are authorised and made in accordance with the terms of the trust.

**19.**—(1) All FS Practitioners offering services over the Internet shall implement procedures to verify the identity of their clients and shall take care to ensure that the same

Internet and cyber business.

supporting documentation is obtained from Internet customers as for other customers where face-to-face verification is not practicable.

(2) In view of the additional risks of conducting business over the Internet, FS Practitioners shall monitor activity in customer accounts opened on the Internet on a regular basis.

Provision of safe custody and safety deposit boxes.

**20.** FS Practitioners who offer safe-keeping services to non-account holders shall take particular precautions in relation to requests to hold boxes, parcels and sealed envelopes in safe custody and in such cases, the identification procedures set out in these Regulations shall be adhered to.

#### *Sub-Part 4*

#### *Other measures to avoid money laundering, terrorist financing and proliferation financing*

Reporting of suspicious transactions.

**21.**—(1) All FS Practitioners shall promptly report any transactions relating to any account to the Financial Intelligence Unit where there are reasonable grounds to suspect that the transactions could constitute or be related to money laundering, terrorist financing, proliferation financing or any offence.

(2) All FS Practitioners shall pay special attention to all complex, unusual or large business transactions, or unusual patterns of transactions whether completed or not, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.

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(3) Upon reasonable grounds to suspect that the transactions described in sub-regulation (2) could constitute or be related to money laundering, terrorist financing, proliferation financing or any offence, a FS Practitioner shall report the suspicious transactions to the Financial Intelligence Unit as soon as possible but not later than three days after

forming that suspicion and wherever possible before the transaction is carried out. The report shall be in such form as may be required by the Money Laundering and Terrorism (Prevention) Act.

(4) FS Practitioners shall not notify any person, other than a court, competent authority or other person authorised by law, that information has been requested by or furnished to a court or the Supervisory Authority.

(5) Where a report referred to in sub-regulation (3) is made in good faith, FS Practitioners and connected persons, shall be exempted from criminal, civil or administrative liability, as the case may be, for complying with this regulation or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

**22.**—(1) Where there is suspicion that the source of funds may be criminal or that a client may be involved in an offence, FS Practitioners shall follow established procedures for assessing the evidence and determining what course of action should be pursued.

**Recognition and reporting of suspicious transactions.**

(2) FS Practitioners shall, depending on the nature of the suspicion, decide whether or not they can continue the business relationship or whether they should subject it to particular scrutiny or undertake further investigation, and consideration shall be given to whether or not it is appropriate to make a report to the Financial Intelligence Unit.

(3) An FS Practitioner shall make a report to the Financial Intelligence Unit in any case in which he knows that funds are connected with an offence.

(4) FS Practitioners shall be aware that suspicions shall depend upon the nature of the relationship and the transaction

and the particular circumstances of each case, and there is no one test that may be applied to determine what constitutes a suspicious transaction but an understanding of the client's business and adequate record keeping shall facilitate the assessment.

(5) For the purpose of clarification, unsatisfactory explanation or lack of commercial rationale, unusual patterns of transactions and inconsistency with the client's business may be indicia that a transaction or a series of transactions should be subjected to particular scrutiny.

(6) FS Practitioners shall have internal procedures to ensure that where there are reasonable grounds to suspect the source of funds or transactions are related to money laundering, terrorist financing, proliferation financing or any offence, a report of the suspicion is made to the Financial Intelligence Unit.

(7) All FS Practitioners shall keep records of reports made by their staff and of reports made to the Financial Intelligence Unit.

(8) Where a report has been made to the Financial Intelligence Unit, FS Practitioners and their staff shall be aware of the dangers of impeding an investigation into money laundering, terrorist financing proliferation financing or any offence by tipping off the client or others.

(9) FS Practitioners shall cooperate fully with competent authorities and the Commission to ensure that money laundering, terrorist financing, proliferation financing or any offence are fully investigated and prosecuted.

Withholding of services.

**23.** Where a FS Practitioner has reasonable grounds to believe that a client is requesting services in order to facilitate criminal activities, he shall withhold the performance of such services.

**24.**—(1) FS Practitioners shall take all reasonable precautions to prevent the commission of any act in Belize or any country that would constitute an offence under the laws of Belize or another country and shall not knowingly or otherwise participate in any such act.

**Avoidance of illegal acts.**

(2) FS Practitioners shall not provide clients with false or misleading attestations or documentation for the purposes of evading the laws of Belize or any country.

**25.**—(1) Where the Director General is satisfied in his own deliberate judgment that any information and or documents that a FS Practitioner is required by law to retain, including beneficial ownership information and accounting records, is reasonably required to facilitate a criminal investigation or prosecution, civil or criminal tax investigation or prosecution, or other proceeding, whether in Belize or abroad, he may under his hand require any FS Practitioner to disclose to him—

**Duty to supply information to the Director General.**

- (a) the beneficial ownership of any clients' accounts kept by such Practitioner;
- (b) the beneficial ownership of any Belize company for which such Practitioner is acting or has acted as a registered agent; or
- (c) any other information that the FS Practitioner is required by law to retain which is required in the furtherance of such investigation, prosecution or proceeding.

(2) All FS Practitioners shall promptly comply with a request from the Director General made pursuant to sub-regulation (1) and shall supply the requisite information within a period of five days or such shorter period as the Director General may direct.

(3) No FS Practitioner shall notify his clients or any other person that information has been requested by or forwarded to the Director General.

(4) The Director General shall treat all information received by him pursuant to this regulation with utmost care and confidence and shall disclose such information only to a domestic regulatory or supervisory authority or overseas regulatory or supervisory authority and upon satisfying himself that such information is bona fide required by the intended recipient in connection with a criminal investigation or prosecution, civil or criminal tax investigation or prosecution, or other proceeding, and provided further that information to overseas regulatory or supervisory authorities shall only be given if the Director General is satisfied that—

- (a) such assistance may be relevant to the functions of the overseas regulatory or supervisory authority and is intended to enable such authority to carry out the supervision, investigation, or enforcement to which the request relates;
- (b) overseas regulatory or supervisory authority has given a written undertaking that any material obtained pursuant to its request shall not, except with the approval or consent of the Commission be—
  - (i) used for any purpose other than a purpose that is specified at the time of the request; and
  - (ii) disclosed to any third party, other than a designated third party the material requested is of sufficient importance to the carrying out of the supervision, investigation, or enforcement to which the request relates and cannot reasonably be obtained by any other means;

- (d) the matter to which the request relates is of sufficient gravity; and
- (e) the provision of the requested assistance will not be contrary to the national interest of Belize or the interest of the investing public.

(5) No suit for breach of confidentiality or other such action shall lie against an FS Practitioner who discloses information, produces documents or renders other assistance in compliance with a request under this regulation.

#### *Sub-Part 5*

#### *General obligations of FS Practitioners re: staff, record keeping, etc.*

**26.** Subject to these Regulations and other applicable laws, all FS Practitioners shall maintain customer confidentiality in carrying out their duties as managers or administrators.

Confidentiality.

**27.**—(1) FS Practitioners shall ensure that their relevant staff are adequately trained and supervised to ensure proper compliance with these Regulations and any other relevant laws, regulations and procedures, as the case may be.

Staff training,  
supervision,  
education, etc.

(2) FS Practitioners and their relevant personnel shall familiarise themselves with the risks of inadvertent involvement in money laundering, terrorist financing, proliferation financing or any offence and, at induction, and routinely thereafter, measures should be taken to ensure that they are aware of these Regulations and any relevant guidelines and procedures relating to the recognition and avoidance of such activities.

(3) FS Practitioners shall encourage vigilance amongst their staff to avoid involvement in money laundering, terrorist financing, proliferation financing or any offence not only

where such staff accept investment or deal directly with clients but also where appropriate, among clerical, secretarial or administrative staff and, in particular, in accounting departments.

(4) FS Practitioners shall ensure staff compliance with these Regulations and relevant guidelines; and internal policies shall be monitored on a regular basis including compliance with procedures for establishing and maintaining appropriate records.

New  
employees.

**28.** FS Practitioners shall ensure that their relevant staff at the commencement of employment are made aware of what constitutes money laundering, terrorist financing, and proliferation financing, and their potential personal liability under the Money Laundering and Terrorism (Prevention) Act and other laws relating to the proceeds of crime, and due attention shall be given in training to combat and prevent money laundering terrorist financing and proliferation financing.

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Record  
keeping.

**29.**—(1) FS Practitioners shall maintain appropriate transaction records to establish an audit trail for the purposes of criminal investigation.

(2) For the purpose of this regulation, what is considered appropriate under sub-regulation (1) shall require a balance between normal commercial considerations and the needs of investigating authorities, and these should include evidence of client identities and addresses and, if relevant, the circumstances in which reliance was placed on another's due diligence procedures.

(3) All documentation shall be prepared and stored, whether by original documents, copies or on microfiche or other accessible electronic form, in such a manner that they are easily accessible within a reasonable time and readily available to comply with any court orders or directives regarding disclosure of information or confiscation of property.

(4) Appropriate evidence of client identification and verification, account opening or new business documentation and adequate records identifying relevant financial transactions shall be kept for a period of five years following the closing of an account or the end of the transactions or the termination of the business relationship.

(5) Where there has been a report of a suspicious transaction or a FS Practitioner is aware of a continuing investigation into money laundering, terrorist financing, proliferation financing or any offence relating to a client or a transaction, records relating to the transaction, or the client shall be retained until confirmation is received that the matter has been concluded

**30.**—(1) When applying for a licence, and in the discharge of their functions, under the Act and any Regulations made thereunder, all applicants and FS Practitioners shall have due regard to the fit and proper standard as more fully described in Schedule I to these Regulations.

Fit and proper  
standard.  
Schedule I.

(2) The fit and proper standard shall be applied by the Commission when considering applications for licences or renewals thereof.

**31.**—(1) FS Practitioners shall arrange and control their internal affairs, such as the keeping of proper records and the following of adequate procedures as required under any law and by the Commission, in a responsible manner so as to promote the best interests of customers and the integrity of Belize as a reputable jurisdiction.

General  
obligations  
of FS  
Practitioners.

(2) A FS Practitioner shall ensure that powers of attorney are—

- (a) granted for specific purposes;
- (b) limited in time;

- (c) not capable of being further delegated by the grantee; and
- (d) granted only where the FS Practitioner regards the donee to be particularly trustworthy by virtue of long-standing relationship or similar connections.

(3) All registered agents shall use reasonable means to ensure that the companies for which they act as registered agent are not being used for purposes of committing an offence.

(4) Registered agents shall use reasonable means to ensure that the companies in respect of which they act as registered agents are not used for the purposes of holding property arising from or facilitating the commission of any offence.

(5) FS Practitioners shall maintain in their offices such board meeting minute books and general meeting minute books as are required by law.

**Duties of  
Money  
Transmission  
Service  
Providers  
and Payment  
Processing  
Services  
Providers  
Agents.**

**32.**—(1) Money Transmission Service Providers and Payment Processing Service Providers Agents shall, in the discharge of their function, ensure that their agents satisfy the fit and proper standard as described in Schedule I.

(2) Money Transmission Services Providers and Payment Processing Services Providers shall ensure that its agent informs consumers that it is acting as an agent of that financial service provider.

(3) Money Transmission Services Providers and Payment Processing Services Providers shall maintain the following information for an agent—

- (a) the name and address of the agent;

- (b) a description of the internal control mechanisms that will be used by the agent in order to comply with its obligations pursuant to the Money Laundering and Terrorism (Prevention) Act; and
- (c) any other information that the Commission may require from time to time.

CAP. 104.

(4) Money Transmission Services Providers and Payment Processing Services Providers shall guarantee that an agent or any third party acting on their behalf shall comply with these regulations.

**33.** Where an FS Practitioner provides financial services within the meaning of the Act, the FS Practitioner shall—

**Duties of FS Practitioners giving investment advice.**

- (a) act honestly and fairly and with due skill, care and diligence in the best interest of his customers and the integrity of the market;
- (b) have and shall effectively employ the resources and procedures required for the proper performance and conduct of his business activities;
- (c) seek from his customers, adequate information concerning the latter's financial situation, investment experience and investment objectives relevant to the services to be provided;
- (d) make adequate disclosure of any relevant and material information when dealing with his clients;
- (e) ensure that there is no conflict of interest between himself and his client companies and between one client company and another, and in respect

of each company for which he provides services shall—

- (i) disclose his interest, if any, in the matter;
- (ii) maintain separate accounts in his books;
- (iii) segregate the funds and other property of each company;
- (iv) maintain one or more separate bank accounts into which he shall deposit all moneys held by him on behalf of each company.

Duty in relation to trading.

**34.** Where an FS Practitioner provides trading in commodity-based and other financial instruments services within the meaning of Act, the FS Practitioner shall not encourage excessive trading in a customer's account for the purpose of increasing the FS Practitioner's or stockbroker's or broker's commission or other revenue generated by such trading and shall at all times comply with duty of fair dealing owed to customers.

### *Sub-Part 6*

#### *General*

Transfer of clients between registered agents.

**35.**—(1) Where a client requests a transfer of business from one FS Practitioner to another, the proposed new FS Practitioner shall make all due inquiries from the current FS Practitioner as to the reasons for such requested change.

(2) A FS Practitioner shall respond to another FS Practitioner's reasonable requests on a timely basis.

(3) A FS Practitioner shall offer reasonable assistance in effecting settlement of outstanding invoices by clients before the transfer of the company to the new registered agent.

(4) Where a client transfers his business from one FS Practitioner to another, the former FS Practitioner shall, upon payment of his outstanding invoices, if any, deliver promptly to the new FS Practitioner, all relevant books, documents and records of the relevant client company including any memorandum and articles of association, by laws, certificate of incorporation, share register, copies of minutes and resolutions and an impression of the corporate seal.

(5) A FS Practitioner may not use a dispute involving the outstanding invoices owed by a client to unduly delay the transfer of the client's business to another FS Practitioner.

(6) A FS Practitioner shall not file documents, settle licence fees or restore struck off companies that he does not represent as registered agent without the agreement of the registered agent on record, which agreement shall not be unreasonably withheld by the registered agent on record.

**36.**–(1) Advertisements issued by FS Practitioners shall not be unclear, false, or misleading in any material particular and shall in no way compromise Belize as a reputable financial services centre.

Advertising.

(2) An FS Practitioner that breaches sub-regulation (1) commits an offence and shall be dealt with in accordance with section 74 of the Act.

### PART III

#### *Best Practices*

**37.**–(1) FS Practitioners shall ensure that the individuals holding key positions within their establishment are persons of integrity and have no criminal, and relevant adverse business, professional or personal history.

Integrity and competency.

(2) For the purposes of sub-regulation (1), a FS Practitioner shall consider the following–

- (a) professional or administrative reprimand;
- (b) regulatory directions or public statements;
- (c) disciplinary findings;
- (d) civil fines;
- (e) criminal convictions;
- (f) declaration of bankruptcy;
- (g) adverse personal credit rating; or
- (h) any other information considered necessary for the purposes of sub-regulation (1).

(3) The consideration shall apply to a person's involvement as a director, shareholder, beneficial owner or senior manager or officer within a company that has been the subject of such considerations.

(4) FS Practitioners shall ensure that the individuals within their establishment providing the service have relevant and appropriate level of competency/capability; and for this purpose, the relevant considerations would include–

- (a) professional or other relevant qualifications;
- (b) knowledge and/or experience relevant to the business concerned and appropriate to the employment status or role of the individuals concerned.

- (a) compliance with recognized general standards of corporate governance in respect of both the business itself and each company, partnership, trust and other legal entity (“the client(s)”);
- (b) compliance with national regulations with respect to money laundering, terrorist financing, proliferation financing or any offence;
- (c) compliance with all relevant and applicable financial regulatory standards;
- (d) compliance with all relevant and applicable domestic statutory requirements and or obligations;
- (e) compliance with recognized standards in respect of directors and/or trustee responsibilities.

**39.**–(1) FS Practitioners shall adopt necessary measures to ensure that they are engaged in effective customer due diligence to satisfy regulatory requirements and keep sight of any improvement or variation of customer due diligence standards set out by the Commission.

Customer due diligence.

(2) FS Practitioners have an ongoing responsibility to conduct updates of their policies and procedures when there has been any improvement or variation of customer due diligence standards set out by the Commission.

(3) The measures to ensure effective customer due diligence shall include, inter alia, proper procedures for–

- (a) customer identification;
- (b) verification of identity of customer;
- (c) risk profiling of customers (e.g., politically exposed persons);

- (d) establishing the source of wealth;
- (e) establishing the source of funds;
- (f) ongoing monitoring of a customer's activities;
- (g) adequate documentation to meet KYC requirements.

(4) Specific issues on which attention should focus relate to information on the ultimate beneficial owner and or controller of companies, partnerships and other legal entities, and the settler, protector or beneficiaries of trusts, which should be known to the FS Practitioner and be adequately documented.

(5) The FS Practitioner may require customers to complete a written declaration of the identity and details of the beneficial owners, although the FS Practitioner must not rely solely on such declarations.

(6) The written declaration pursuant to sub-regulation (4) shall be made in the form approved by the Commission.

Conduct of  
client business.

**40.** The FS Practitioner should be able to demonstrate that client business is being properly conducted through the—

- (a) identification and segregation of clients' assets and liabilities from the assets and liabilities of the FS Practitioner;
- (b) effective handling of clients' property covering safe custody and proper management of property;
- (c) maintaining adequate and orderly accounting records of clients' affairs;

- (d) maintaining adequate client documentation (e.g., trust deeds);
- (e) ensuring that all transactions or decisions entered into, taken by or on behalf of clients are appropriately authorized or handled by persons with an appropriate level of knowledge, experience and status properly to effect such transactions or make the proper decisions according to the nature and status of the transaction or decisions involved, for example—
  - (i) where discretion is exercised for or in relation to clients, all reasonable steps should be taken to obtain sufficient information in order to exercise that discretion or other powers in a proper manner and such discretion should only be exercised for a proper purpose;
  - (ii) any actual or perceived conflict of interest should be avoided or appropriately disclosed; and where conflicts arise and cannot be resolved by disclosure and, internal rules of confidentiality, or rules on when or when not to act, the FS Practitioner should withdraw its services in an orderly manner;
  - (iii) all business (including the establishing, transferring or closing of business relationships with its customers) should be transacted in an expeditious manner;
- (f) ensuring that, where appropriate, there is a full understanding of the duties arising under the laws relevant to the administration and affairs of clients for which they are responsible.

Financial  
soundness.

**41.** A FS Practitioner shall be able to demonstrate that it is financially sound by–

- (a) maintaining adequate and orderly accounting records of–
  - (i) the business of the FS Practitioner itself;
  - (ii) the affairs of the clients;
- (b) maintaining adequate financial resources including–
  - (i) paid up capital; and/or
  - (ii) liquid capital;
- (c) providing evidence of compliance with any relevant financial regulatory standards;
- (d) providing evidence of compliance with international accounting standards; and
- (e) maintaining adequate professional indemnity insurance cover.

Systems and  
procedures.

**42.**–(1) A FS Practitioner shall be able to demonstrate that the following systems, procedures and controls are adequately addressed–

- (a) effective compliance functions, where appropriate, a skilled and experienced person shall be designated as a compliance officer;
- (b) effective reporting procedures and effective systems to submit timely and accurate information to the appropriate authorities, where appropriate, a skilled and experienced person shall be designated at the managerial

- level as an anti-money laundering compliance officer;
- (c) an effective complaints handling system maintaining a record of complaints and the actions taken to resolve them;
  - (d) maintaining at an appropriate location in Belize adequate, orderly and up to date records of all business transactions of the FS Practitioner and instructions received from clients, including—
    - (i) the accounting records of the business;
    - (ii) the accounting records of each client;
    - (iii) records of the internal organization and risk management systems;
    - (iv) client documentation (e.g., client requirements, customer due diligence requirements);
    - (v) document retention policies appropriate to the business of the FS Practitioner and in compliance with relevant legal obligations;
  - (e) maintaining a manual of appropriate policies and procedures for the operation of the FS Practitioner's business and the provision of services to each client, including business acceptance procedures intended to safeguard the business and the clients and their property and to ensure that all authorized and proper transactions are undertaken;
  - (f) maintaining an adequate span of control with a sufficient number of appropriately skilled

and experienced persons able to exercise independent judgment in relation to the running of the FS Practitioner's business;

- (g) ensuring that those engaged in the business have appropriate relevant experience and qualifications;
- (h) ensuring that continuous professional development requirements are satisfactorily met; and
- (i) maintaining effective procedures to ensure that no false or misleading information is provided, including advertisements.

Internal principles and procedures.

**43.**—(1) FS Practitioners shall lay out appropriate internal principles and procedures for determining fees and other charges, which must be available to the Commission on request.

(2) FS Practitioners shall inform their clients at the start of a business relationship of their fees, including “exit and transfer fees”, that will be charged for services and publish and/or prominently display these fees so that clients are always aware of the fees that they may potentially face.

(3) These principles and procedures shall apply to the FS Practitioners and all their employees and other persons, such as intermediaries, who are authorised on behalf of an FS Practitioner to represent it during its business.

Access to and sharing of key information.

**44.**—(1) All Registered Agents shall ensure that—

- (a) the information on the ultimate beneficial owner and/or controllers of companies, partnerships and other legal entities, and the trustees, settler, protector and beneficiaries of trusts are known to the Registered Agent and is properly recorded;

- (b) any change of client control and ownership is promptly monitored (e.g., in particular where a Registered Agent is administering a corporate vehicle in the form of a “shelf” company or where nominee shareholdings are involved);
- (c) there is an adequate, effective and appropriate mechanism in place for information to be made available to all the relevant authorities (i.e., law enforcement authorities, regulatory, and supervisory authorities).
- (d) KYC and transactions information regarding the clients of the Registered Agent is maintained in Belize.

(2) The Commission may require from the Registered Agent, any document necessary including the trust instrument or part of trust instrument dealing with information in the written declaration, charter (or equivalent), audited financial statement, or statement certified by a suitable person or class of persons determined by the Commission for it to verify information supplied in the declaration of identity and details of beneficial owners, if at any time, the Commission requires from the Registered Agent such written declaration.

**45.**–(1) In order to ensure that the interests of the customer or client can be adequately safeguarded when the FS Practitioner is no longer able to carry on the business for any reason, the FS Practitioner who handle and/or manage the funds and/or property of clients shall appoint external auditors with relevant experience and appropriate qualifications and track record to carry out a full audit of the FS Practitioner business in accordance with international standards.

**Appointment  
of Auditors.**

(2) The external auditor so appointed shall include in his report any breaches of the relevant legislation by the FS Practitioner or other material concerns.

(3) A copy of the external auditor's report shall be supplied to the Commission within three weeks of the FS Practitioner's financial year.

## PART IV

### *Miscellaneous*

Breach and penalties.  
Schedule II.

**46.**—(1) A breach by an FS Practitioner of any of the provisions of these Regulations constitutes professional misconduct and a FS Practitioner who commits such a breach shall be liable to any of the penalties or disciplinary action which the Commission may impose as set out in Schedule II.

Schedule II.

(2) The procedure for hearing complaints for any breach of the provisions of these Regulations shall be as set out in Schedule II.

Liability of FS Practitioners for other offences.

**47.** Nothing contained in these Regulations shall be construed as affecting the liability of on FS Practitioner or any other person from conduct which amounts to a crime under the Act or any other law.

Repeal.  
S.I. 94 of 2001.  
S.I. 37 of 2007.

**48.**—(1) The Financial Services Practitioners (Code of Conduct) Regulations and the Trust and Company Service Providers (Best Practices) Regulations are repealed.

(2) Notwithstanding sub-regulation (1) nothing in these Regulations shall affect any proceedings taken or a right which has accrued or a liability which has been incurred under the repealed Regulations.

SCHEDULE I  
[regulations 27 and 29]

**Explanatory Notes**

I. The “fit and proper” assessment is both an initial test undertaken during consideration of an application for licensing, registration or other authorisation, and a continuing and cumulative test which is applied to the ongoing conduct of an FS Practitioner’s business, taking account of an FS Practitioner’s history of compliance with all applicable laws, regulations and guidelines and the nature of its relationship with the Commission.

II. In this Schedule, “applicant” means a person applying for a licence under the Act or any Regulations made thereunder.

1. An assessment of “fit and proper” status will be applied to a company and to the key individuals (directors, managers, shareholders and beneficial owners) who are responsible for managing and controlling the company’s business and the assessment will also take account of, among other things, the nature and scope of the business proposed or being done; financial soundness; internal organisation and record keeping and systems of managerial control.

**Application of fit and proper status.**

2.–(1) With regard to an individual, the assessment will take account of whether he or she has sufficient skills, knowledge and experience to properly carry out his or her duties and responsibilities specific to the business proposed or being done.

**Individual assessment.**

(2) The assessment will also take into account a person’s reputation and character and will include such matters as whether he has a criminal record - convictions for dishonesty being especially relevant.

(3) Regard will also be had to bankruptcy proceedings and any regulatory action taken against an individual or a company, whether in Belize or elsewhere.

**Onus on individual.**

3.–(1) The onus will always be on the applicant, individual or FS Practitioner, as the case may be, to provide satisfactory evidence that he is and continues to be a “fit and proper” person.

(2) Evidence merely of a minimum standard will not be sufficient and positive evidence will be required that the company or individual meets a high standard as justified by the positions of trust, in respect of the money or other property of an investor, that the company and the individual occupy.

**Assessment of performance.**

4.–(1) The assessment will have regard to the performance of an individual in the exercise of his duties and responsibilities.

(2) Incompetence or imprudence in the conduct of an institution’s business or conduct that has threatened the interests of existing or future customers, whether by reason of action or failure to act, will reflect adversely on those responsible.

**Fulfilment of fit and proper standard.**

5.–(1) It may be determined that a person does not fulfil the “fit and proper” standard on the basis of several instances of conduct which, taken individually, might not lead to that conclusion.

(2) It may also subsequently be determined that a FS Practitioner or a key employee of a FS Practitioner does fulfil the “fit and proper” standard on the basis of information that was not available or that was not made available at the time of licensing.

6. A person shall not be considered to fulfil the fit and proper standard is that person–

- (a) is bankrupt or has made arrangement with the person's creditors;
- (b) is prohibited from being a director;
- (c) is convicted or has been convicted of an offence under the provisions of any laws relating to the regulation of financial services whether in Belize or abroad, or under the Money Laundering and Terrorism (Prevention) Act; **CAP. 104.**
- (d) is a person whose licence or registration has been revoked for cause by an entity having authority to licence, register or regulate the person whether in Belize or abroad; or
- (e) being a legal entity, has a controlling interest, director or senior manager who is disqualified under paragraphs (a) to (d).

7. The withholding by an applicant or a FS Practitioner of information which is relevant to the "fit and proper" assessment will certainly have a negative effect on the assessment of the individual or company and it should also be noted that wilfully providing false or misleading information when applying for a licence is an offence under the Act.

**Withholding of information.**

8. In carrying out an assessment, the Commission will not be restricted only to the information which is provided by the applicant, but regard will also be had to any matter which might not be directly related to the business of an FS Practitioner. For example, the Commission will wish to be informed of any legal proceedings which have been or are about to be instigated against an applicant or a key individual.

**Additional information.**

9. Account will also be taken of key relationships that an applicant or FS Practitioner has or proposes to establish, such

**Consideration of key relationships.**

as with banks and auditors. Associations with accountants, lawyers and other finance companies who are themselves acknowledged to be of experience and in good standing by others in the marketplace or subject to prudent regulation and supervision in other jurisdictions will provide comfort. Conversely, an association with a company that has been carrying on its business in contravention of the laws of any country or jurisdiction (such as an unlicensed bank or investment adviser) could adversely affect the assessment of the “fit and proper” status of its business associates.

Key elements  
of the “fit  
and proper”  
assessment.

10. The four key elements that are relevant to the “fit and proper” assessment are—

(1) Integrity

- (a) Integrity involves the proper discharge of the responsibilities which come from being in a position of trust with regard to the investments and savings of others.
- (b) Integrity concerns a company’s managers and employees behaving honourably towards customers, creditors, other companies in the market and regulatory bodies, whether in Belize or elsewhere.
- (c) Integrity embraces behaviour which has an impact upon the community and the jurisdiction at large (e.g., avoiding the knowing assistance of money laundering) and is reflected by the general ethos and corporate culture of an applicant or FS Practitioner.
- (d) It involves dealing openly and honestly with the Commission and informing the Commission of anything which is relevant to the Commission’s duties.

- (e) Conversely, a desire to cover up deficiencies in the conduct of business would indicate a lack of integrity and such action may also indicate a lack of knowledge and would have a bearing on the assessment of competence.

## (2) Financial Stability, Solvency and Financial Control

- (a) This test seeks to ensure a degree of stability in respect of the financial affairs of the FS Practitioner by requiring the maintenance of solvency and prudent financial control.
- (b) It involves the proper organisation and control of a company's financial position and requires clear and robust financial recording and reporting systems and effective managerial oversight.
- (c) Solvency involves ensuring that FS Practitioners are able to meet their liabilities when they fall due, and it is also about maintaining adequate cover to enable FS Practitioners to survive periods of market weakness or slack trading conditions.
- (d) Financial stability also concerns the proper control of the financial risks involved in an FS Practitioner's business.
- (e) Financial control requires that proper care and control is taken to protect customers' money and property.

## (3) Skill, Competence and Managerial Control

- (a) This test seeks to ensure that a FS Practitioner and his employees act to the

highest standards of market practice and act in a way that upholds the best interests of investors and the reputation of Belize.

- (b) It involves the demonstration of a soundly and prudently run business, one which is adequately resourced and well organised and one which maintains adequate records and well-defined and documented operating and compliance procedures.
- (c) It also involves–
  - (i) a connected person having adequate knowledge of and control over the business being done;
  - (ii) managers ensuring that the business is operated in an efficient and reliable manner;
  - (iii) managers and senior executives ensuring that the affairs of FS Practitioners are properly organised; and
  - (iv) managers ensuring that employees are not required to perform duties or assume responsibilities that are unreasonable with regard to their skills and experience.
- (d) It requires an FS Practitioner to establish clear internal managerial reporting lines, especially for compliance matters, and to ensure that his business is operated in full compliance with all statutory rules and regulations in force in Belize and any rules and regulations which may apply in any

other country where the FS Practitioner is doing business.

- (e) It requires an FS Practitioner to demonstrate that his managers and employees have knowledge relevant to the business proposed or being done. Recognised professional qualifications and membership of professional institutions will be particularly relevant. Operational staff should be adequately trained and acquainted with the nature and risks of the financial instruments and the products with which they deal.
- (f) It includes the provision of or participation in structured training programmes which are designed to ensure that relevant skills and knowledge are transferred within the business of the FS Practitioner and the community.

#### (4) Track Record and Viability

- (a) This test seeks to ensure that an applicant and the individuals involved have sound and proven experience in carrying on the business for which they are seeking a licence.
- (b) It seeks to ensure that an FS Practitioner's business plans are viable and realistic and that he will have a good probability of continuance in the future.
- (c) It seeks to ensure that an applicant or FS Practitioner has soundly based and legitimate reasons for wishing to do such business in Belize.

- (d) It requires an applicant to establish a considered business plan, which takes account of his company's projected financial position, its profitability and its resource requirements.

Maintenance of the "fit and proper" standard.

11.-(1) Every applicant shall be considered on his own merits and both the company, and the key individuals involved will be judged against the principles and standards as set out in these Regulations.

(2) All FS Practitioners shall be subject to a continuous ongoing assessment against the benchmark principles and standards set out in these Regulations.

SECOND SCHEDULE  
[regulation 46]

**DISCIPLINARY PROCEEDINGS**

1. An application to the Commission requiring an FS Practitioner to answer any allegations contained in an affidavit shall be in writing under the hand of the applicant and shall be sent to the Director General of the Commission (“Director General”) together with an affidavit by the applicant stating the matters of fact on which he relies in support of his application.

**Application to Commission.**

2. Before fixing a date for hearing of the application, the Commission may require the applicant to supply such further information and documents relating to the allegations as it thinks fit, and in any case where in the opinion of the Commission, no prima facie case is shown, the Commission may, without requiring the FS Practitioner to answer the allegations, dismiss the application and notify the applicant and the FS Practitioner of the dismissal.

**Requirement of additional information and dismissal of application.**

3. In any case in which, in the opinion of the Commission, a prima facie case is shown, the Commission shall fix a date of hearing, which shall not be more than ninety days of the receipt of the application by the Director General, and the Director General shall serve notice thereof on the applicant and on the FS Practitioner, and shall also serve on the FS Practitioner personally a copy of the application and affidavit together with additional information and documents, if any, supplied by the applicant and the notice shall not be less than a twenty-one days’ notice.

**Notice of hearing.**

4. The notice shall require the applicant and the FS Practitioner respectively to furnish to the Director General and to each other a list of all documents on which they respectively propose to rely, and such list shall, unless otherwise ordered by the Commission, be furnished by the

**Requirements of notice.**

applicant and by the FS Practitioner respectively, at least fourteen days before the date of hearing.

Inspection of documents.

5.-(1) Either party to the hearing may inspect the documents included in the list furnished by the other, and a copy of any document mentioned in the list of either party shall, on the application of the party requiring it, be furnished to that party by the other within three days after the receipt of the application.

(2) Either party to the hearing may-

- (a) specify the form in which the documents shall be provided;
- (b) specify whether the documents shall be verified by the production of original documents or certified copies of original documents;
- (c) inspect and take copies of relevant documents; and
- (d) take possession of and retain relevant documents for a specified period.

Determination of application in absence of party thereto.

6. If either or both parties fail to appear at the hearing, the Commission may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his or their absence.

Evidence by affidavit.

7. The Commission may, in its discretion, either as to the whole case or as to any particular facts, proceed and act upon evidence given by affidavit:

Provided that any party to the proceedings may require a deponent to any such affidavit to be summoned to appear before the Commission, unless the Commission is satisfied

that the affidavit is purely formal and that the requirement of the appearance of the deponent is made frivolously.

8.-(1) The Commission shall hear all applications in private.

Hearing of application and Commission's decision.

(2) The Commission may of its own motion, or upon the application of either party, adjourn the hearing upon such terms as to the Commission may appear just.

(3) Within ninety days of the conclusion of the hearing, the Commission shall give its decision on the complaint.

9. The service of any notice or other document required hereunder may be effected by registered letter addressed to the last known place of abode or business of the person to be served, and proof that such letter was so addressed and posted shall be proof of service, and any notice or document required to be given or signed by the Director General may be given or signed by him or by any person duly authorised by the Commission in that behalf.

Service of notice, etc.

10. Notwithstanding anything to the contrary, the Commission may extend or abridge the time for doing anything under these Regulations.

Extension of time.

11. Custody of all affidavits and other documents filed in connection with an application under these Regulations shall be retained by the Director General until the same are forwarded to the Commission.

Custody of documents.

12.-(1) FS Practitioners and witnesses shall have the same privileges and immunities in relation to hearings on applications under these Regulations as in any court of law.

Privileges and immunities.

(2) A party to an application is entitled to be represented by an attorney.

Power of  
Commission  
to punish for  
breach of  
Regulations.

13.-(1) Where the Commission finds that an FS Practitioner has committed a breach of any of these Regulations, the Commission may by a written order, impose any one or more of the following penalties, sanction or remedies as prescribed under section 53 of the Act.

(2) Notwithstanding sub-paragraph (1), the Commission may impose the following punishments for the specified professional misconduct-

- (a) a fine of one thousand dollars for failure to keep Registers pursuant to regulation 5(1);
- (b) a fine of one thousand dollars for failure to notify the Director General of any non-compliance with a requirement pursuant to regulation 6(3)
- (c);
- (c) a fine of one thousand dollars for failure to obtain a declaration of beneficial owners pursuant to these regulations
- (d) a daily administrative penalty of one thousand dollars per day or part of a day for each day the registered agent fails to comply with any requirement under the Act.

(3) The sanctions mentioned above shall be without prejudice to the penalties that may be imposed by any other law where the conduct involved is also an offence.

Right of  
appeal.

14. A person who is aggrieved by a decision of the Commission may appeal to the Appeal Panel, pursuant to section 54 to the Act.

**MADE** by the Financial Services Commission this 16th day of November, 2023.



**JOSEPH WAIGHT**

Chairman

Financial Services Commission

**APPROVED** by the Minister responsible for Financial Services this 16th day of November, 2023.



**HON. JOHN BRICEÑO**

Prime Minister

*(Minister responsible for Financial Services)*