

Criteria for Certification

Q1 What do you think of the proposed 'fit and proper' criteria in Table 1 and Table 2 of this consultation document and why?

NOTE: If you have comments regarding a specific criterion please provide the reference number with your feedback.

1. Agree. There should be some exceptions; for example, manslaughter from a driving accident. This is not a relevant conviction to running a finance company. It should be sentenced to not punishable by. The instances should be specifically listed.
2. 5 years probably long enough. Maybe it should be 3 years in line with bankruptcy law.
3. Agree. However, it is extremely harsh on non-owner senior managers. It may not have been that persons fault. They could have been a whistle blower.
4. Agree.
5. Only include the serious matters. Do not include, low level penalties and warnings. A warning should not stop certification.
6. This should be considered in the light of if the person actually offended or was just in the role.
7. Agree.
8. This is not a level playing field as some professional and occupational bodies have higher standards than others and some people will not belong to those bodies.
9. Examples of conditions imposed before answering this.
10. Agree.
11. Agree.
12. Do not agree with such a vague broad-brush carte blanche undefined criteria. If you cannot convey the criteria then it should not be included as a catch all. There needs to be transparency.
13. Agree.
14. Agree.
15. Agree.
16. Agree.
17. Agree.
18. Agree.
19. Agree.
20. Agree. Also look at CPD requirements.
21. Agree.
22. Do not agree. Exactly the same logic as for criteria point 12.

General Comment

It is very expensive to go to court. I think any refusals or conditions should be run past an independent external body for a sense check. Like an independent peer review. Otherwise too much power is invested in one body. This could be by another body that has proven performance with Fit and Proper Assessments like FMA, MBIE, Disputes Resolution Service, Real Estate Body etc. or ideally an independent Registered Mediator/Arbitrator. Such balances and checks like this would exude confidence in the process by the Financial Service Providers being Certified.

12.1 How will this be done? By obtaining financial statements, credit checks?

12.2 How will this be done? By asking borrowers and Dispute Resolution Providers?

12.3 How will this be done? Qualifications? CV?

Q2 What sorts of change in circumstances do you think could affect the Commission's assessment of whether directors and senior managers of a lender or mobile trader are 'fit and proper'?

18.1 new directors or senior managers

18.2 only if they are applicable –expand on this with specifics

18.3 Agree