

The Fit and Proper test for Approved Persons

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 *FCA* will have regard to all relevant 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 *FCA* should be informed of these matters (see ■ SUP 10A.14.17 R and ■ SUP 10C.14.18R), 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 *FCA* 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.
- 2.1.1A** **G** An *SMCR firm* determining the honesty, integrity and reputation of *staff being assessed under FIT*, should consider all relevant matters, including those set out in ■ FIT 2.1.3G, which may have arisen either in the *United Kingdom* or elsewhere. *Firms* should inform themselves of relevant matters, including checking for convictions for criminal offences (where possible) and contacting previous employers who have employed that *candidate* or *person*. If any *staff being assessed under FIT* has a conviction for a criminal offence, the *firm* should consider the seriousness of and circumstances surrounding the offence, the explanation offered by that *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 *FCA* 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.
- 2.1.2A** **G** In considering the reputation of *staff being assessed under* ■ FIT 2.1.1AG an *SMCR firm* should have regard to whether that *person's* reputation might have an adverse impact upon the *firm* for which the function is to be performed and the *person's* responsibilities.
- 2.1.3** **G** The matters referred to in ■ FIT 2.1.1 G to which the *FCA* will have regard, and to which an *SMCR firm* should also 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 *Rehabilitation Exceptions Orders* to the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (as applicable), any spent convictions; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking, other financial services, insolvency, consumer credit companies, insurance, consumer protection, *money laundering*, market manipulation and *insider dealing*, whether or not in the *United Kingdom*;
- (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 *appropriate regulator*, 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 their 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** **G** In determining a *person's* competence and capability, the *FCA*, in accordance with **■ FIT 1.1.2G**, will have regard to all relevant matters including but not limited to:
- (1) whether the *person* satisfies the relevant *FCA* training and competence requirements 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 they are suitable, or will be suitable if approved, to perform the *controlled function*;
 - (3) whether the *person* has adequate time to perform the *controlled function* and meet the responsibilities associated with that function.
- 2.2.1A** **G** In determining a *person's* competence and capability to perform an *FCA designated senior management function* or an *FCA certification function*, an *SMCR firm*, in accordance with **■ FIT 1.1.2G**, should have regard to all relevant matters including but not limited to:
- (1) whether the *person* satisfies any applicable training and competence requirements (in relation to the function that the *person* performs or is intended to perform);
 - (2) whether the *person* has demonstrated by experience and training that they are suitable to perform the function they are intended to perform;
 - (3) whether the *person* has adequate time to perform the function in question and meet the responsibilities associated with that function.
- 2.2.2** **G** 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 by the *FCA* 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.
- 2.2.2A** **G** The *FCA* would expect an *SMCR firm* determining the competence and capability of *staff being assessed under FIT* to consider convictions, dismissals and suspensions from employment for drug or alcohol abuses or other abusive acts only in relation to a *person's* continuing ability to perform the

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particular *FCA designated senior management function* or an *FCA certification function* for which the *person* is, or is to be, employed.

2.3 Financial soundness

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2.3.1 **G** In determining a *person's* financial soundness, the *FCA* will have regard, and an *SMCR firm* should also have regard, to any factors including, but not limited to:

- (1) whether the *person* has been the subject of any judgment debt or award, in the *United Kingdom* or elsewhere, that remains outstanding or was not satisfied within a reasonable period;
- (2) whether, in the *United Kingdom* or elsewhere, the *person* has made any arrangements with their creditors, filed for bankruptcy, had a bankruptcy petition served on them, been adjudged bankrupt, been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order), offered a bankruptcy restrictions undertaking, had assets sequestrated, or been involved in proceedings relating to any of these.

2.3.2 **G** The *FCA* will not normally require a *candidate* to supply a statement of assets or liabilities. The fact that a *person* may be of limited financial means will not, in itself, affect their suitability to perform a controlled function. The *FCA* would expect an *SMCR firm* to take a similar view in assessing whether *staff being assessed under FIT*, are fit and proper.

