

Fit and Proper test for Employees and Senior Personnel sourcebook

Chapter 1

General

1.2 Introduction

- 1.2.-1** **G** Under section 60A(1) of the *Act*, before a *firm* may make an application for the *FCA's* approval of a *controlled function* the *firm* must be satisfied that the *person* for whom the application is made is a fit and proper *person* to perform that function.
- 1.2.1** **G** Under section 61(1) of the *Act* (Determination of applications), the *FCA* may grant an application for approval made under section 60 (Applications for approval) of the *Act* only if it is satisfied that the *candidate* is fit and proper to perform the *controlled function* to which the application relates.
- 1.2.1A** **G** Under section 63F of the *Act*, a *firm* may issue a certificate to a person to perform a *certification function* only if it is satisfied that the *person* is a fit and proper *person* to perform that function.
- 1.2.1B** **G** Under sections 60A and 63F of the *Act*, in assessing whether a *person* is a fit and proper person to perform an *FCA designated senior management function* or an *FCA certification function*, a *firm* must have particular regard to whether that *person*:
- (1) has obtained a qualification; or
 - (2) has undergone, or is undergoing, training; or
 - (3) possesses a level of competence; or
 - (4) has the personal characteristics;
- required by general *rules* made by the *FCA*.
- 1.2.1C** **G** The key general *rules* relating to the criteria listed in **■** FIT 1.2.1BG include:
- (1) in the case of very senior *employees*, **■** SYSC 4.2 (*persons who effectively direct the business*) and **■** SYSC 4.3A.3R (*management body*);
 - (2) for personnel of *firms* generally, the *competent employees rule*;
 - (3) in relation to retail activities, **■** TC 2.1.1R, **■** TC 2.1.5BR and **■** TC 2.1.12R (*employees' competence*); and
 - (4) for those who are *employees* of insurance firms, **■** SYSC 3.1.6R.

- 1.2.2 **G** [deleted]
- 1.2.3 **G** [deleted]
- 1.2.3A **G** Under section 63(1) of the Act (Withdrawal of approval), the *FCA* may withdraw an approval under section 59 given by the *FCA* or the *PRA* in relation to the performance by a person of a function if it considers that the *person* is not a fit and proper *person* to perform the function.
- 1.2.3B **G**
- 1.2.4 **G** The Act does not prescribe the matters which the *FCA* should take into account when determining fitness and propriety. However, section 61(2) states that the *FCA* may have regard (among other things) to whether the *candidate or approved person*:
- (1) has obtained a qualification; or
 - (2) has undergone, or is undergoing, training; or
 - (3) possesses a level of competence; or
 - (4) has the personal characteristics;
- required by general rules made by the *FCA*.
- 1.2.4A **G** [deleted]
- 1.2.4B **G** Where the application relates to a function within a *Solvency II firm* and is for an *FCA controlled function* which is also a *Solvency II Directive* 'key function' as defined in the PRA Rulebook: Glossary, then the *FCA* will also have regard to the assessment made by the *firm* as required in article 273 of the *Solvency II Regulation* (EU) 2015/35 of 10 October 2014; Rules 2.1 and 2.2 of the PRA Rulebook: Solvency II Firms: Insurance - Fitness and Propriety, and other factors, as set out in *EIOPA Guidelines on system of governance* dated 28 January 2015 (see Guideline 16).
- 1.2.4C **G** [deleted]
- 1.2.5 **G** For as long as the standstill direction referred to in ■ SYSC 27.6.1G, ■ SUP 10A.1.7R and ■ SUP 10C.1.4R is in force, the *guidance* in ■ FIT 1.2.4AG and ■ FIT 1.2.4AG in the version of the *FCA Handbook* that was in force immediately before *IP completion day* is still relevant.