

**BANKING STANDARDS BOARD CONSULTATION PAPER  
ANNEX A — DRAFT GUIDANCE**

**Certification Regime:  
Supporting Guidance on establishing pass/fail criteria and  
evidencing the F&P assessment**

13 July 2017

**Disclaimer:** This draft guidance is intended as voluntary good practice to support the Banking Standards Board's Fitness and Propriety Assessment Principles. This draft guidance is for consultation and should not be used as the basis for any decision or action.

## About this guidance

This Supporting Guidance should be read in conjunction with the Banking Standards Board's (BSB's) *Statement of Good Practice 1 on the Certification Regime: Fitness and Propriety Assessment Principles* ([Statement of Good Practice 1](#)) and *Supporting Guidance to Statement of Good Practice 1 on the Certification Regime: Fitness and Propriety Definitions, Sources of Information and Assessment Record Template* ([Supporting Guidance 1](#)). It is intended to provide firms and those assessing fitness and propriety (F&P) with further information on the options available to them when making certification decisions, especially in cases where the issues are not clear cut. It contains:

- an outline of the factors to consider when evaluating the evidence used in assessing F&P, of the options available to firms in making certification decisions, and good practice guidance on recording the outcomes of an F&P assessment (pages 5-14); and
- definitions and illustrative examples (pages 15-22).

### Status of this document

This document provides Supporting Guidance to the BSB's [Statement of Good Practice 1](#), particularly Principle 4 (Establishing pass/fail criteria) and Principle 5 (Evidencing the F&P assessment). It provides more detail on how these two principles on assessing F&P can be implemented in practice and will be kept under review. Please contact [certification@bankingstandardsboard.org.uk](mailto:certification@bankingstandardsboard.org.uk) if you have any comments or queries regarding this Supporting Guidance.

BSB good practice guidance allows member firms and others in the sector to reference their own policies and procedures against a statement of what 'good' looks like. It is developed in partnership with BSB members and represents a pooling of knowledge and experience. It does not impose any legal or regulatory obligations on BSB members, nor does it replace regulation. In the event of inconsistency, applicable laws, rules and regulations prevail.

## Terminology used in this guidance

### Certification risks and issues

In this document, a 'certification risk' is defined as a situation that, should it materialise, could call into question an individual's F&P.

A 'certification issue' is defined as a situation that has materialised and is calling into question an individual's F&P.

### Types of assessment

There are several different situations in which an assessment of F&P may be necessary. We have characterised these as:

- when an individual takes up a certified role either on joining the firm or following internal transfer ('New role assessment');
- annually, for the purposes of reissuing a certificate ('Annual assessment');
- in response to another event, such as the outcome of a disciplinary proceeding, that generates a certification issue ('Triggered assessment'); and
- in-year to monitor the F&P of an employee at a shorter interval than 12 months where a certification risk or issue has been identified ('In-year assessment').

We use these terms in this document. Our [Supporting Guidance 1](#) contains further explanation of these.

### Elements of F&P

The Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) consider that the most important factors in making a judgement about an individual's F&P are:

- honesty, integrity and reputation;
- competence and capability; and
- financial soundness.

In our [Supporting Guidance 1](#) we set out the following definitions of these elements, which we also use in this document.

### Honesty and integrity

Honesty and integrity are demonstrated by a person who consistently speaks and acts truthfully and fairly in his or her dealings with others, and who seeks to recognise and deal with ethical conflicts.

### Reputation

Reputation in this context is the assessment of how an individual's behaviour has affected the impressions or opinions of others about the firm for which the individual works (or is about to work), and on the individual's ability to perform his or her role effectively. This may include enhancing or undermining the reputation of the individual, firm or industry as a whole. Such impressions and opinions may be influenced by:

- external factors (e.g. the views of previous employers or peers in other firms);
- factors internal to the firm (e.g. the views of colleagues); and
- aspects of the individual's public activities outside the workplace or professional sphere.

### Competence and capability

Competence and capability encompass two dimensions:

- the professional experience and qualifications that the individual brings to the role; and
- the performance of the individual in their role, developing and maintaining his or her knowledge and skills as demonstrated over time.

## Financial soundness

Financial soundness is demonstrated by an individual who behaves in a financially responsible way and whose financial circumstances do not create a risk of compromising his or her professional and/or ethical conduct.

### A note on the examples in this document

In this guidance, we use some examples to illustrate the different challenges that firms may encounter when assessing F&P and how these may be addressed. They do not imply that all firms will or should deal with similar issues in the same way; each firm's approach will depend on its own risk tolerances.

## Introduction

In our *Statement of Good Practice 1*, Principles 4 and 5 address making and evidencing the decision of whether to issue a certificate. During consultation, member firms identified these principles as areas where more detailed guidance would be helpful. This document has been developed in response, to provide firms with additional good practice guidance on deciding whether or not to issue a certificate following an F&P assessment.

Following its assessment of an individual's fitness and propriety, a firm<sup>1</sup> will need to decide whether to issue a certificate. A person's fitness and propriety is, however, not static, and there are no pre-defined criteria for whether a person is fit and proper to perform a role. The decision to issue a certificate rests rather on the firm's judgement that an individual demonstrates that they have the honesty and integrity, reputation, competence and capability, and financial soundness to perform the role for which they are being certified.

Concluding that a person is not fit and proper to perform a role may be straightforward where there is clear negative evidence (such as the outcome of a disciplinary process resulting in dismissal). In many cases, however, the decision to issue a certificate may rest largely on an absence of negative evidence (referred to in this guidance as 'neutral evidence').

Once an individual has taken up a certified role, for example, the annual re-certification decision is likely to be regular, driven by the annual performance review and supported by additional self-declarations by the individual and any screening checks conducted by the firm. In most cases this will provide both positive evidence of competence and capability — both in terms of what the individual has done and how they have done it — and neutral evidence, ie with no issues having arisen that would call the individual's fitness and propriety into question.

This guidance approaches the implementation of the Certification Regime as an opportunity to raise standards of behaviour and competence, and therefore focuses on what can be done above any regulatory minimum. Regulatory requirements are, however, clearly central, and their impact (especially the Conduct Rules) will need to be considered when making certification decisions.

The FCA has made clear its intention that the Certification Regime should 'drive-up standards'<sup>2</sup> rather than simply set a regulatory minimum. Important to success in this regard is enabling and encouraging certified individuals to take personal responsibility for all aspects of their own professional development. The requirements of the certification regime provide an opportunity for firms, line managers and others involved in the assessment of F&P to both recognise and reward those who do this and provide positive evidence that is appropriate, proportionate and relevant to their role. The impetus created by the Certification Regime has the potential to play a significant part in a shared sectoral ambition of raising standards of competence and behaviour in UK banking.

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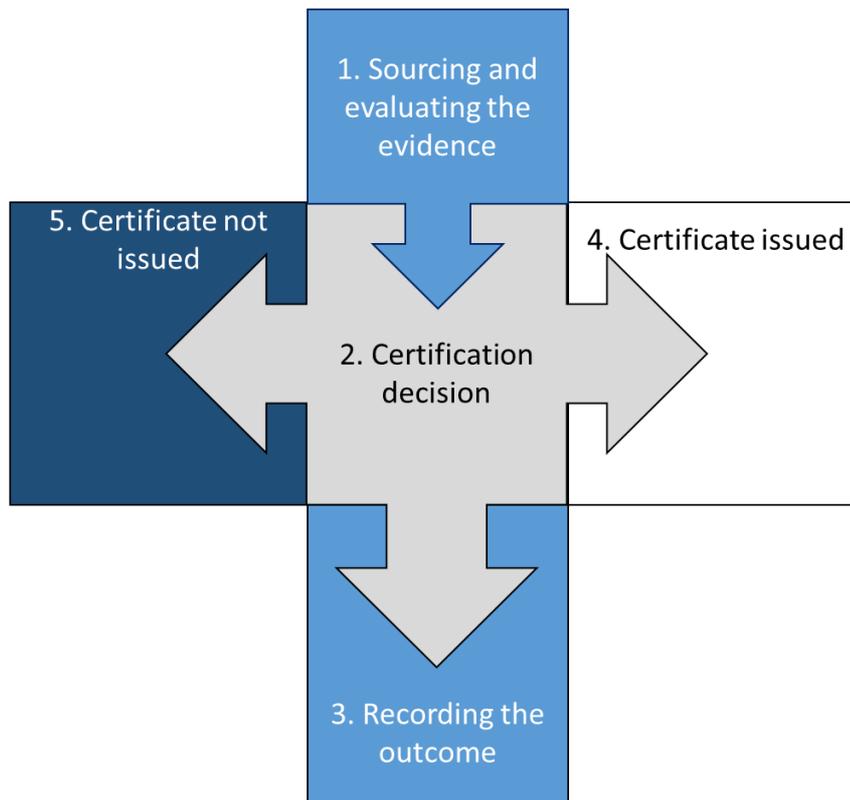
<sup>1</sup> Whether the individual's line manager, the senior management function within the business line, central business functions or a combination of these depending on the firm's structure and processes.

<sup>2</sup> See for example: <https://www.fca.org.uk/firms/senior-managers-certification-regime>

## Structure of this guidance

This guidance is intended to act as a practical tool for those assessing F&P. We have structured the guidance around a 'typical' decision-making process during an F&P assessment as, set out in Figure 1.

Figure 1 – F&P assessment outline



The assessment follows three distinct stages:

- sourcing and evaluating the evidence identifying if there are any certification risks or issues;
- deciding whether or not to issue the certificate, taking action to mitigate risks or remediate an issue where necessary; and
- recording the outcome (which is also of relevance to regulatory references, should the firm subsequently need to provide one).

In most cases, the outcome of an F&P assessment will be straightforward and no risks or issues will be found (Box 4 in Figure 1). In a small number of instances, an issue may be identified where there is no possibility of mitigation or remedy, so a certificate will not be issued at that time (Box 5). In reaching either of those decisions, however, a firm needs to go through a rigorous process to decide the appropriate outcome (Box 2).

This guidance addresses all three stages of the assessment (Boxes 1-3 in Figure 1), but focuses particularly on the decision itself; how do those assessing F&P come to a decision about whether to issue a certificate, when the evidence is not clear-cut?

## Sourcing the evidence

Sourcing the evidence that forms the basis of the F&P assessment is key to ensuring that the assessment considers all the relevant information. Sourcing the range of evidence for the assessment was covered in the BSB's [Supporting Guidance 1](#). The guidance being consulted on here relates to evaluating evidence in the context of an F&P assessment, once it has been sourced.

## Evaluating the evidence

### Considering the available evidence about an individual's F&P

In deciding whether to issue a certificate, decision-makers will need to consider the portfolio of evidence available about the individual at the time of the assessment. Evidence could be:

- positive, where the individual actively demonstrates the different elements of F&P (e.g. a qualification or CPD record);
- neutral, where there is no evidence to suggest that an individual is behaving inconsistently with the elements of F&P (e.g. a credit reference check raises no concerns about an individual's financial soundness); or
- negative, where there is evidence suggesting that the individual has behaved in a way that is not fit and proper (e.g. evidence of fraud).

Much of the evidence that is relevant to the certification risks and issues discussed in this guidance will relate to situations that could call or have called into question an individual's F&P (i.e. negative evidence), or will comprise an absence of negative information. Evidence of honesty, for example, may generally be of a neutral type, in the sense of there being no evidence of dishonesty.

It is important, however, to consider where possible positive information. This could include, for example, evidence of a high level of competence.

The evidence that forms the basis of an F&P assessment can come from a variety of sources. Information relevant to the consideration of an individual's F&P does not have to be identified solely as part of a routine annual F&P assessment. Evidence of failure to remediate an issue, for example, could arise during in-year supervision and result in a triggered assessment, rather than being identified at a routine annual assessment.

### Balancing the role of the individual and the role of the firm

Although firms are responsible for assessing the F&P of their certified population, the individual being assessed has a responsibility for building and maintaining the evidence that demonstrates their F&P, as well as for undertaking any mitigating and/or remediating actions that firms consider necessary. Firms, in turn, have a responsibility to ensure that their certified population has the time, space and resources to manage their F&P (for example, the time to do training) and provide sufficient evidence to satisfy the firm that a certificate can be issued.

Firms may also need to consider how to handle any mitigation or remediation internally. This may include, for example, maintaining confidentiality in cases where an individual's financial circumstances are calling into questions their F&P. Where an issue has arisen that

calls into question an individual's F&P, firms should also consider whether broader organisational factors or issues related to the firm's culture played a role.

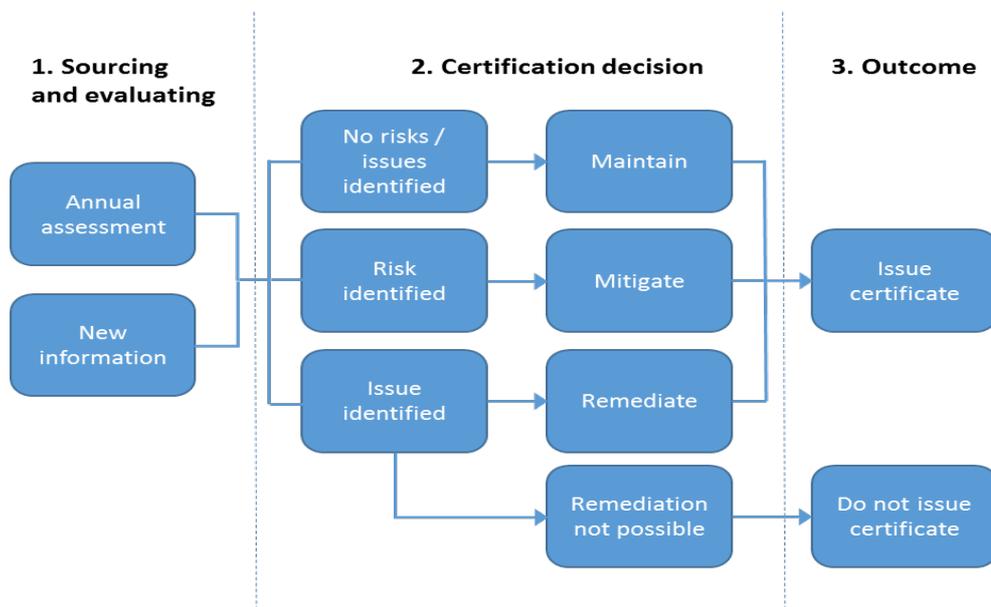
#### Evaluating the significance of information

Once all the evidence relevant to an individual's F&P has been collated, that information will need to be assessed to determine whether a certificate should be issued. Assessing this information may identify risks and issues that call into question an individual's F&P and the assessor will need to evaluate their significance. Firms should have a framework in place to help assessors evaluate this information in a consistent way. Table 1 is a non-exhaustive list of relevant factors to consider when evaluating the significance of information calling into question an individual's F&P. While each case will be mainly concerned with circumstances specific to a particular individual, firms should also give thought as to whether there are any implications or lessons that can be drawn from a wider firm perspective, taking into account the regulatory context.

## Options for the certification decision

Once the information gathered for an F&P assessment has been evaluated, firms must decide whether to issue a certificate, based on this evaluation. While this is ultimately a binary decision – to issue a certificate or not – there are options as to how this is done. Figure 2. below, sets out a summary of options available to firms in the case of a typical F&P assessment, following the structure set out in Figure 1: sourcing and evaluating the evidence, coming to a decision about the individual's F&P and any necessary actions, and recording the outcomes. It is unlikely that a certification risk (that is, something that could call into question an individual's F&P, but is not actually doing so) would be so serious that a firm would not issue a certificate. This is, however, clearly an option, subject to the firm's judgement.

Figure 2 – F&P assessment options



## Issuing a certificate

It is likely that, for most individuals, firms will decide to issue a certificate. In reaching that decision, however, firms may need to consider a range of risks and issues identified by the assessment and how to deal with these.

### Maintain

Although firms have to attest that their certified staff are fit and proper on an annual basis, an individual's F&P is not static. To assess an individual as fit and proper, a firm will rely on a range of evidence that demonstrates both positive evidence of F&P (for example, evidence of CPD) and the absence of negative evidence (through, for example, screening checks). The evidence available about an individual will change over time. Consequently, the body of available evidence needs to be kept sufficiently up to date to enable firms to make an informed decision about an individual's F&P at least annually.

Both firms and individuals are responsible for ensuring that the evidence underpinning an F&P assessment is current. The nature of this responsibility will vary, depending on the source of information. Individuals, for example, will need to take responsibility (in discussion with their line manager) for their own personal development, while firms will be responsible for undertaking screening checks.

When responsibility for demonstrating F&P sits with the individual, firms should make sure that they are giving their employees the time and support necessary to do this.

For most certified individuals, an F&P assessment should include reference to how their F&P (and the underlying evidence) can be maintained. This includes their competence and capability which may be demonstrated by, for example, keeping up to date with product development, completing any required CPD, keeping qualifications up to date or demonstrating positive behaviour captured in mid-year and annual reviews. Identifying steps to maintain F&P may not necessarily affect the issuing of a certificate, but is important to ensuring that F&P is not a 'one-off' annual event at the point of assessment but rather an ongoing commitment by the individual and their employer. Not all firms will do this in the same way, although using the performance management process and the annual performance rating as key inputs into the F&P assessment will generally be part of the process.

Ongoing personal development is important for keeping F&P up to date. Some personal development activities may be required to be completed before a firm is prepared to certify a person is fit and proper (and the absence of any personal development may speak negatively to an individual's competence and capability). Individuals may also, however, wish to undertake personal development over and above the minimum required to be deemed fit and proper. This may be, for example, where the activity is relevant to their role or to a different certified role that they may be seeking to move into.

If a certified individual wants to undertake personal development above and beyond what is required for the role, their line manager has an important task in guiding them as to what may be relevant, proportionate and appropriate in this context. What this is will vary from certified individual to certified individual depending on their role, seniority and experience. Some personal development activities may simply not be relevant, proportionate or appropriate (and line managers will need to say so if this is the case). All certified individuals

should be considering how they can maintain and potentially enhance their F&P, and not focus solely on avoiding negative behaviour.

Some examples of circumstances in which individuals might need to maintain the evidence underpinning their F&P are included in Table 2 on page 17.

### Mitigate a risk

When assessing the F&P of its certified population, a firm may identify certification risks. A certification risk is a situation that could call into question an individual's F&P, but is not currently doing so. To prevent a risk from becoming an issue that is calling into question an individual's F&P, a firm may wish to take steps to mitigate the risk, such as imposing additional controls or supervision. It is unlikely that this would result in a firm being unable to issue a certificate but, depending on an individual firm's risk tolerances, there may be circumstances where the risk cannot be effectively mitigated and the firm is not prepared to accept it.

Firms are likely to encounter two distinct categories of risk: individual risks, and wider certification risks. An 'individual risk' is specific to the person and has the potential to call their F&P into question in the future. An example could be never having been subject to an individual accountability regime before and therefore not being aware of their personal responsibilities under the regime; one way to mitigate this might be to provide some additional training on the requirements of the Certification Regime. Such risks are likely to be identified through the assessment of the individual's F&P, although some could emerge from trends identified at group level, and be mitigated through other existing processes (such as routine line management action).

'Wider certification risks' are more structural and will tend to relate to the role rather than the individual, while nevertheless potentially calling into question the individual's F&P for that role. They might include, for example, inadequate controls for higher risk roles such as those with close proximity to transaction decisions, privileged information or cash and settlement operations. These risks are most likely to be identified and mitigated at firm or department level using data and information from more than one F&P assessment.

It will be neither possible nor desirable to mitigate all risks, some for reasons of practicality or proportionality, and firms need to decide where to set their risk tolerance, taking into account their judgement of the significance and likelihood of a risk materialising into an issue and the frequency of the risk occurring. There will be a wide range of different approaches to setting risk tolerances depending on the firm, its certified population and the nature and balance of its business.

Some examples of the types of certification risks assessors and firms may encounter are set out in Table 3 on page 18.

## Remediate an issue

While certification risks have the potential to call into question an individual's F&P, certification issues are situations that have arisen and are actually calling into question an individual's F&P. Issues may be identified either as the result of an F&P assessment, or through another route such as customer complaints or a whistleblowing procedure. When an issue is identified, it is likely to need to be remediated by the firm and/or the individual before the certificate can be issued for the role.

This does not necessarily mean that a firm will not be able to issue a certificate at a later date, such as following an in-year assessment. A firm may also consider that issuing a certificate with additional requirements, such as closer supervision or additional controls, is sufficient to address the issue. These additional requirements may subsequently be removed following further F&P assessments. As with risks, there are some issues where the action needed for remediation is for the individual concerned, and some where it is a matter for the firm.

The level at which a firm may decide to remediate an issue will depend on the firm and the nature of the issue in question. Issues that are personally sensitive (such as financial soundness) may be dealt with through the individual's line manager. Remediation of other cases may need to be addressed by other areas of the firm, such as HR or other central functions, depending on the firm's own policies.

Where a firm and an individual agree remediation actions, the firm may need to monitor these to ensure that they are being carried out and are effective. The nature and timing of the monitoring will usually be agreed as part of the original remediation plan and might entail, for example, an in-year assessment to review the effectiveness of additional controls and ascertain whether they are still necessary. If a remediation plan involved, for example, restricting the scope of a certificate, an in-year assessment would also provide the opportunity to review whether those restrictions were still necessary.

Some examples of types of certification issues and potential actions for remediation are shown in Table 4 on page 20.

## Not issuing a certificate

### Remediation not possible

It will not be possible, practical or proportionate to remediate all issues. This could be because of the nature of an issue itself, or because remediation has failed or is otherwise not possible for the firm. The decision not to remediate an issue will be informed by each firm's risk tolerances, and will result in a certificate not being issued. Some examples of the factors which firms could consider when evaluating whether an issue can be remediated are included in Table 5 on page 22.

### Appealing the outcome of an F&P assessment

Deciding not to issue a certificate is likely to have a material impact on an individual's career and professional standing. It is therefore important to ensure that, in taking such a step, firms have considered fully the circumstances, evidence and options, as well as what constitutes good practice in this context. This is especially important in relation to appeals processes ensuring that individuals have the right to appeal a decision through a fair process overseen by someone who was not involved in the decision that led to the certificate being withdrawn or not issued. The BSB's [Statement of Good Practice 1](#) includes good practice guidance in this area, specifically Principle 7— Appealing the outcome of an F&P decision and the withdrawal of a certificate.

### Incomplete assessment

There may also be situations in which it is not possible to complete an F&P assessment (for example, because the individual leaves the firm before an assessment can be completed). In these cases, the firm will need to record the incomplete status of the certification assessment for the purposes of providing a regulatory reference, if necessary, at a later date.

## Recording the outcome

The final stage of the F&P assessment is to record the outcome of the assessment: both whether a certificate has been issued, and any risks and issues identified and steps agreed to mitigate or remediate them. Having recorded the outcomes fully, firms can then identify and analyse any trends or areas of concern emerging across the firm; information that would not be apparent to or identifiable at the level of each individual assessor.

The BSB's [Supporting Guidance 1](#) provides an example of how the evidence and outcomes of an F&P assessment might be recorded and communicated within a firm.

### Ensuring consistency across the group

Some of the risks and issues addressed in this guidance can be identified by F&P assessors at the level of each individual being assessed. Others can only be identified and addressed at a firm level, looking across all the information arising from the certification process. Central functions such as Internal Audit, Compliance and HR have key roles to play in drawing together and analysing the information coming out of F&P assessments and identifying any areas of concern, trends or structural issues. Reviewing all of a firm's assessments can help to identify links to other processes such as performance management and disciplinary processes and to promote consistency of assessment throughout the firm.

Global groups will also need to consider how they can ensure consistency in assessing the F&P of internationally mobile individuals performing certified roles. The BSB's [Statement of Good Practice 1](#) include good practice guidance in this area, specifically Principle 8, Assessing F&P as part of a global group.

### Links to other processes

Principle 2 of our [Statement of Good Practice 1](#) recommends that firms align their processes for F&P assessment with others, such as performance appraisal and disciplinary processes. This is to ensure that the assessment draws on relevant information held by other areas of the firm, avoids duplication, and enables the firm to build a more rounded picture of its staff, based on the data available. Aligning processes that could have a bearing on assessing F&P may also help to prevent conflicts or discrepancies. The outcome of a disciplinary process will, for example, necessarily have an impact on the assessment of F&P, and firms need to be consistent in the way that they consider those outcomes across the firm.

<b>Table 1</b>	<b>Factors that may be relevant when evaluating information that calls into question an individual's F&amp;P</b>	
<b>Specific circumstances</b>	Intent	Was the incident deliberate or accidental (e.g. from not understanding firm processes)?
	Frequency	How often has this happened? Was it a single incident? Is there a pattern? What does this suggest about causes or recurrence?
	Degree of harm or impact <sup>3</sup>	To what extent does the degree of actual or potential harm or impact (e.g. to customers, clients, members or colleagues) aggravate the seriousness of the issue?
	Level of experience	How experienced is the individual? What is the degree of influence they have within the firm? Should they have known better?
	Individual reaction	How did the individual reacted to the circumstances? Did they, for example, actively seek to correct a mistake or take ownership of the situation?
	Level of ongoing/tail risk	How significant is the ongoing risk to the firm?
	Other factors	Are there any mitigating or aggravating factors, other than those included in this table, such as illness or bereavement?
	Nature of evidence	How did the evidence come to light (e.g. self-declared as opposed to uncovered through screening or an investigation)?
	Relevance	If the evidence arose from the individual's personal sphere (e.g. social media), to what degree is it relevant to their ability to perform in their role?
<b>Wider context</b>	Regulatory context <sup>4</sup>	Are there any relevant regulatory statements? Is it within the scope of the conduct rules?
	Consistency with other firm decisions	What has the firm done in previous cases where there have been similar issues? What precedents might this decision set for the firm in future?
	Individual track record	What is the track record of this individual in the firm or previously? Do they have a history of incidents that raise concerns, either of the same or different issues?
	Reputational impact	What is the potential reputational impact for the firm and/or the wider banking sector? Could it result in a loss of trust by customers, members and/or clients?
	Impact on other individuals	Does it raise questions over anyone else's F&P (e.g. a line manager who has not provided sufficient oversight, or others who may be involved)?
	Organisational considerations	Is there a wider issue within the firm? For example, are people in this role being incentivised to act in a certain way, or is there a controls or supervision failure in a specific area?

<sup>3</sup> The degree of harm or impact caused may aggravate the severity of the issue, although lack of harm or impact (for example, an unsuccessful attempt to deceive) would be unlikely to provide any mitigating circumstances

<sup>4</sup> The impact of the regulatory environment and the Conduct Rules in particular will need to be considered early on in the assessment of risks and issues.

### Example scenario applying different factors

The same factors will not always apply to each situation, and firms may take different views of what is relevant depending on their own risk tolerances. The example scenario below sets out how firms might apply different factors when making a decision about information that is calling into question an individual's F&P.

#### **Example 1: An individual in financial difficulty**

In routine screening checks, information has come to light that an individual is not able to meet their debts as they fall due. This calls into question their financial soundness. The F&P assessor might consider a range of factors when deciding the appropriate response:

- Intent: is it the result of an unforeseen change in circumstances, for example, a partner suddenly losing their income, or does it appear to be because of, for example, financial irresponsibility?
- Frequency: is there a pattern to the individual's financial difficulties? Has this happened before, or is it a one-off event?
- Individual reaction: are they prepared to take responsibility for resolving the issue? If this was a known issue, have they taken steps to address it, such as sticking to agreed payment plans?
- Mitigating circumstances: are there other mitigating circumstances that might, for example, help to explain a pattern or a lack of self-disclosure?
- Nature of evidence: how did this come to light, and should the individual have raised it sooner? In this example, routine screening raised the issue, but had it been going on for a sufficiently long time beforehand that a firm might reasonably expect the individual to have raised it? Had the individual raised on previous occasions that they were concerned about their financial soundness (whether through the F&P process or otherwise)?
- Individual track record: does this individual have an otherwise unblemished track record? Is this incident out of line with past behaviour?
- Consistency with other firm decisions: does the firm have an existing policy in relation to these circumstances, e.g. of providing financial advice?
- Potential customer or other external impact: what is the range of potential external impact for the firm?

In this example, not all the factors in Table 1 (eg the degree of harm and impact on other individuals' F&P) are directly relevant but they may be relevant in other scenarios. Considering how those factors that are relevant, however, apply, may then help the assessor to decide the appropriate course of action, eg offering provision of financial advice or putting in place additional monitoring by the individual's line manager to mitigate any risk.

## Maintain

Table 2 sets out a non-exhaustive list of example scenarios and possible actions where an individual may need to maintain the evidence underpinning their F&P. This is because F&P is an ongoing commitment throughout the year on the part of both the firm and the individual. In many cases, maintaining the evidence will primarily be about recognising the activities that individuals undertake that contribute to their F&P, and that will vary between different individuals and roles. For most individuals, maintaining the evidence underpinning their F&P will be a matter of continuing their usual behaviours. In some circumstances, individuals may aspire to improve certain aspects of their F&P.

<b>Table 2</b>	<b>Example reason</b>	<b>Example action</b>
Maintain	Role has ongoing qualification requirements	CPD or other qualifications kept up-to-date
	Maintaining understanding of role requirements	Staying up to date with any relevant policies, procedures or product information
	Improving current F&P evidence where only the lack of negative evidence exists, if relevant	Consideration of behavioural performance rating in annual F&P assessment or other metrics (e.g. customer outcomes or balanced scorecard)

### Example scenario 2: maintaining F&P among those new to F&P assessments

Some roles are new to F&P assessments, such as traders. A firm notes that its certified population of traders includes many individuals who have never been subject to an individual accountability regime before and so provides mandatory training for this population. Some of this newly-certified population, however, have said that they would appreciate further guidance and support on how these responsibilities relate to their roles. The firm might therefore invest in some further training or support for this newly-certified group, to ensure that they are able to maintain their F&P.

## Mitigate a risk

Table 3 provides non-exhaustive examples of certification risks that firms could encounter, including both risks that are specific to individuals and those that apply more widely. As the possible actions for mitigating a certification risk will depend on each firm's risk tolerances, this table focuses only on the different types of certification risks and not on the associated mitigating actions.

<b>Table 3</b>	<b>Type of risk</b>	<b>Example scenario</b>
<b>Individual risk</b>	Conflicts of interest	Are there any conflicts of interest that could call into question any element of the individual's F&P, and have they declared them when required to do so?
	Personal circumstances	Are there any personal circumstances specific to the individual, such as financial soundness, that could present a risk?
	Experience	How much experience does the individual have within the firm, and with the requirements of the role? Was that individual previously part of the Certification Regime or Approved Persons Regime, or are the requirements new to them?
	Absence of information	Is there any information missing about the individual for any reason (such as criminal records checks being unavailable in a specific jurisdiction, or a full regulatory reference being unobtainable from all relevant previous employers)?
	Individual track record	What is the individual's track record within the firm and is there anything that might flag risks, such as complaints that did not result in action against the individual?
	Concentration of risks	Are there more risks associated with this person than would normally be expected for someone in this role?
<b>Wider certification risk</b>	Type and parameters of role	Are there aspects of the role that might affect where the firm sets its risk tolerances; eg close proximity to transaction decisions, privileged information or cash and settlement operations?
	Access and potential for harm to customer/client	How much access to and impact on customers, members or clients does this role have?
	Whether the role was previously specifically regulated	Was this type of role previously regulated under the Approved Persons Regime, or are the requirements of the Certification Regime likely to be new to people who were previously in these roles?
	Type of F&P assessment undertaken	What type of assessment is being undertaken? Is it eg a triggered assessment because of new information, or a new role assessment, when the firm has little of its own information to assess?

### **Example scenario 3: mitigating a conflict of interest**

As part of their annual F&P assessment, an individual declares a potential conflict of interest due to a family relationship with someone working at a senior level in a client firm. They do not currently have any professional contact with the client, but could in future. The firm decides to mitigate the risk of the potential conflict of interest by ensuring that the individual is prevented from working on all matters relating to that client. This requires putting in place some additional controls, in line with the firm's own policies.

## Remediate an issue

Table 4 provides some non-exhaustive examples of scenarios and possible actions where remediation might be necessary. Three areas are identified where a firm might consider that there is an issue that needs to be remediated: competence; financial soundness; and reputation. Examples of each are also provided.

<b>Table 4</b>	<b>Example reason</b>	<b>Example action</b>
<b>Individual issue</b>	Lack of essential technical competence	Individual undertakes to gain relevant qualifications, training or experience over a specified period
	Poor performance in role not related to technical competence	Performance management process
	Circumstances affecting F&P but expected to be temporary, eg an individual new to the role, or who has had a change in circumstances	Additional controls, supervision or support for a specified period
	Financial difficulty	Access to support, e.g. debt management plans, financial advice or financial aid
	Remediation plans agreed that require firm to assess progress (such as improving performance issues)	In-year assessment (possibly in combination with other measures)
<b>Firm issue</b>	Issue with a type of role, such as conflicts of interest arising from the way roles are structured, rather than an individual issue	Additional controls, supervision and/or training for all relevant individuals and/or changes to the way that the role is structured.

### Example scenario 4: remediating a competence issue

An individual has failed to complete their annual update training within the required timeframe. On investigation, this was because the individual was unable to attend the dates of the course due to a family bereavement, and was not given any other time to catch up. A plan is put in place and agreed with line management to ensure the course is completed as soon as possible. During this time, additional supervision was also put in place.

### Example scenario 5: remediating financial difficulty

An individual self-declares during their F&P assessment that they are unlikely to be able to meet their debts as they fall due, because of a close family member being unable to work due to long-term health reasons. The individual agrees an action plan that the firm can monitor over time.

### **Example scenario 6: remediating a reputational issue**

A firm finds that a certified individual has been posting comments on public social media sites that violate the firm's social media use policy. Following an investigation, the firm considers that although this took place via the individual's personal social media accounts, it is relevant to the firm and the individual's F&P. To remediate the issue, the firm requires the individual to remove the posts, and to undertake additional training on the firm's policies on this issue.

#### **Consequence of non-remediation**

Where an individual has agreed to remediate an issue, but has failed to do so, a firm will need to decide on the appropriate course of action in the circumstances. There may well be a good reason for the lack of remediation, but persistent failure will be a cause for concern, especially where a firm has not felt able to issue a certificate to that individual until the issue has been remediated. The firm may decide that the issue cannot in fact be remediated effectively by that individual. The following section addresses issues that cannot be remediated.

## Sufficient remediation not possible

Table 5 provides some non-exhaustive examples of situations where it may not be practical or possible to remediate certification issues.

<b>Table 5</b>	<b>Factors why remediation may not be possible</b>
Issue could be remediated	Repeated failure on the part of the individual to remediate despite agreement to do so (eg failure to obtain required qualification or comply with new controls)
	The scale of cost / time / resource needed to remediate is disproportionate (eg remediation would take too long to achieve, cost too much or require resource that is not available)
Issue too severe for remediation to be an option	The severity of the issue is too great (eg large-scale harm to customers/clients and/or reputation)
	The type of issue involved (eg deliberate dishonesty, serious misconduct, persistent or severe conduct rule breaches, criminal conduct)

### Consistency with other processes

Many issues that cannot be remediated may also be such as to result in a disciplinary process. Any subsequent F&P assessment, whether an annual or triggered assessment, should take into account the outcome of the disciplinary process. Where a disciplinary process results in the termination of employment, a subsequent F&P may well not be undertaken, but the circumstances of the termination of contract should nevertheless be recorded in any subsequent regulatory reference.

Not all scenarios where an issue cannot be remediated will result in a firm never issuing a certificate to an individual. In some circumstances, especially related to competence, a firm may be able to issue a certificate for a different (and probably more restricted or less senior) role for which the individual can demonstrate F&P. In this scenario, the firm may be able to issue the certificate for the original role at a later date if, for example, the individual acquires the necessary competence.

#### **Example scenario 7: issue cannot be remediated — failure to disclose**

A firm discovers that a certified individual has repeatedly failed to disclose information relevant to the assessment of their F&P. The firm commences a disciplinary investigation, during which it becomes apparent that the individual was well aware that they should have disclosed the information but did not. As a result of the disciplinary process, the firm conducts a triggered assessment of the individual's F&P and decides that the failure to disclose calls into question the individual's honesty, and cannot be remediated. The result is that the individual is not certified as fit and proper.

