

## Guidance Note

### Released:

7 June 2019  
Version: 3

### Key concepts

Required characteristics for Trading Participants and Clearing Entities and their representatives.

### Related information

FGL Operating Rules

*Part 2*

### Recommended Audience

Managing Directors

Directors

Compliance Managers

Operations Managers

### Previous Issues:

Nil

## GN 1 - Good Fame, Character and Repute

### Introduction

To be admitted as a Trading Participant or a Clearing Entity of FGL, the applicant, each of its directors (if the applicant is a Corporation), each of its partners (if the applicant is a Firm), and each of its Derivatives Staff Members must be of "good fame, character and repute".

### Guidance

#### 1. For an individual

In determining whether an individual satisfies the "good fame, character and repute" requirement for the purposes of Operating Rules 2.3.5 and 2.3.6, FGL will consider whether the person has been (in Australia or elsewhere):

- (a) disqualified from managing a corporation;
- (b) charged with or convicted of any offence;
- (c) censured, disciplined or disqualified by any professional or regulatory body in relation to any trade, business or profession;
- (d) refused or restricted from the right to carry on any trade, business or profession requiring a specified licence, registration or applicable authorisation;
- (e) an insolvent under administration or its equivalent in another country;
- (f) disciplined or adversely mentioned in a report made by, or at the request of, any government agency or authority;
- (g) disciplined or adversely mentioned in a report made by, or at the request of FGL, a Clearing House or any other exchange, market operator or clearing and/or settlement facility;
- (h) found to have breached guidelines or codes established by ASIC or an Offshore Regulator or exchange in an Offshore Jurisdiction;
- (i) a director, substantial shareholder, or person involved in the management, of a corporation or business that:
  - (i) was wound up, insolvent or had a receiver or administrator appointed;
  - (ii) was found guilty of fraud;
  - (iii) has not met all obligations to clients, compensation funds established for the protection of investors, or inter-member guarantee funds;
  - (iv) has been found to have committed the acts described in b) - i); and

- (j) party to a scheme of arrangement or entered into any form of compromise with a creditor involving a considerable amount.

*Note: Where the amount involved is in excess of \$10,000 or equivalent, FGL will have regard to the date and circumstances surrounding the event.*

## 2 For a Body Corporate

In determining whether a body corporate satisfies the "good fame, character and repute" requirement for the purposes of Operating Rules 2.3.5 and 2.3.6, FGL will consider whether the body corporate has been (in Australia or elsewhere):

- (a) charged with or convicted with any offence;
- (b) censured, disciplined or disqualified by any professional or regulatory body in relation to any trade, business or profession;
- (c) found to have breached guidelines or codes established by ASIC or an Offshore Regulator or exchanges in an Offshore Jurisdiction.
- (d) disciplined or adversely mentioned in a report made by, or at the request of, any government or governmental authority or agency;
- (e) disciplined or adversely mentioned in a report made by, or at the request of FGL, a Clearing House or any other exchange, market operator or clearing and/or settlement facility;
- (f) refused or restricted from the right to carry on any trade, business or profession requiring a specified licence, registration or applicable authorisation;
- (g) served with a winding up petition, insolvent or had a receiver or administrator appointed;
- (h) found guilty of fraud;
- (i) has not met all obligations to clients, compensation funds established for the protection of investors, or inter-member guarantee funds; and
- (j) party to a scheme of arrangement or entered into any form of compromise with a creditor involving a considerable amount.

*Note: Where the amount involved is in excess of \$ 100,000 or equivalent, the FGL will have regard to the date and circumstances surrounding the event.*

FGL has issued this Guidance Note to give general assistance to Trading Participants and Clearing Entities in their compliance with the Operating Rules. FGL is not bound by this Guidance Note in any particular case. This Guidance Note is not legal advice and Trading Participants and Clearing Entities should seek their own professional advice on their obligations under the Operating Rules in their particular circumstances. FGL may replace this Guidance Note at any time. Current Guidance Notes are available at [www.fex.com.au/Guidance](http://www.fex.com.au/Guidance) or by contacting FGL on [enquiries@fex.com.au](mailto:enquiries@fex.com.au) or on +61 2 8024 5200

Defined terms in this Guidance Note have the meaning given in the Operating Rules.