



The Fit and Proper test for Approved Persons

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Chapter 2

2

Main assessment criteria

2.1 Honesty, integrity and reputation

2.1.1

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01.02.04/002

In determining a *person's* honesty, integrity and reputation, the *FSA* will have regard to matters including, but not limited to, those set out in ■ FIT 2.1.3 G which may have arisen either in the *United Kingdom* or elsewhere. The *FSA* should be informed of these matters (see ■ SUP 10.13.16 R), but will consider the circumstances only where relevant to the requirements and standards of the *regulatory system*. For example, under ■ FIT 2.1.3G(1), conviction for a criminal offence will not automatically mean an application will be rejected. The *FSA* treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and circumstances surrounding, the offence, the explanation offered by the convicted *person*, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation.

2.1.2

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03.09.01/001

In considering the matters in ■ FIT 2.1.1 G, the *FSA* will look at whether the *person's* reputation might have an adverse impact upon the *firm* for which the *controlled function* is or is to be performed and at the *person's* responsibilities.

2.1.3

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01.02.04/002

The matters referred to in ■ FIT 2.1.1 G to which the *FSA* will have regard include, but are not limited to:

- (1) whether the *person* has been convicted of any criminal offence; this must include, where relevant, any spent convictions excepted under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (see Articles 3 and 4 of the order); particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence whether or not in the *United Kingdom* or other offences under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking and or other financial services, insolvency, consumer credit companies, insurance, and consumer protection, money laundering, market manipulation or insider dealing;
- (2) whether the *person* has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a *body corporate*;
- (3) whether the *person* has been the subject of, or interviewed in the course of, any existing or previous investigation or disciplinary proceedings, by the *FSA*, by other regulatory authorities (including a *previous regulator*), *clearing houses* and exchanges, professional bodies, or government bodies or agencies;
- (4) whether the *person* is or 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;
- (5) whether the *person* has contravened any of the requirements and standards of the *regulatory system* or the equivalent standards or requirements of other

- regulatory authorities (including a *previous regulator*), *clearing houses* and exchanges, professional bodies, or government bodies or agencies;
- (6) whether the *person* has been the subject of any justified complaint relating to *regulated activities*;
 - (7) whether the *person* has been involved with a *company*, *partnership* or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body;
 - (8) whether, as a result of the removal of the relevant licence, registration or other authority, the *person* has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authority;
 - (9) 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;
 - (10) whether the *person*, or any business with which the *person* has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately;
 - (11) whether the *person* has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;
 - (12) whether the *person* has ever been disqualified from acting as a *director* or disqualified from acting in any managerial capacity;
 - (13) whether, in the past, the *person* has been candid and truthful in all his dealings with any *regulatory body* and whether the *person* demonstrates a readiness and willingness to comply with the requirements and standards of the *regulatory system* and with other legal, regulatory and professional requirements and standards.



2.2 Competence and capability

2.2.1

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01.12.01/001

In determining a *person's* competence and capability, the *FSA* will have regard to matters including but not limited to:

- (1) whether the *person* satisfies the relevant requirements of the *FSA's* Training and Competence sourcebook (*TC*) in relation to the *controlled function* the *person* performs or is intended to perform;
- (2) whether the *person* has demonstrated by experience and training that the *person* is able, or will be able if approved, to perform the *controlled function*.

2.2.2

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01.12.01/001

A *person* may have been convicted of, or dismissed or suspended from employment for, drug or alcohol abuses or other abusive acts. This will be considered only in relation to a *person's* continuing ability to perform the particular *controlled function* for which the *person* is or is to be employed.