



# The Fit and Proper test for Approved Persons

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## 1.2 Introduction

- 1.2.1** **G** Under section 61(1) of the *Act* (Determination of applications), the *FSA* may grant an application for approval made under section 60 (Applications for approval) only if it is satisfied that the *candidate* is fit and proper to perform the *controlled function* to which the application relates.
- 1.2.2** **G** The method of applying for *approved person* status is set out in **■** SUP 10.
- 1.2.3** **G** Under section 63(1) of the *Act* (Withdrawal of approval), the *FSA* may withdraw its approval if it considers that the *person* in respect of whom the approval was given is not fit and proper to perform the *controlled function* to which the approval relates.
- 1.2.4** **G** The *Act* does not prescribe the matters which the *FSA* should take into account when determining fitness and propriety. However, section 61(2) states that the *FSA* may have regard (among other things) to whether the *candidate* or *approved person* is competent to carry out a *controlled function*.

## 1.3 Assessing fitness and propriety

- 1.3.1** **G** The *FSA* will have regard to a number of factors when assessing the fitness and propriety of a *person* to perform a particular *controlled function*. The most important considerations will be the *person's*:
- (1) honesty, integrity and reputation;
  - (2) competence and capability; and
  - (3) financial soundness.
- 1.3.2** **G** In assessing fitness and propriety, the *FSA* will also take account of the activities of the *firm* for which the *controlled function* is or is to be performed, the *permission* held by that *firm* and the markets within which it operates.
- 1.3.3** **G** The criteria listed in ■ FIT 2.1 to ■ FIT 2.3 are *guidance* and will be applied in general terms when the *FSA* is determining a *person's* fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination.
- 1.3.4** **G** If a matter comes to the *FSA's* attention which suggests that the *person* might not be fit and proper, the *FSA* will take into account how relevant and how important it is.
- 1.3.5** **G** During the application process, the *FSA* may discuss the assessment of the *candidate's* fitness and propriety informally with the *firm* making the application and may retain any notes of those discussions.

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## Chapter 2

# Main assessment criteria

## 2.1 Honesty, integrity and reputation

- 2.1.1** **G** 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 2.1.3 G(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** **G** 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** **G** 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 provided for by the Exceptions Order to the Rehabilitation of Offenders Act 1974 , any spent convictions; 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;